

Legislative Assembly

Thursday, 9 March, 1978

Bills Returned—Petitions—Questions without Notice—Business of the House--Cognate Bills (Ints)—Meat Industry (Amendment) Bill (Int.)—Egg Industry Stabilisation (Amendment) Bill (Int.)—Marketing of Primary Products (Amendment) Bill (Int.)—Dams Safety Bill (second reading)---Coal and Oil Shale Mine Workers (Superannuation) Amendment Bill (second reading)—Bills Returned—Printing Committee (Thirty-seventh Report)—Industrial Arbitration (Reinstatement Awards) Amendment Bill (second reading)--Cognate Bills (second readings)—Allocation of Time for Discussion—Adjournment (Motor Vehicle Purchase by Mr J. H. Edwards, Wan@)—Questions upon Notice.

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

BILLS RETURNED

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

Liquor (Footway Restaurants) Amendment Bill
Local Government (Footway Restaurants) Amendment Bill
Local Government (Meat Industry) Amendment Bill
Meat Industry Bill (No. 2)
Noxious Trades (Amendment) Bill
Statutory and Other Offices Remuneration (Meat Industry) Amendment Bill

PETITIONS

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

Pensioners' Electricity Accounts

The Petition of certain citizens of New South Wales respectfully sheweth:

That economic hardship is being suffered by those citizens of this State whose incomes consist solely or mainly of age or invalid pensions and who are—

(a) subject to increasing charges for electricity;

- (b) required to pay maximum rates applicable to smaller consumers; and
- (c) are not able to obtain any rebates under the existing provisions of the Electricity Act.

Your Petitioners therefore humbly pray that your honourable House take early steps to so amend the Electricity Act is to empower each electricity distributing authority in this State to allow rebates on the electricity accounts of the abovementioned pensioners.

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

Petitions, lodged by Mr Cahill and Mr Kearns, received.

Drummoyne Parking Restrictions

The Petition of residents and shopkeepers of Great North Road and Lyons Road, Five Dock respectfully sheweth:

That the proposed clearway restrictions in Great North Road and Lyons Road aforesaid would:

- (1) reduce property values;
- (2) create loss of trade and business and **goodwill** for local shopkeepers;
- (3) increase the risk of motor vehicle accident or injury to pedestrians by speeding the flow of traffic through Five Dock shopping centre;
- (4) disadvantage disabled and crippled pedestrians and drivers who cannot move quickly or find alternative parking.

Your Petitioners therefore humbly pray that your honourable House not create a clearway through the Five Dock shopping centre.

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

Petition, lodged by Mr Maher, received.

QUESTIONS WITHOUT NOTICE

LESLIE HOMES (AUST.) PTY LIMITED

Mr EINFELD: On Thursday, 26th January, the honourable member for Raleigh asked me a question about Leslie Homes (Aust.) Pty Limited. I know that the honourable member for Raleigh is leaving for overseas today, and I wish him a pleasant trip and safe return. As I said when he asked the question, no money has been given to Leslie Homes (Aust.) Pty Limited. Under the project building societies scheme, the funds are designated for lending by terminating building societies which **finance** eligible clients of nominated builders. In this way and including the most recent allocation, finance of \$6,404,000 has been designated for schemes built by Leslie Homes (Aust.) Pty Limited. This has enabled the company to build 302 new homes at an average saving per home of \$2,174 on the **calculated** market price. I **am** informed that Oceanic Equity Limited, a listed public company, acquired a 25 per cent interest in Leslie Homes (Aust.) Pty Limited on 24th February, 1977, and a further 46 per cent interest on 18th June, 1977. I am informed that the Stock Exchange has written to the secretary of Oceanic Equity Limited asking several questions. I am informed also that these have been answered by the company. I am unable to give categorical assurances that any building company, or any other company for that matter, is 100 per cent safe and secure. Most members of this House would be well aware of the difficult times experienced by the building industry in recent years. Even in good

conditions it is an industry that has its problems. This has not discouraged the present New South Wales Government from doing everything in its power to **stimulate** and assist the industry. For my part I have ensured that large sums of money have been injected into the **building** industry through the project building societies scheme. Approximately \$47 million has been made available under the scheme since I **took** office less than two years ago and no purchaser has lost any money through the default of a builder within the scheme.

Leslie Homes (Aust.) Pty Limited is regarded by my departmental officers as one of the top builders in the scheme by reason of the quality of workmanship and the excellent prices which their estates offer. All homes required to be constructed by that company under projects announced to 31st December, 1977, are completed or within one month of completion. In all those cases where settlement has not yet been effected the prospective purchasers' deposits are covered several times over by the value of work completed. On 24th February, 1978, I announced that a further sum of \$1,607,000 had been allocated as loans through terminating building societies to eligible purchasers of further projects of this company to be constructed at Bossley Park and Ruse. I am advised that in accordance with the normal practice of the **company**, deposits will not be taken until finance for individual purchasers has been approved and that they will be protected by contracts. I am further advised that this brings the dwellings under the coverage of the Builders Licensing Board, so that in the event of the builder not being able to fulfil his obligations, the usual provisions come into effect. Leslie Homes (Aust.) Pty Limited appears to be operating satisfactorily and its record in the project building societies scheme speaks for itself. Its practice of accepting deposits is in accordance with industry practice.

ILLEGAL BETTING

Mr **COLEMAN**: My question without notice is directed to the Premier. Is the Premier still unable to reach a decision on whether to legalize casinos, six months after tabling the Lusher report and about twenty-two months after first announcing his intention to legalize casinos? Is he similarly undecided whether to legalize the now illegal starting price betting? As the Premier is unable to **make** up his mind, will he allow the public to do it for him and include questions on these matters in the referendum to be held on 17th June?

Mr **WRAN**: No questions of that nature will be included in the referendum to democratize the upper House after 153 years of autocracy. **So** far as casinos are concerned, the Government has certain priorities and that matter will be considered in due course. One should have imagined that the Opposition, after the drubbing it got this week from the public and the press following its muckraking about SP betting would have restored itself to thinking about unemployment and the high level of misery among young people in the community who suffer greatly from lack of employment opportunities, particularly in the western suburbs, and the density of problems in country areas.

Mr Viney: On a point of order. The standing orders are quite clear that a Minister's answer must be relevant to the question. The Premier is doing nothing but bringing a bucket of red herrings into the House, in that the answer he is giving has no relevancy whatever to the question asked of him.

Mr **SPEAKER**: The honourable member for Wakehurst continually takes this point during question time. No point of order is involved. The restrictions that apply to questions do not apply to answers by Ministers. I do not intend to restrict the Premier.

Mr WRAN: The Opposition should give some thought to the high level of unemployment and the great deprivations felt by many people who live in country New South Wales. Indeed, it was quite uplifting yesterday to hear for the first time in this session the Leader of the Country Party ask a question that related to people in the country. Of course, he did so only because the night before —

Mr Punch: Tell the truth.

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

Mr WRAN: —~~he~~ spoke on television about SP betting and said, "But I exclude SP bettors in the country". Probably the SP bookie up at Gloucester had telephoned ~~him~~. The simple situation is that the Government is running and will continue to run New South Wales. When, if ever, it makes up its mind in relation to casinos and other matters it will inform the Opposition.

DECENTRALIZATION OF INDUSTRY

Mr JOHNSON: I direct my question without notice to the Minister for Decentralisation and Development and Minister for Primary Industries. Is it a fact that, as announced recently by the federal member for Macquarie, Mr R. Gillard, a federal grant of \$6.2 million has been made to the New South Wales Government to assist in relocating industry in the metropolitan area? If so, what are the guidelines set down for the use of that grant?

Mr DAY: I must inform the honourable member for Mount Druitt that any claim made along those lines by the federal member for Macquarie is quite false. I am not aware of an allocation of \$6 million, or for that matter any amount, to New South Wales by the federal Government for the relocation of industry. The national budget provided about \$6.7 million for decentralized projects throughout Australia but as yet guidelines for the allocation of that money have not been decided. I am aware of only one approval and that did not seem to go through any recognized procedure at all. It was a grant of \$500,000 for work in Launceston, in the electorate of the federal Minister for Environment, Housing and Community Development, the Hon. K. E. Newman. That is the only project throughout Australia that has received such funding.

So far machinery for the making of applications for these funds has not been set up. Certainly no specific amount has been set aside for this State or for industry within this State. I am concerned that this might be yet another attempt by the national Government at duplicating, instead of complementing, this State's decentralization incentive programme. If one can believe statements by the federal Minister for Industry and Commerce, the Rt Hon. P. R. Lynch and others in the national Government, the Commonwealth is offering some assistance to small businesses. Of course, that would duplicate what the New South Wales Government is already doing and perhaps what other States are doing, too. The federal Government should concentrate its efforts in such a way as to complement this State's vigorous activities in decentralization and offering assistance to business generally.

When one compares the sum of \$6 million with this Government's allocation of \$22 million for decentralization in this State—and that does not take into account expenditure on growth centres—one can see how puny the federal allocation will be, particularly as it will be spread over the whole of Australia. I am aware of the intense interest shown by the honourable member for Mount Druitt in respect of improving employment opportunities for his constituents, for he consults me regularly about problems in his electorate that affect my portfolio. I can only indicate to the

honourable member that I wish the matters he has outlined are correct. The Government would be more than willing to receive the sum of \$6 million—in fact any part of it—but it hopes that the Commonwealth Government will soon make up its mind on the matter.

HARBOUR BRIDGE TRAFFIC

Mr VINEY: My question without notice is directed to the Minister for Transport and Minister for Highways. Does the method of changing the direction of traffic flow on a lane on the Sydney Harbour Bridge take between 20 and 25 minutes and during that time is that lane virtually unavailable to traffic? Have engineers of the Department of Main Roads estimated that with the use of overhead traffic lights a change could be effected in the direction of traffic flow in approximately four minutes? When will effect be given to this proposal, which has been under consideration for more than, three years?

Mr COX: The matters raised in the question asked by the honourable member for Wakehurst are basically correct. Tenders have been called for the important task of installing overhead directional flow change lights, and it is hoped that within the next few months work on them will begin.

HAMMONDVILLE PUBLIC SCHOOL

Mr KEANE: I direct my question without notice to the Minister for Education. Can the Minister inform the House of any developments that may take place at Hammondville Public School in updating existing facilities and providing improved sporting amenities at the school where four classrooms have been set aside for migrant children enrolled there?

Mr BEDFORD: I thank the honourable member for Woronora for asking this important question about Hammondville Public School. This school is receiving fairly large numbers of migrant children following the reopening of the East Hills migrant hostel to accommodate refugees from some oversea countries. In these circumstances it seems proper that certain necessary work be carried out for the benefit of all the students at the school, including the refugee children. It should be borne in mind that some children tend to become quite unsettled in the new environment. For that reason the physical surroundings of this school should be of a high standard. I am pleased to advise the honourable member for Woronora and the House that work to be put in hand at this school will be basically in two parts. First, a new car park and access road is to be built at a cost of approximately \$17,000; second, ground works will be done to cost approximately \$22,000.

The proposed ground works will include a playing field, the installation of practice cricket nets, a water service to the playing field and minor landscaping and beautification work. The ground improvement programme for Hammondville Public School is on the major ground improvements loan programme for the financial year 1977–78. Initially, the department rejected the plan for the car park and the access road because too many car parking spaces were to be provided. The metropolitan district engineer of the Department of Public Works has prepared a revised plan, and estimates based on it which will be examined by the properties division of my department. Subject to approval of the revised plan, the Department of Public Works expects an early start to be made on this work. I assure the honourable member for Woronora and the people he represents—particularly the children who attend Hammondville

Public School—that my department is determined to press on with this work. I am sure that when the improvements are completed they will be valued by the children and the community generally.

LOCAL GOVERNMENT ELECTIONS

Mr FISHER: My question without notice is directed to the Minister for Local Government. Following the Government's reintroduction of compulsory voting did approximately 700 000 people fail to vote at the recent local government election? Is it now clear that many councils are refusing to pursue prosecutions against people who have not provided a satisfactory explanation for failing to vote at those elections? Does such action by these councils bring the law into contempt? Will the Minister accept the fact that compulsory voting is impracticable at local government elections? Will the Government back down and remove this obnoxious provision from the **Local Government Act**?

Mr JENSEN: The honourable member for Upper Hunter has raised a question of significance. The Government intends that the standards that apply to the holding of federal and State elections shall apply also to local government elections. A return to the days when a handful of people could elect the council representatives responsible for administering community affairs is not acceptable to the Government. That standard accorded with the policy of the former Government of which the honourable member for Upper Hunter was a member. In New South Wales when voting at local government elections was not compulsory as few as 10 per cent or 11 per cent of the people cast their vote. In some areas 5 per cent or 6 per cent of people belonging to interested groups could gain control of a council. When that happened it was to the detriment of the communities that those councils served.

As a consequence of the policy of the Australian **Labor** Party the Government was pleased to introduce legislation to make voting compulsory at local government elections. I remind the honourable member for Upper Hunter that that was also the policy of the Local Government Association of New South Wales, which had made representations unavailingly to the former Government for the restoration of compulsory voting. What councils do about people who fail to vote is a matter for them. Many councils have expressed concern about the low incidence of voting following the reintroduction of compulsory voting. It is difficult to ensure a higher level of voting at local government elections.

A proposal before the Government is that local government elections be conducted by State electoral officers. Though that proposal would be well worthy of implementation, there are some difficulties associated with the State electoral officers taking on that responsibility. The Government has the matter under review. Certainly there is no intention of reverting to the arrangements that obtained when the former Government was in office. People were discouraged from voting at local government elections. Many voters believed that although it was obligatory for them to vote at federal and State elections, they should not be required to vote at local government elections. That is certainly not the view of this Government.

SCHOOL CLASS SIZES

Mr ROGAN: I direct a question without notice to the Minister for Education. Is it true that recently the Minister announced that school class sizes are to be reduced? Will the Minister indicate the extent of the proposed reduction in class

sizes? Will the Minister also say whether the reduction in class sizes has been made possible by the availability of additional federal funds?

Mr BEDFORD: Lest I forget it, I should like to answer **first** the last part of the honourable member's question. This Government has not received any assistance from the federal Government to finance the cost of reducing class sizes. The most significant reduction that was effected in class sizes in New South Wales before the Government came to power was in 1974, following a huge injection of federal funds. Over the past few years the federal Government has been reducing the percentage of funds allocated for education. In this financial year a reduction of at least \$5 **million** in real terms occurred in funds made available to the State for spending on education. Nevertheless, the Government continued its class-size reduction programme.

[Interruption]

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

Mr BEDFORD: Provision was made in the last Budget for a further reduction of class sizes in secondary and primary schools. Because of the magnitude of the staffing programme and the large number of children attending schools, it is not possible until three weeks of the academic year have elapsed to look at staff resources as against the number of children attending the schools. Returns then come into the department and a review can be carried out. As a result of the review that was made this year—one was made also the year before—it has been possible to build into class establishments some reserve staff who are carried in addition to the establishment, thus reducing class sizes in secondary schools once again. This was announced on Thursday, 2nd March. The effect is that in years 7 and 8 in high schools that are not disadvantaged, no class need exceed thirty-two pupils. Probably the most significant feature is that when this Government came to office a little over twenty months ago the class sizes in form 7 and 8 were thirty-eight pupils. As I said, this number has been reduced to thirty-two.

Mr Pickard: It has not.

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

Mr BEDFORD: The honourable member for Hornsby was Minister for Education when, against advice offered to him and notwithstanding that the Treasury would have paid the bill, he refused to build a reserve staff into the establishment. Had he done so, he would have introduced real and lasting benefits into the education system of New South Wales. Not only have we effected this reduction in class sizes. The same exercise will be carried out in the forthcoming budget discussions. Because there will be an output from teachers colleges in July this year, a further review will be made of staff resources with a view to further reducing class sizes, particularly in primary schools. I commend the honourable member for East Hills for his continuing interest in education in New South Wales.

SMOKING IN TRAINS

Mr BARRACLOUGH: I direct my question without notice to the Minister for Transport and Minister for Highways. Is it a fact that commuters on Gosford and Blue Mountains trains may enjoy a smoke but train travellers from Auburn, **Hurstville**, Liverpool and Chatswood are denied this right by the Minister's arbitrary smoking bans? Will the Minister advise me and the House of the justification for this blatant discrimination against many travellers on New South Wales trains? If there is no justification for such discrimination, will he immediately provide smoking and non-smoking compartments on all trains so as to preserve the civil rights of all users of public transport?

Mr COX: I am surprised that after the no-smoking decision has been in operation for nearly twelve months the honourable member for Bligh should suddenly find some support for the tobacco industry in New South Wales. I inform him that every State in Australia—in fact every major city in the world—has imposed a similar ban. No, I do not propose to change the decision. Before the decision was made, research was carried out by a reputable research company. Also, the metropolitan newspapers conducted their own survey and came to the conclusion that the public wanted this ban.

Mr Barraclough: What about the commuters from Gosford?

Mr SPEAKER: Order!

Mr COX: The survey found that even the smokers themselves voted in favour of the ban. That was the majority view of the smoking lobby. The honourable member is a bit slow in raising the matter after the ban has been in operation for almost twelve months. His question smacks of an approach by tobacco lobbyists.

STUDENT FIELD EXCURSIONS

Mr RYAN: My question without notice is directed to the Minister for Education. Is it the practice that students at technical colleges when participating in conducted tours or field excursions in connection with their courses are compelled to sign a form entitled "Disclaimer and Indemnity" before taking part in the tour or excursion? Was this practice introduced by the former Government? Does this disclaimer and indemnity when signed purport to take away from a student the right to sue the New South Wales Government for damages for any loss or injury to property or person, including injury or loss caused by the negligence of officers, servants or agents of the Government? Will the Minister give consideration to discontinuing this iniquitous and unjust denial of rights which was introduced by the former Liberal-Country party Government of New South Wales?

Mr Mason: On a point of order. This is what has come to be known as a convoluted question. It is prolix; and it contains many argumentative and emotional words.

Mr SPEAKER: Order! I understand that the honourable member has concluded his question. The question is in order.

Mr BEDFORD: Because of his legal background and his determined approach to all matters of general importance to the people of New South Wales as well as to his constituents, the honourable member for Hurstville raised this matter with me some time ago. I shall answer the last part of his question first by saying that following his representations I asked the Department of Technical and Further Education to review the whole matter with a view to advising the Government on what should be done. It is a fact that students have been required to sign a disclaimer and indemnity form since 1973, when the honourable member for Earlwood was Minister for Education in the Liberal-Country party Government. The disclaimer and identity form was drafted by the Crown Solicitor, who recommended that it be signed by all students undertaking industrial visits. The Crown Solicitor then stated that completion of this form by students would not necessarily absolve the Department of Technical and Further Education—

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

Mr BEDFORD: —from its responsibilities in the event of negligence by a departmental officer. The training of students, whether within or away from the college, is not a particularly hazardous matter. The department does not normally accept liability for claims arising from injuries sustained by students attending technical college classes. However, where circumstances show that negligence by the department, through a member of its staff, was a contributing factor to an injury to a student, this may alter the Crowns' liability. All cases are considered on their merits. Provision is made for *ex gratia* payments if it is considered that the department is at fault. Notwithstanding this, if it appears that in the legal sense the document is not worth the paper it is written on, there does not seem to be any point in continuing to use it. The department is reviewing it in that context. When I receive further advice I shall inform the House and the public.

PIG INDUSTRY EFFLUENT

Mr BOYD: My question is directed to the Minister for Decentralisation and Development and Minister for Primary Industries. Is the Minister familiar with the anaerobic system for the disposal of effluent in the pig industry? Is that system recommended by officers of his department? If so, has there been liaison between him and the Minister for Planning and Environment to ensure that the benefits of the system are fully investigated before a decision is made to introduce amending legislation to deal with effluent disposal? If there has been no such liaison, will the Minister immediately warn the Minister for Planning and Environment of the damage that his proposals, if implemented, will do to the economy of the New South Wales pig industry?

Mr DAY: I am not familiar with the system referred to by the honourable member for Byron but I am glad of the question for it gives me an opportunity to make quite clear that the Government has no particular policies with relation to the control of effluent from piggeries and that the paper that has been put to the pig industry is for comment. Constructive comment has been sought. No decisions have been taken by my department or by the Department of Planning and Environment in relation to this matter. A paper has been forwarded to the industry for discussion. No decisions have been made yet, and no decisions will be made that will have an undesirable economic impact on this important industry.

The Minister for Planning and Environment and I have discussed the matter. I want to make it clear that there is no intention at all to place unfair burdens on the pig industry. What is of concern is the amount of effluent from very large piggeries, which has to be catered for in some way. It is very large piggeries only that are the source of concern. I have been informed that the effluent from a pig is about three times that from a human being. If one has a piggery with 100 000 pigs—and piggeries of that size are in existence or planned—the effluent is of the same magnitude as from a city and it poses a big problem. This is the cause of concern and this is the reason why the matter is being discussed with the pig industry. I assure the honourable member for Byron and farmers with piggeries of the normal dimensions that he would have in his electorate that it is not intended to place any unfair burdens on them in relation to the disposal of effluent from their piggeries. I am confident that a system will be evolved that will be satisfactory from the pollution point of view and economic from the farmers' point of view.

CROWN LAND HOMESITES

Mr SHEAHAN: My question without notice is directed to the Minister for Lands. Was he responsible for introducing the new system for disposal of Crown land

homesites through tender-ballot? Was this system extended to all areas of the State last June? I ask the Minister whether the disposal rate of homesites in country areas has increased since that time?

Mr CRABTREE: I should like to compliment the honourable member for Burrinjuck on the interest he always shows in country people, so different from the attitude of our Darling Point friends. The Government has been delighted with the public response to the new tender-ballot system for disposal of Crown land **homesites**. It is obvious that, after years of hardship under the iniquitous auction system of the previous Government, homeseekers have welcomed the tender-ballot system with open arms. Probably the best illustration of our success is the fact that since June of last year 270 blocks have been offered in fourteen country centres. Of these, 210 blocks have already been taken up by homeseekers, giving a disposal rate of more than 75 per cent. This compares more than favourably with the disposal rate of less than 50 per cent for country areas that existed under the auction system.

The simple fact is that under the tender-ballot system homeseekers **know** exactly what their commitment will be and they are able to plan their **finances**. Deposit at the time of sale is 10 per cent and the balance is payable over a period of up to ten years, depending on the upset price determined, with interest at 8 per cent per **annum** reducible. These are very favourable terms for a homeseeker and, despite the futile attempts of the Opposition to denigrate our scheme, the public has shown its support in the most tangible way possible by taking up the homesites that we have offered.

LAND SALES ACT

Mr MASON: I address my question also to the Minister for Lands. Is **the** Minister aware that the Minister for Consumer Affairs and Minister for Co-operative Societies advised by a letter dated 28th February to the Auctioneers and Agents' Council of Australia that amendments to the Land Sales Act have "already been approved by Cabinet"? Did the Minister, however, inform this House on Tuesday last, 7th March, in answer to a question that the amendments to the Land Sales Act had not yet been considered by the Government? Can the **Minister** inform the House what the true position is? Have Cabinet and the Government approved of these amendments or not?

Mr Barraclough: Tell the truth.

Mr SPEAKER: Order!

Mr CRABTREE: I shall tell the honourable member the truth. It will be strange to him.

[Interruption]

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

Mr CRABTREE: I am aware that the honourable member prepared the press statements for the Leader of the Opposition, and I am also aware that the industry today is staggered to see such irresponsibility from men who represent certain sections of the community in this State **Parliament**.

Mr Pickard: Answer the question.

Mr CRABTREE: I shall answer the question by quoting a statement from Mr Neville Tucker, the president of the Real Estate Institute.

Mr Pickard: Answer the question.

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

Mr CRABTREE: Mr Neville Tucker, the president of the Real Estate Institute, last week confirmed that the State Government had promised to consult the institute on any amendments that might be drafted. Referring to a press statement by the Leader of the Opposition, he said, "But I do not know where Mr **Coleman** got his information. We have not seen any amendments."

Mr **Coleman**: We have.

Mr CRABTREE: You have not.

Mr Mason: What is in this document, then?

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

Mr CRABTREE: The honourable member for **Dubbo** was not Minister for Lands for very long. I say definitely that, as Minister for Lands, I have never seen any amendments to the Land Sales Act.

Mr Mason: Then what is in this document?

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

Mr CRABTREE: I challenge the honourable member for **Dubbo** to take action in this House or to see me later. Some queer people write to him.

[Interruption]

Mr SPEAKER: Order!

Mr CRABTREE: I notice that the honourable member for **Dubbo** has lost the flower that he had in his buttonhole last night. I tell him that there are no proposals before the Minister, and there are no proposals in draft legislation that I have put to Cabinet. He would not know much about it, because he was a Minister for only a short period of about seventy days.

MASTERS ROAD RAILWAY OVERBRIDGE, WOLLONGONG

Mr **RAMSAY**: I ask the Minister for Transport and Minister for Highways a question without notice. Is the Minister aware that the engineer of the Wollongong city council has indicated to the public that the council has refused to go ahead with the Masters Road railway overbridge approaches until the Government guarantees the money required? Is the Minister aware also of the considerable inconvenience occasioned to the people of Wollongong by trucks running through the inner city? Can he indicate whether the Government will be able to give a grant to the Wollongong city council for the purpose I have mentioned?

Mr **COX**: The honourable member for Wollongong has shown great concern about the Masters Road programme, which goes back over a number of years. When I was the shadow minister for transport and highways, I went into the area to look at this proposal. I was pleased to approve of this road programme. It is true that the city engineer at Wollongong made a public statement in which he indicated that the council would not carry out the approach works to the new bridge that is being built unless it gets some further financial assistance. On 3rd March I advised not only the honourable member for Wollongong, but also the other honourable members whose electorates are in the Wollongong area, that I had approved an additional grant

of \$190,000 to the Wollongong city council for the trunk and ordinary main road construction programme. That was in addition to a grant of \$240,000 that had been notified some months earlier. The total grant is now \$430,000.

The amount of which I recently approved was granted on the basis that additional funds are required for the construction by the council of the eastern approach to the Masters Road railway overbridge on main road No. 602. In view of the progress being made with the bridge work the council will now need to carry out a substantial part of the eastern approach work during the 1977–78 financial year in readiness for the completion and opening of the bridge in 1978–79. I am sure that the honourable member for Wollongong will receive that news with a great deal of heart because of his interest in this programme. I am certain that these additional funds will ease any problem that has been experienced by the Wollongong city council.

RED WINE GRAPES

Mrs MEILLON: I address a question without notice to the Premier. Since the Premier was made aware of the problems of the red wine grape growers on his recent visit to Griffith has the Government appropriated \$360,000 for the Wine Grape Marketing Board to offset the cost of producing surplus red grapes in the Murrumbidgee Irrigation Area? If so, will the Government afford some assistance to the twenty-five red wine grape growers in the electorate of Murray who, also, have unsold grapes? What assurance can the Premier give that the spirit and grape juice concentrate produced under such a scheme of assistance will not eventually be dumped on the already over-supplied traditional Australian market for those products, placing in jeopardy the economic viability of growers and winemakers in areas other than the Murrumbidgee Irrigation Area?

Mr WRAN: The matter raised by the honourable member for Murray is of considerable significance, and must be looked at within the context of the general over-production in Australia of grapes destined for the making of red wine. Unfortunately, the honourable member is not altogether accurate—indeed, she is wholly inaccurate—when she suggests that the Government has provided \$360,000 to the Wine Grape Marketing Board for use in the Murrumbidgee Irrigation Area. The fact is that what the Government has thus far done has been to arrange to guarantee a loan upon certain terms and conditions to the local wine grape board so that a surplus of 10 000 tonnes of black Shiraz grapes that otherwise would have been used for the manufacture of claret-type wines may be processed for the manufacture of spirits. The result is that a surplus of 10 000 tonnes of red grapes will not be ploughed into the ground. The Government does not expect that it will have to honour the guarantee, because all the indications are that the board will be able to meet its obligations in the ordinary way in respect of the loan of approximately \$360,000 that it has contracted. That money will now be used to enable the local growers, at least at some time in the future, to get a return for their labours and the investment in their crops in the past twelve months.

The honourable member for Murray might be confused because the point has not been made altogether clear. Since the Government took an initiative on behalf of the wine grape growers in that area, the Commonwealth Government has shown an interest in providing what I think could properly be described as some carry-on loans to assist wine grape growers who will not get any money for their crops. It is true that the New South Wales Government has entered into discussions with the Commonwealth Government in an effort to determine whether some measures can be

devised to assist wine grape growers to cover the cost of tending their grapes to the point of harvest by at least providing them with the amounts of money they would otherwise have received.

The honourable member has shown concern for twenty-five growers of red wine grapes in her electorate, and quite properly so. The reason the Government has not considered their position is that the honourable member has not until this morning asked that it be considered. If the honourable member for Murray, who I know has the interests of her constituents at heart, can present a reasonable case to the Government to show an expectation by the people concerned of being able to repay any loan, there is no reason at all why the Government would not at least consider giving some form of guarantee similar to the one that has been given to wine grape growers in the Murrumbidgee Irrigation Area.

NEIGHBOURHOOD CENTRES

Mr BARNIER: I address a question without notice to the Minister for Youth and Community Services. Is it a fact that last financial year the New South Wales Government provided \$250,000 for the development of thirty-two neighbourhood centres? Has the scheme been successful? If so, to what extent is the **Government** proposing to increase funding this financial year and at the same time sponsor the development of a bigger network of neighbourhood centres throughout the State?

Mr JACKSON: Last financial year the Government made available \$250,000 for the establishment of thirty-two neighbourhood centres throughout the State. The existence and activities of those centres has proved to be of tremendous benefit to many persons in the community. Because the centres have been highly successful, the Labor Government, which began the scheme after coming to office, has made more than \$500,000 available this financial year to re-fund most existing neighbourhood centres and to establish others. As a result of the 100 per cent increase in the allocation for this purpose, twenty-nine new centres will be established. For the benefit of representatives of country electorates, I inform the House that eighteen of the new centres will be in country areas and the remaining eleven in the metropolitan area. I am pleased to be able to say also that following successful negotiations with the Commonwealth Government, \$2.25 million will be made available for a three-year family support programme. It is significant that the New South Wales Labor Government was able to negotiate that matter successfully with the Commonwealth, although the former Liberal-Country party Government was reluctant to enter into such discussions, no matter what party was in office in Canberra. Community-based welfare organizations will now be able to apply for funds from that source. Applications have been called for, and the closing date of lodgment is 31st March. When the twenty-nine new neighbourhood centres have been established, there will be fifty-nine centres operating in the State.

The demand for this sort of service is increasing daily because of the effects of unemployment and the economy generally. More and more families are unable to cope with the financial crises and other problems that can be identified with unemployment. In country areas fewer opportunities are available for employment than in the more densely populated parts of the State, and in those places demands for neighbourhood centres and branch offices of my department are increasing. The honourable member for Blacktown has been most interested and has played a role in the establishment of neighbourhood centres. The centre at Blacktown was opened after negotiations with the responsible committee through the honourable member for Blacktown. It has proved successful, and it is operating in an area with a serious unemployment problem. I am pleased to be able to advise the **honourable** gentleman

that re-funding of the Blacktown centre this financial year has been approved. I **thank** him for his interest in and support for these worthwhile projects, which are meeting a great need in the community.

ADDITIONAL SITTING DAY

Motion (by Mr F. J. Walker) agreed to:

That, unless otherwise ordered, this House shall meet on Friday, 10 March, 1978, at 10.30 o'clock, **a.m.**

The motion for the adjournment of the House shall on this day be decided without debate.

MAIN ROADS (VEHICLES) AMENDMENT BILL LOCAL GOVERNMENT (VEHICLES) AMENDMENT BILL

Suspension of Standing Orders

Motion (by leave, by Mr Cox) agreed to:

That so much of the standing orders be suspended as would preclude the Main Roads (Vehicles) Amendment Bill and the Local Government (Vehicles) Amendment Bill being treated as cognate bills and one question being put for leave to introduce **the** bills.

Introduction

Mr COX (Auburn), Minister for Transport and Minister for Highways [11.221:
I move:

That leave be given to **bring** in a bill for an Act to amend the Main Roads Act, 1924, with respect to the weight of, and the loads on, vehicles using main roads and toll works, and in other respects.

I move also:

That leave be given to bring in a bill for an Act to amend the Local Government Act, 1919, with respect to the weight of, and the loads **on**, vehicles using public roads, and in other respects.

These bills are being treated as cognate bills because they contain virtually identical provisions. They implement the recommendations of the study of the economics of road vehicle limits which require legislative action. That study was published in 1975 by the National Association of Australian State Road Authorities and has been accepted by all State governments in Australia. As many honourable members would be aware, these proposals represent a major step forward in achieving nationwide uniformity in the road transport industry. The proposals have wide-ranging support, especially in the industry. I have been pressed by many honourable members, including the honourable member for Wakehurst as Opposition shadow spokesman for transport, for their speedy implementation. It is my view that the provisions of the bills are a package of legislative change which, together with other administrative changes to follow, represent a significant advance in increasing the efficiency, equity and safety of the road transport industry. Accordingly, I expect that members of the Opposition will support the provisions of the bills.

The Main Roads (Vehicles) Amendment Bill has two main objects. The first is to increase the penalties that may be prescribed by any ordinance made under the authority of the Main Roads Act relating to the protection of roads and tollworks. The main purpose behind this provision is to increase maximum penalties for vehicle overloading and associated offences. Second, it is proposed to insert into the Main Roads Act a provision that, when a vehicle using a main road or tollwork is found to be more than 10 per cent above the prescribed load limits, certain authorized officers may direct the driver of the vehicle to reduce or adjust the load. Such officers may also direct the driver not to drive the vehicle further on any road except to a designated place for the purpose of reducing the load.

This provision proposes also that a person must obey any of the above directions and is liable to a penalty if he fails to do so. In addition, if a person refuses to obey any of the above directions or a direction to weigh the vehicle, a police officer or special constable may drive the vehicle to a designated place, arrange for it to be weighed and, if it is overloaded by more than 10 per cent, impound the vehicle until the load is reduced. The bill contains also provisions ancillary to the above proposal which protect the interests of the driver, the Crown and servants of the Crown. I have confined my remarks to a brief outline of the objects of the bill. I shall explain those provisions in greater detail at the second-reading stage.

The objects of the Local Government (Vehicles) Amendment Bill, which is cognate with the Main Roads (Vehicles) Amendment Bill, are the same as I have already outlined except that this bill relates to public roads other than main roads and tollworks and the powers proposed are exercisable by different authorized persons. I commend both motions to the House and shall be pleased to give further particulars at the second-reading stage.

Mr VINEY (Wakehurst) [11.25]: The Opposition has no objection to the introduction of these bills. The Minister must have breathed a great sigh of relief to have brought in these measures. They have been in the pipeline for a long time and the transport industry has been anxiously awaiting them. The regularization of the road transport industry throughout Australia is long overdue. I pay tribute to the dedicated professional people who worked so hard to bring about a set of recommendations that have found common accord with all governments in Australia. I shall be interested to learn what the penalty provisions will be for overloading. I should like to know whether this Government considers it desirable to follow the lead of South Australia which prescribed an automatic increase in penalty for each percentage unit that a vehicle is found to be overweight. That might be regarded as a harsh penalty but apparently it is a quite effective disciplinary measure to overcome flagrant overloading of vehicles.

Mr PARK (Tamworth) [11.27]: Both of these bills are highly technical. I am aware that some time ago a number of recommendations were made to the Government. I am pleased that the Minister and his staff have been able to introduce these measures at this stage. I ask the Minister to give an assurance that, if after the application of the provisions of these measures some of them are found to be unworkable or to create problems, he will as soon as possible introduce amendments to overcome the difficulties. A number of associations in this State, including the North and North West Road Transport Association based at Tamworth, have been pressing for some of these amendments, particularly in relation to the length of articulated vehicles.

Hauliers engaged in the livestock transport industry have encountered some difficulties. When people in the haulage industry replace worn-out vehicles, naturally they buy the most modern and efficient vehicles available. Generally speaking, for some time vehicle manufacturers have tended to construct articulated vehicles longer than

the existing legal limit. In the event a number of livestock hauliers in New South Wales are operating outside the law. This has created a difficult situation both for the hauliers and the police. I welcome the introduction of these bills and I shall be interested to study their provisions in detail.

Mr COX (Auburn), Minister for Transport and Minister for Highways [11.291, in reply: I thank the honourable member for Wakehurst and the honourable member for Tamworth for their support. I should like to inform the honourable member for Tamworth that should any of these provisions be found to be unworkable the legislation will be amended. Any responsible Minister would give a guarantee of that order, and certainly I do so. At the second-reading stage I shall outline the measures more fully. The spirit of this legislation is that contained in the recommendations of the National Association of Australian State Road Authorities in relation to lengths of articulated vehicles, increased weights, overloading and offloading. In the spirit of the NAASRA agreement it is necessary to implement the good provisions as well as the unpalatable parts. The Government proposes that these recommendations will be put into effect. I thank honourable members for their contributions.

Motions agreed to.

Bills presented and read a first time together.

MEAT INDUSTRY (AMENDMENT) BILL

Introduction

Mr DAY (Casino), Minister for Decentralisation and Development and Minister for Primary Industries [11.301: I move:

That leave be given to bring in a bill for an Act to amend the Meat Industry Act, 1915, so as to provide for the extension of the term of office of the present representative on the Metropolitan Meat Industry Board of persons employed in the meat industry.

The purpose of this bill is to allow Mr Reginald Brownlee, who will be 65 years of age on 30th May, 1978, to continue as a representative of persons employed in the meat industry until 31st December, 1978. I shall explain the bill in detail at the second-reading stage.

Mr BREWER (Goulburn) [11.31]: The Opposition will welcome this bill which seeks to extend the service of Mr Reginald Brownlee on the Metropolitan Meat Industry Board. The result of recent legislation will be that many changes will take place in the meat industry. Mr Brownlee has given tremendous service to the Metropolitan Meat Industry Board. I think he was appointed to his present position during the time when the Hon. W. A. Chaffey, a former member for Tamworth, was Minister for Agriculture. I am pleased to learn that Mr Brownlee will be able to continue as a representative of the meat industry on the Metropolitan Meat Industry Board. I shall have more to say about this matter at the second-reading stage.

Motion agreed to.

Bill presented and read a first time.

EGG INDUSTRY STABILISATION (AMENDMENT) BILL

Introduction

Mr DAY (Casino), Minister for Decentralisation and Development and Minister for Primary Industries [11.32]: I move:

That leave be given to bring in a bill for an Act to amend the Egg Industry Stabilisation Act, 1971, to provide that convictions and orders in respect of offences against the Act shall, in default of payment, be enforceable as judgments in courts of petty sessions instead of by way of imprisonment; to enable search warrants to be issued authorising inspectors to enter premises; and to increase certain penalties.

Honourable members will no doubt be aware of the recent publicity surrounding the gaoling of a number of poultry-farmers in Sydney. These people elected to go to gaol voluntarily rather than pay court fines for breaches of the Act. The proposed amendments will provide for the recovery of fines as a debt in a civil court. It will also enable inspectors to obtain a search warrant and, when accompanied by a member of the police force, to enter premises for the purpose of exercising their powers under the Act. Finally, it will increase substantially the maximum fines under the Act.

Mr PARK (Tamworth) [11.33]: The bill has become necessary as a result of two things: first, the illegal operations of a handful of hard-core members of the poultry farmers defence committee; second, certain action taken by the Premier on 6th March. In 1972 an overwhelming majority of egg producers voted in favour of an egg stabilization scheme. As a result, egg quotas were announced, to apply from 1st December, 1974. Generally, egg producers have complied with the quotas set for them under the scheme. However, over the past three years approximately eight or ten hard-core members of the so-called poultry-farmers defence committee have conducted their operations in such a way as to cause other producers—in fact the industry generally—to lose vast sums of money. Moreover, certain legal difficulties involved in apprehending these law breakers have cost the industry tens of thousands of dollars. Recently four of these rebels presented themselves at court and they were duly imprisoned. It was a put-up job. The news media—and no doubt the Premier—was advised of what was to happen. These rebels have been released from prison on the order of the Premier. I take it that the result of the Government's action will be that the fines imposed on these people will be waived. The industry will now have to start again in respect of apprehending these people.

I have received a great many telegrams from poultry-farmers in my area, where about 23 per cent of the State's eggs are produced. Those egg producers are concerned about the present situation. Though they may not care how these fines are collected, they are determined to stand together in their resolve that the Government must take quick action to ensure that the provisions of the Egg Industry Stabilization Act are rigidly enforced. I appreciate the reason why leave has been sought to introduce the bill, and I shall be interested to study its provisions.

Mr FREUDENSTEIN (Young) [11.36]: The bill seeks to amend the Egg Industry Stabilisation Act. As I represent the second-largest egg producing area in New South Wales, it would be remiss of me if I did not issue a warning to the Minister that I propose to examine the proposed bill closely. I am concerned at the Premier's action in denying egg producers the fruits of their labour. Many egg producers have incurred legal costs in ensuring that the industry remains stable. Some people who broke the law were imprisoned and then released after refusing to comply with the provisions of the Act. These people were producing about 12½ per cent of the surplus egg production of this State. This discloses a dangerous situation and it indicates to me that the Government—the Premier in particular—is anxious to defeat

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organized marketing in this State and reduce egg producers to peasant level. I shall be concerned about whether the Egg Industry Stabilization Act is enforced to its full extent after the proposed amendments come into operation.

Mr CATERSON (The Hills) [11.39]: I, like the honourable member for Tamworth and the honourable member for Young, look forward with interest to examining the provisions of the bill. At present the egg industry is in an unsatisfactory state. The industry cannot remain in that state, particularly having regard to the events that occurred this week. The egg stabilization scheme was introduced as a result of a poll of producers who voted overwhelmingly to support the scheme.

As I understand the position, six families have objected to the scheme and have blatantly disobeyed the law. Their efforts culminated in events that received great publicity this week—the action of the Premier in having four of them released from prison. I express the hope, as have other honourable members on this side of the House, that the bill will give further and stronger support to the stabilization scheme. I look forward to seeing the provisions of the bill, which will affect egg producers in my electorate. Over the past few days they expressed great concern to me about what is happening in the industry, particularly the events of the past week.

Mr DAY (Casino, Minister for Decentralisation and Development and Minister for Primary Industries [11.42], in reply: I appreciate the reasons why the Opposition is expressing concern but I make it plain, and I think it should be appreciated, that the Government proposes to reinforce the scheme for the orderly marketing of eggs. It is essential that any orderly marketing scheme be understood. I do not consider that fruitful public discussions on the orderly marketing of eggs can be held in a climate where people are in gaol, albeit they went there of their own volition, having surrendered themselves. The whole object of the exercise by those people was to make themselves martyrs and to attempt, in an emotional climate, to hold up the Act to ridicule and public contempt. The Government was not willing for that to happen. It will be clear to honourable members, following the second-reading debate, that the Government is firmly behind the orderly marketing of primary products. It is firmly behind the orderly marketing of eggs.

Motion agreed to.

Bill presented and read a first time.

MARKETING OF PRIMARY PRODUCTS (AMENDMENT) BILL

Introduction

Mr DAY (Casino), Minister for Decentralisation and Development and Minister for Primary Industries [11.44]: I move:

That leave be given to bring in a bill for an Act to amend the Marketing of Primary Products Act, 1927, to provide that convictions and orders in respect of offences against the Act shall, in default of payment, be enforceable as judgments in courts of petty sessions instead of by way of imprisonment; and to increase certain penalties.

By this legislation producers have an obligation to deliver a vested commodity to the board, which has been elected by the producers for the orderly marketing of the product. Some egg producers have elected to go to gaol rather than pay court fines for breach of this Act. The proposed amendments will provide for the recovery of fines as a debt in a civil court. They will also substantially increase the maximum fines under the Act. The bill has the same objects as the earlier bill I introduced, the Egg Industry Stabilisation (Amendment) Bill.

Mr PARK (Tamworth) [11.45]: The Opposition will be interested to study the provisions of the bill. In particular the Opposition will be seeking to ensure that it reinforces the arrangements for orderly marketing, and will not in any way obstruct or impede the efficient operation of the Marketing of Primary Products Act. As I said when speaking to the earlier bill, I do not think that producers are concerned about what method is used to enforce orderly marketing schemes. Again I emphasize that if any such scheme is not enforced the Act might as well be thrown out the window.

Motion agreed to.

Bill presented and read a first time.

DAMS SAFETY BILL

Second Reading

Debate resumed (from 8th March, vide page 12712) on motion by Mr Ferguson:

That this bill be now read a second time.

Mr FREUDENSTEIN (Young) [11.47]: I say at the outset that I do not like this bill at all. It is a fake. It is a vehicle by which the crazy element in the society, the environmental lobby, has again won a victory over the workers of New South Wales. It is astounding that honourable members who represent electorates in the southern coalfields areas of New South Wales are able to sit idly by and see a bill come before the House that could well throw 2 000 employees out of work.

Mr Sheahan: What a lot of rubbish.

Mr FREUDENSTEIN: It is true. It is a worrying situation. It is indicative to most honourable members that the members of the Labor Party from northern electorates have taken over with the left wing of the party in an endeavour to ensure that coal mined in New South Wales will come from the northern coalfields rather than the southern coalfields. It is indeed a dangerous climate. The Japanese market and the Japanese economy is in a critical situation and Australia may not be able to sell coal on that market much longer. All sorts of difficulties are being placed in the way of the southern coalfields.

This bill is a pretence. Its name suggests that it refers to the safety of dams, yet in it there is no definition of a dam. No statement is made about where a lake ceases and a dam starts. Where does a natural lake come into this scheme? What volume of water must a dam contain before it needs to be registered under the proposed legislation? The definitions clause of a bill must be drawn so as to give some measure of knowledge to the reader of a bill. What does this bill say about a dam? Clause 4 (1) reads:

"prescribed dam" means a dam, or proposed dam, for the time being specified or prescribed in Schedule 1.

Schedule 1 specifies dams ranging in size from 5 acre-feet to 10 acre-feet, through to dams with a capacity of more than 1 million acre-feet. The schedule lists some dams that are silted up and could no longer be regarded as dams. I have one of them in my electorate. Many dangerous dams have been omitted from the list of prescribed dams. Also, dams of above 5 acre-feet capacity are not listed. It seems that the people who prepared this legislation conducted research into only two sets of records in this State—those of the Water Resources Commission and the Department of Public Works. Even so, the research into the records of those two bodies was not done properly.

Schedule 1 contains no reference to the Hume Weir. Are not the people of Albury sufficiently important for that weir to fall within the Minister's definition of a dam close to a populated area? I appreciate that Hume Weir is controlled jointly by the Victorian Government and the New South Wales Government. If there is to be a proper surveillance of the safety of dams, those facilities along the State's borders should be regarded as being as important as those in other parts of the State. Several weirs on the Richmond River that were built when I was Minister for Conservation are not mentioned in the bill. One might conclude, therefore, that I was such a good builder of dams that there is no cause for concern about their soundness.

I ask the Minister to inform the House why railway records were not examined. Hundreds of dams built throughout the State by the Department of Railways are not now in use. They would be in a far more dangerous state than many dams. The water storages built by the railways should be included in any surveillance proposal. The Minister attempted to describe dams that would come under the prescribed list of dams. He referred to structures close to areas of population. That is an inadequate description when one is attempting to describe the size of a dam. Dams built by the Department of Railways close to rural areas could flood out at any time and cause extensive damage. These constructions are not listed in the schedule; they are not even prescribed dams.

The bill is a blind. Obviously the list is of dams under which coalmining might take place. The bill is merely ushering in legislation to prevent mining under stored waters. The proposed Dams Safety Committee should be viewed in a constructive and critical way. Appointees to the committee will bring under surveillance work that, in effect, they themselves have carried out. About four years ago when I held the conservation portfolio, I had placed before me a United Nations convention on the safety of dams and a recommendation that New South Wales establish a committee to survey the safety of its dams. That recommendation came to me from the body now known as the Water Resources Commission. At the same time as I received this document the incumbent Minister for Public Works received a similar recommendation from his department. At that time an extensive programme of dam development and construction of water conservation facilities was under way. That contrasts markedly with the present neglect of this area by the Government.

At that time the Snowy Mountains scheme had folded up. The former Government gathered together some of the top design and construction engineers and deployed them in the Water Conservation and Irrigation Commission, as it was then called, and the Department of Public Works. The former Minister for Public Works and I asked, "Why set up a committee to look at yourselves?" I could see little point in having a committee consisting of representatives of the Water Conservation and Irrigation Commission, the Department of Public Works and the Electricity Commission of New South Wales to look merely at work that those constructing authorities had carried out. I suggested to the commissioner for water conservation and irrigation that the position could be likened to Caesar sitting in judgment upon Caesar. The proposal was not put into effect.

The proposed committee will have seven part-time members, including a member of the Electricity Commission of New South Wales, the Metropolitan Water Sewerage and Drainage Board, the Water Resources Commission, the Hunter District Water Board and the Department of Public Works—all dam-constructing authorities. A committee cannot be effective if it looks merely at its own activities. This proposal is similar to the suggestion made to me when I was Minister for Conservation. I rejected it at that time, and that is why the former Government did not proceed to put into effect the United Nations convention. When the **Lewis** Government came **into** office responsibility for water storage facilities was brought under the one Minister.

Mr Freudenstein]

That did away with numerous constructing authorities with its attendant wastage of engineers. However, because of a falling-off of funds for building water storages, in New South Wales those design engineers are sitting on their tails doing nothing.

The bill will result in the development of a big bureaucracy. Instead of one constructing authority there will be six different constructing authorities to build dams in New South Wales. In addition to the Water Resources Commission, the Department of Public Works, the Electricity Commission of New South Wales, the Hunter District Water Board and the Metropolitan Water Sewerage and Drainage Board there is to be this new committee. It is to have power to construct storage facilities and the right to call contracts. Clause 22 provides that the committee, with the approval of the Minister, shall do any one or more of the following things in relation to prescribed dams:

- (c) carry out all such works and do all such things as, in the opinion of the Committee, are necessary to render the prescribed dam safe;
- (d) demolish or remove the whole or any part of the prescribed dam or any work or structure on the prescribed dam, the water or other material impounded by the prescribed dam or the environs under, over or surrounding the prescribed dam;
- (e) take such action as the Minister directs or approves.

Clause 24 provides that the committee may make and enter into contracts with any person for the carrying out of works, the performance of services, or the supply of goods or materials in connection with the exercise by the committee of its functions. To the hotch-potch of dam-constructing authorities in New South Wales will be added this new committee, with a resultant increase, at additional cost to the taxpayer, in the number of civil and design engineers and others. Taxpayers will have to meet the cost of the Government's endeavours to stop mining under dams. The bill will deprive the Department of Mines of the right to make its own decisions with regard to mining. Further, it ignores completely the report of Mr Justice Reynolds.

This is probably one of the most iniquitous things that has ever been done. It follows the expenditure of thousands of dollars on a journey overseas by a Supreme Court judge to inspect mining ventures under stored waters. I need not quote at length from the recommendations made by Mr Justice Reynolds, but I refer honourable members to the recommendations at page 105 of his report, where he recommends that mining be permitted under stored waters and lays down the conditions that should be imposed. That report was produced at great cost. Now the Government has introduced a bill that will filch powers from other Ministers.

The House has been told that the Minister for Industrial Relations, Minister for Mines and Minister for Energy is a strong Minister. We now have an indication that he is one of the weakest Ministers ever to have held the mines portfolio in this State. By this bill he will have taken from him the right to make a decision on these matters. He will have to go cap in hand to the Deputy Premier, Minister for Public Works and Minister for Ports. If the two ministers cannot agree they will have to go to the Premier for a decision. The House is not dealing with nude bathing, which is the Premier's specialty. What right or knowledge does he possess to make a decision on whether it is safe to mine under a dam? That matter requires the advice of structural engineers and the Department of Mines, with its vast geological experience.

I condemn this bill as a costly exercise in Parkinson's law. It will set up a committee to look into this matter. The bill relates to the safety of dams, yet it does not define a dam. It requires dam owners to provide information, but they will not

know whether they own a dam for the Act does not tell them what a dam is or what size it must be. This measure will kill mining under stored waters for all time. It is flying in the face of the Reynolds report. In a flagrant act of power one Minister will take power from another. This reflects the weakness of the Minister for Industrial Relations, Minister for Mines and Minister for Energy, and his lack of interest in preserving the functions and powers of the Department of Mines. Above all, it is a shabby trick on mineworkers in the southern area of the State. It will give no confidence to people who should be opening up mines in an endeavour to help this State to recapture the disappearing Japanese coal trade.

Mr WEBSTER (Pittwater) [12.4]: My colleague the shadow minister for mines and energy said that he was astonished that honourable members from the South Coast were not in the House for this debate. That is a sad thing, when one thinks of the thousands of miners and their families on the South Coast who today are denied representation in this place. It is well known that within caucus there is a deep division over this issue. Rather than come here and express their opinions on this vital issue caucus members decided that it was better to stay away and remain mute. The great tragedy is the absence of the Minister for Industrial Relations, Minister for Mines and Minister for Energy who, in his two years of occupancy of his portfolio, has only done damage to the mining industry. He has created fear and uncertainty in the coalmining industry. It is a tragedy that the Minister is not here to do something of a constructive and helpful nature for the coalmining industry.

In introducing this bill the Deputy Premier, Minister for Public Works and Minister for Ports spoke of a climate of international concern about the safety of mines. He said that since 1959 there have been five major dam failures in Europe and the United States of America, with the loss of 3 614 lives. None of us likes to hear that kind of information. It is appropriate that action be taken. Action was initiated through a United Nations body which published figures that show that 40 per cent of dam failures were the result of rupture in foundations of the dam wall and 23 per cent the result of insufficient overflow capacity. In other words in periods of abnormally wet weather certain dams were incapable of coping with the increased amount of water.

The figures show further that 12 per cent of failures were caused by insufficient bearing capacity. This indicates that the design and construction of those dam walls should be examined. Ten per cent of failures were caused by differential settlement of the foundation. A variety of causes could have contributed to that. Ten per cent of dam failures were caused by earthquakes and landslides, and 15 per cent by other causes. If these are facts, there is a need for greater care in the selection of sites and the design of dams; and, once a dam becomes operational, for monitoring. Present-day technology has given us the kind of equipment required to provide this security.

The bill lists 145 dams in New South Wales that need the kind of protection that was intended by the formation of the Dams Safety Committee. The provisions of the bill that relate specifically to stored water are to be applauded. Despite this, as my colleague said earlier, the bill is a farce. Although 145 dams are listed, the bill singles out five dams for special attention. Attention is focussed on those five dams in the controversial clauses of this farcical bill. It is a matter of history that for seventy years the dispute between the Metropolitan Water, Sewerage and Drainage Board and the Department of Mines has continued. The water board has quite properly attempted to protect its catchment areas and its stored water. On the other hand, the Department of Mines has a responsibility in the public interest to manage properly the limited natural resources of this State.

In 1974, when the former Government was in office, the Minister for Public Works proposed a Royal commission to inquire into the vexed question of mining under stored waters, but at that time the water board insisted that instead there should be a full, open, and exhaustive commission of inquiry. The water board's wish was granted. Then the Minister for Public Works said, "Let us go ahead with this exhaustive inquiry but in the future let us act according to the findings of the inquiry". The Minister for Public Works at that time had the concurrence of the Minister for Mines and Minister for Energy. Two years have gone by and \$3 million has been expended. The water board, the Department of Mines and the mining industry contributed to that inquiry. The report of His Honour Mr Justice Reynolds has handed to the Deputy Premier, Minister for Public Works and Minister for Ports early last year. The Minister's reaction to it, as he stated in his introductory speech, was that the mining interest had been established but not the public interest.

This bill is an abject failure. It will not settle the seventy-seven year old dispute. The wrangle between the miners and the water board will be intensified as the valuable coal that lies under stored water becomes more and more urgently needed. It is nice to see in the Chamber one representative of the miners of the South Coast. I hope that he tells the House what is in his mind and his heart, and what the people of the South Coast want.

In spite of the world-wide experience of the people who were involved in and contributed to the Reynolds Commission, their world-covering inspections and the enormous amount of technical data from which their recommendations stemmed, the Minister has expressed his complete and unqualified opposition to the findings and recommendations of the Reynolds report. It reminds me of a fellow I knew who used to live on the north side of Sydney. He had a great fear that the Sydney Harbour Bridge would fall down, so he used to travel into town by way of Parramatta or occasionally risk one of the other bridges, depending on his mood. His was an absolutely unsubstantiated fear; it was based on prejudice, not on fact or evidence. He did not even investigate the possibility. Blind fear in his mind caused him to avoid the Sydney Harbour Bridge. Is that the state of mind of the Deputy Premier, who is advised by the water board on this bill?

Is it a fact that 250 million tonnes of urgently needed and readily attainable coal are under the water stored in the five dams in question on the South Coast? Is it a fact that this coal will not now have an even money chance of being mined? One of the findings of Mr Justice Reynolds was: "I would answer the first question of the terms of reference in the affirmative." Yes, mining can go ahead. "I have formed the opinion that in the public interest"—interesting phrase coming from the commissioner, contrary to the comments of the Minister—"the relevant mining should be permitted because the valuable resource of coal reserves may be mined without endangering the security of the stored waters if the mining is carried out with proper safeguards."

The Minister retaliates by unequivocally rejecting that finding. That statement by the commissioner was based on technical information that was given by highly skilled persons. The inquiry took two years and cost \$3 million, but the Minister has the temerity to reject it peremptorily.

Part II deals with the constitution of the committee. As has already been pointed out three of the seven members—whether we like to object to it or not—will be appointed by the Minister. They will therefore be under the influence of the Minister, who rejected that finding by the commissioner without qualification. So, no matter what proposal is put to the committee, those three men, being human and knowing the feelings of the Minister, will say, "No, no, no," to any **proposal** that is not

likely to please the Minister. That deals with three out of seven, and leaves four people to be intelligently persuaded by argument and technical proposals. Two of these, as the Minister announced with a measure of pride, will be independent persons. He said, "We are going to the Institute of Engineers. We will get independent people to advise us." He boasts of the independence of those two members. But let us consider the matter in practical terms. Four members of the committee could be persuaded; two of them will be independent. Hypothetical though it may be, if those two independents, who as engineers have the capacity to interpret technical data put before them, strongly approve a proposal, what hope would they have of getting two more members across the threshold to accede to a proposition put up by a mining company? Many independent engineers and technicians contributed to the Reynolds inquiry. It is a matter of human nature that the reaction to that kind of material placed before the committee will be the reaction of the Minister when he read the Reynolds report and rejected the proposal without qualification.

In the interests of justice, if that were all we wanted to talk about, representation on the committee must be widened to allow for proper interpretation of the facts. Horizons must be opened up for inquiry and investigation. Let those who investigate the potential not have a narrow view. For the reasons I have given, it will be a stacked committee, an anti-coalmining committee. It will say "No" to the honourable member for Wollongong, and to every other person putting a proposition to it. It will arrive at negative decisions without having any intelligent discussion on the merits of mining proposals.

The Minister for Industrial Relations, Minister for Mines and Minister for Energy has finally been attracted into the Chamber to listen to debate on this most important issue. I hope that he will speak on it.

Mr Hills: I support the bill.

Mr WEBSTER: We know that is not true. We know you do not support the bill. How could you tell the coalmining industry of the South Coast, "I approve of this latest Labor Party ploy to block development of the coalmining industry on the South Coast" when it will result in 2 000 people losing their jobs? Import of coal from Queensland will be the next step if coal under these dams cannot be mined for use in the blast furnaces at Port Kembla. How can the Minister for Industrial Relations, Minister for Mines and Minister for Energy say that he supports the bill?

Part III deals with the functions of the committee. I believe that the amendment to clause 14 (b) foreshadowed by my colleague the shadow minister for public works is fully justified. The clause is confined to 140 dams throughout New South Wales, but the issue is the proper provision for the five dams in question. I believe that the proposed amendment, if accepted, would adequately cover the five dams and their relationship with the coalmining industry. It would not do any harm to the other 140 dams. It would not apply to them.

At the introductory stage I said that if the bill did not end seventy years of conflict between the Department of Mines, the mining industry and the Metropolitan Water Sewerage and Drainage Board, it would not be worth the paper it is written on. That is a fact. While the water board Act remains in its present form—and the Minister for Industrial Relations, Minister for Mines and Minister for Energy knows this—ultimately the Water Board is the custodian of the stored water. The Act has a direct bearing on its role as custodian. Sections 55 and 146 of that Act give the Minister for Public Works, as the Minister in charge, absolute power in the ultimate over what shall be done in and around dams. The Minister for Industrial Relations, Minister for Mines and Minister for Energy shakes his head. Let me read one of the provisos to subparagraph (b) of paragraph 4 of section 55:

The concurrence of the board shall not be given under paragraph (b) unless the board considers that such concurrence may be given without any danger of pollution of the catchment area or the water supply.

Section 146 provides that if any conflict should arise, this matter may be referred back for a decision by the Governor. What more authority does the Minister want? That provision is in the Metropolitan Water, Sewerage, and Drainage Act, 1924. While that legislation which relates specifically to dams, water and sewerage remains in its present form, anything contained in this bill, as a measure to survey or restrict mining and mining leases, or the action of mining, is absolute nonsense. I ask the Minister to act in the public interest. That means in the interests of everybody, all the people, not only the coalminers and the coalmining industry. It includes the people in the valleys below the dams and the people who live near the dams—the community at large who depend on water and coal for their standard of living. I ask the Minister to consider carefully the amendments that will be proposed by the shadow Minister, the honourable member for Mosman. If the Minister does not agree to accept them he will be doing the State of New South Wales a grave disservice.

The bill should be withdrawn, taken away, reviewed and subjected to consultation with all concerned, and then brought back to Parliament. If it becomes law in its present form, a grave disservice will be done to the State; a heavy loss will result.

Much has been said about safety. The limitations proposed in the Reynolds report should be compared with figures that have been received from the United States of America. The Reynolds report contains limits that are three times those that are considered safe in the United States of America. The Americans insist on a pillar under a dam wall stretching 200 feet in either direction and 300 feet in depth, and an angle of 65 degrees, but the Reynolds report recommends a pillar under a dam wall stretching 200 metres in either direction and an angle of 35 degrees. What a huge space that will cover. What a monolith of coal will be left to support the dam wall. No one advocates risk to persons or property, but surely, having in mind the American figures, this matter calls for reconsideration. On the American standards 88 per cent extraction could be achieved, but on the Reynolds findings and recommendation, with three times that degree of safety specified, only 55 per cent or 60 per cent of the coal will be extracted. This will mean a loss of 250 million tonnes. The honourable member for Wollongong knows that coal is urgently needed.

In view of what I have put, let us have no more humbug. The bill will impose further inhibitions. It will prove nothing. It will not make the dams in this State any more or any less secure. If the measure is widened to the extent envisaged in the amendments, the dams of this State will be secure and the coalmining industry will be able to go ahead and do the job it has to do.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [12.23]: I think it would be appropriate if I spoke for a few minutes on this measure. I indicate quite clearly that the bill has not only my full support but also the full support of the officers of the Department of Mines, who have conferred with the officers of the Deputy Premier, Minister for Public Works and Minister for Ports. They are satisfied that mining interests, whether on the South Coast or in any other part of New South Wales, will be completely protected, and that decisions on mining leases will satisfactorily repose in the hands of the Minister for Mines. If the authority to be appointed under the bill considers that there is some threat to the safety of dams, the matter will be discussed between the Minister for Public Works and the Minister for Mines. If the matter cannot be resolved by them, as always it will be referred to the Premier and the Cabinet for final determination.

[Interruption]

Mr SPEAKER: I call the honourable member for Pittwater to order.

Mr HILLS: That is the present situation. For example, if I gave approval for a mining lease that might in some way affect a dam, the Minister for Public Works would be entitled to bring the matter before Cabinet, which would finally make a decision. I repeat that this bill has my full support as Minister, and also the full support of the Department of Mines. The Under Secretary of Mines has had discussions with officers from the Department of Public Works. They, too, support the bill. This measure deals with the safety of dams throughout New South Wales, whether they might be affected by mining or something else. In the Department of Mines we applaud the introduction of the bill; I applaud it as a Minister because it ensures that in the future we shall have an expert body that is capable of reporting to the Government on dam safety. After all, this is imperative. We do not want the sort of tragedies that have happened in other parts of the world. There is always that threat here. I, as Minister for Mines, give unqualified support to the measure. There is no question of anyone making decisions that will override the Department of Mines or its officers. The measure has the complete support of the officers of the department.

Mr BOYD (Byron) [12.27]: The bill obviously embodies the right principles, in that safety is the paramount consideration. I do not think anyone would object to that commonsense approach. We must make provision for certain dam safety factors, particularly when the dams are old. I do not think anyone would disagree with the basic and sound principle involved, but there are some factors that are of concern to members of the Opposition. Perhaps the Minister and others can satisfy us that our concern is unjustified. We hope they can, but it must be borne in mind that the Opposition has a duty to criticize and to seek assurances.

It is disappointing when the House is dealing with a measure as important as this that few Government supporters are in the Chamber. It is pleasing that the honourable member for Wollongong is here, taking an interest in the debate. But he is singularly alone. I should have thought that this measure would be of great interest to members of the Labor Party who represent constituencies that are directly affected by the matters dealt with in it.

Mr Petersen: Don't I count?

Mr BOYD: I am sorry. I did not notice the honourable member for Illawarra.

Mr Ferguson: Also Mr Speaker, who is in the chair, represents a South Coast constituency.

Mr BOYD: I think he is here as a matter of duty, not of choice. Clause 18 is somewhat controversial. Many problems could arise in the future. Experience indicates that perhaps this clause should be reframed. Yesterday the Deputy Premier, Minister for Public Works and Minister for Ports said that the committee should consist of experts in their particular spheres. That is the operative description. The honourable member for Mosman, who led for the Opposition, fully explained the Opposition's thoughts about this committee. He pointed out that its members should be not only experts but also impartial representatives. I am sure that no one would disagree with that in principle; that is the way the Opposition would like to have it.

Clause 18 is totalitarian in concept. That worries me. The Premier will have the final say. He will be the last line of defence—the ultimate authority. One could say that perhaps he will be making the decision whether to mine or not to mine. The **bill** will give him the right to make the final decision. If a power fight is going on

between those who control mining and those who control water conservation—they will be the combatants—the Premier will be in the box seat. He will make the final decision.

The provision made in clause 18 of the bill could possibly be an over-reaction to the barney or power struggle that took place in the Labor Party a few years ago. The Premier does not appear to have enough faith in his Minister for Industrial Relations, Minister for Mines and Minister for Energy to authorize him to exercise the final authority in determining what areas are to be mined. That is a pity. I believe that the Deputy Premier, Minister for Public Works and Minister for Ports is sincere when he says that the members of the proposed committee must be men with expert knowledge. I agree with him. However, the mind boggles at the possibilities if the Premier is to have supreme authority. I can imagine the wheeling and dealing that could go on. The possibilities horrify me, particularly in view of incidents like the Connor–Khemlani affair. The prospects are frightening.

The bill, and that clause in particular, needs to be tidied up. There will be no appeal from the Premier's decision. If he says, "Thou shalt not mine", that will be an end of the matter. The expert committee should take public evidence on any question and publish its decision. That course would be beyond reproach. The Premier would then be locked into a situation in which he would have to make a decision based on or contrary to the public finding of the expert committee.

The measure certainly appears to strengthen the hand of the left-wing members of the Labor Party against their right-wing colleagues. Whether that is coincidental, we do not know, but the fact is a cause for disquiet. The Premier and the Deputy Premier, Minister for Public Works and Minister for Ports obviously will be making some decisions under clause 18. The decisions made by the Deputy Premier will be of a lesser kind than those made by the Premier, but one should examine the qualifications of both men to decide finally what areas should be mined. I take first the Deputy Premier, Minister for Public Works and Minister for Ports. I understand that early in his life he was a gunner, and a good one. I understand that later he was a bricklayer. I believe he was a good bricklayer. Then he was a union representative. I do not know whether he was good or bad at that job.

Mr Ferguson: It is a question of degree.

Mr BOYD: Yes. Now he is a member of Parliament. I do not know what skill he would have to make the sort of judgment that will be necessary in respect of this bill. I take next the Premier. He will be at the apex of power in this situation. What are his qualifications to decide whether a particular area should be mined? He is a legal eagle. I dare say he is a good one. He certainly can gild the lily. He can dress up distasteful arguments and make them seem attractive. He does that every day. All honourable members are aware of his capacity in that respect. He has been referred to as a show pony. I suppose that is fair comment. He certainly is an orator, and there is no question that he is an actor. We are left wondering what qualities he has that will enable him to make satisfactory decisions on the mining of areas under stored waters. I understand from what I have read that the Premier has some ability as a lover. He is an expert in nude bathing, the decriminalization of marihuana use, illegal starting-price betting, and casinos, both legal and illegal. In fact, the Premier is expert on most forms of permissiveness, but nowhere do we find any expert knowledge on mining.

The comment by the Deputy Premier, Minister for Public Works and Minister for Ports that the members of the committee should be expert in their field is a wise one. Anybody who makes a decision on this sort of matter should be expert in the field, but the bill will put the final authority for mining decisions in the hands of men who are not expert in that field, and who have no qualification in mining or dam

safety. The crux of the matter will be the composition of the proposed committee. I urge the Government to consider allowing that committee to take evidence in public, and to publish its decisions, rather than perform its functions behind closed doors. In that way there would be a real chance of getting the legislation working effectively.

Mr FERGUSON (Merrylands), Deputy Premier, Minister for Public Works and Minister for Ports [12.37], in reply: I thank honourable members for their contributions to the debate, I reply in particular to some of the comments made by the honourable member for Mosman and the honourable member for Young. It would be difficult to say which of them was the better at handling his brief. Perhaps the accolade should go to the honourable member for Mosman, who at least understood his brief thoroughly. The brief was for the mining companies. It is always interesting to hear members of the Liberal Party or members of the Country Party plead the case of mine-workers, particularly at a time when Australia has the highest rate of unemployment since the great depression. Not once in this session of Parliament has any of them asked a question about unemployment, which has been caused by their counterparts in Canberra.

They express concern about mineworkers on the South Coast. Let me remind them that the men not only work on the South Coast, but also live there. When honourable members opposite complain that the Government is not giving mining companies unlimited rights to mine beneath stored water of the Sydney catchment area, my reply is that the Government is concerned about the lives, homes and families of those who work in the mining industry, and that is what the bill is all about. There has been much wailing and gnashing of teeth by Opposition members on behalf of mining companies and about the Government's integrity in respect of this bill. The object of the bill is to ensure the safety of dams in New South Wales. That is an important matter. In October, 1966, an Orange newspaper carried a report of the sort of thing that can happen. The headlines were, "Dam wall near collapse. Spring Creek dam threatened." The article says.

Part of the retaining wall of Spring Creek dam has collapsed and landowners downstream 15 miles have been warned by police to be ready to vacate their homes. If the wall breaks completely, an avalanche of water will flood thousands of acres of rich grazing land and cut off the Mitchell Highway and other roads.

There has been much wailing and gnashing of teeth about this measure. The schedule refers to 146 dams, of which seven are located in the Sydney catchment area. I am surprised that members of the Country Party have not appreciated the significance of this measure. It affects their interests to a great degree. Just glancing through the schedule one sees reference to dams such as Aberdare South, Abermain, Captains Flat, Carcoar, Chichester and so on. Those dams are in country areas. The Government, through this measure, aims at protecting lives and property, but Country Party members merely wail about it and say they do not want it.

Mr Arblaster: That is not right.

Mr SPEAKER: Order!

Mr FERGUSON: The honourable member for Byron expressed some concern on behalf of country people. I remind the honourable member that the former Minister for Mines, a member of the Country Party, did not say anything about how this measure might affect country people. Of course, his brief was for the mining companies. The honourable member for Byron passed some disparaging remarks about certain things, though he did say that I was a good bricklayer and a good gunner. Perhaps that was because I did what the officers told me to do. That might be the significance of his comment. The former Minister for Mines has no expertise in mining.

Let us look at the experience of Opposition members who have spoken on this bill. The honourable member for Young, who spoke on behalf of the Country Party, was a cherry grower and a cattle raiser. The former Government saw fit to make him Minister for Mines. I have no quarrel with that at all. In this Parliament one does not have to be, say, an engineer to be Minister for Public Works. I am told that the honourable member for Mosman, who made a lengthy contribution to this debate, was a consultant, an accountant. Is he an expert on mines? Much reference has been made about the Premier and his role in this Government. When one talks about the Premier one talks about the Government. The Premier and his Ministers act on the advice of the Government. On issues of great controversy the Premier calls together his Ministers who have certain powers vested in them by virtue of the vote of the people of New South Wales. Much to the regret and dismay of honourable members opposite, Labor is in government in this State. At the last elections the people vested responsibility for administering this State in the Labor Party. That is what it is all about.

Honourable members opposite have made great play about the Metropolitan Water Sewerage and Drainage Board. They have suggested it is a sinister organization made up of a dreadful bunch of fellows who cannot be trusted. Let us look at the people who are members of the Sydney water board. I am sick and tired of hearing attacks on the integrity of the members of this board, particularly by the honourable member for Mosman and the honourable member for Young. Mr Ted Walder is president of the board. Was he a sinister appointment made by the Wran Government? No, he was appointed by the former Government. Mr Hay is deputy president. He, too, was appointed by the previous Government.

Mr Webster: They are first-class men.

Mr FERGUSON: I do not deny it, yet the honourable member for Pittwater and his colleagues continue to make disparaging remarks about them. When I assumed my portfolio I reappointed these people. Frank Hamilton Talbot is an honourable man who was appointed to the board by the previous Government. I reappointed him. These are the dreadful fellows whom honourable members opposite would attack. Douglas William Sutherland is a member of the board. Perhaps he does belong to the Labor Party, but he was appointed by the coalition Government and subsequently reappointed by me.

Mr Arblaster: He is a good man.

Mr FERGUSON: Quite so. Harold Gregory Percival is another member of the water board. Is he a sinister fellow? The honourable member for Mosman vigorously attacked a statement issued last September by this board.

Mr Arblaster: It contained lies.

Mr FERGUSON: The honourable member for Mosman attacked the impartiality and integrity of members of the Metropolitan Water Sewerage and Drainage Board. Harold Gregory Percival was appointed by the previous Government and when his term expired I reappointed him. He is a member of the water board and is involved in many other spheres. I remind the Opposition that he is a Liberal member of the Legislative Council of New South Wales. Is he one of those dreadful, partial people who subscribed to that statement that was issued last year and has been castigated by the honourable member for Mosman? I am sick and tired of hearing members opposite attack the integrity of people appointed to boards and authorities. Another member of the board is Jack Simeon Kimber. I know he is not a member of the Labor Party, but he resides on the South Coast and is interested in the environment.

Perhaps now the going starts to get a bit rough, because the next two board members to whom I shall refer are Ferguson appointments. First is alderman Gordon Raymond Ibbett. Perhaps he is suspect as he is a member of the Labor Party and a Labor alderman in local government. John Gerald Glebe is another board member whom I appointed. For the first time in the history of the board it has among its numbers a workers' representative in the person of John Gerald Glebe, whom I appointed. It is highly insulting for the honourable member for Mosman to make sinister attacks upon the integrity of members of the Metropolitan Water Sewerage and Drainage Board.

I am sick and tired of hearing members opposite attack also the integrity of public servants. The obvious inference is that public servants can be stood over. Attacks made on public servants of this State by honourable members opposite are most insulting. Public servants serve the government of the day. They discharge with integrity the duties of their office. The honourable member for Mosman suggests that if they belong to an institute or an institution they can be stood over and that the ethics of their profession or calling are forgotten. Do honourable members opposite subscribe to the belief that a doctor who works for the Government does not adhere to the ethics of his profession and his Hippocratic oath? Certainly that is the inference that has been made in this debate. Of course, honourable members opposite are great defenders of the medical profession. They would say that doctors are a one-off operation, but that engineers, accountants and everyone else who works for the Government can be stood over. The honourable member for Mosman says that engineers who belong to the Institute of Engineers, Australia, but work for the Government cannot be trusted. He says that it is preferable that notice be taken of members of the institute who work in private enterprise. I have respect for all engineers, but I have the highest respect for the public servant engineer who serves the State and the community.

Mr Arblaster: And the other engineers do not?

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

Mr FERGUSON: Why do honourable members opposite constantly attack public servants? I am sure that public servants will note this campaign by the Opposition which attacks their integrity and suggests that they are not impartial and do not adhere to the ethics of their profession. It ill behoves the honourable member for Mosman to come into this House with a brief from the mining companies and attack the integrity of public servants who have been put on this committee to serve the interests of the State and the people, including colliery owners.

Mr Webster: What about getting back to the bill?

Mr Arblaster: Yes, what about that?

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

[Mr Speaker left the chair at 12.49 p.m. The House resumed at 2.15 p.m.]

Mr FERGUSON: Before the luncheon adjournment I was indicating to the House, particularly the Opposition, how much I resented the unwarranted and disgusting attacks upon members of the Metropolitan Water Sewerage and Drainage Board, and public servants, particularly engineers in the public service who are to be members of the committee that will act in an advisory capacity to the Government. I said also that I was most disappointed that the main thrust of the Opposition's argument concerned 7 dams out of a total of 146 dams set out in the schedule to the bill. As I said before, honourable members opposite are concerned only for the interests of mining companies: they are not concerned about the preservation of life and property.

The bill is an important measure that seeks to provide adequate protection and safeguards for the people of this State. It seeks to provide an opportunity, given necessary restraints and following adequate investigations, for coal mining under stored water. For the first time in the history of this State a measure has been introduced that will allow coal mining to take place under stored water, providing that certain restraints are exercised. I have no objection to **mining** companies. I want to do everything I can to encourage employment and the extraction of coal, but I am not willing to put in jeopardy the lives of people who reside on the South Coast. **The** Opposition seems to indicate that it has no such concern.

Mr Webster: No mining will be carried out there?

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

Mr FERGUSON: The honourable member for Pittwater claims that the result of the bill will be that no mining will be carried out in these areas. I am saying that the bill will provide an opportunity for mining to be carried out under stored water in a proper and reasonable manner, provided that proper restraints are applied. The bill provides for expert advice to be sought and given. It will ensure that if mining is to take place under stored water, the lives of people and their properties will be protected. The honourable member for Mosman, the honourable member for Young and the honourable member for Pittwater have all made it clear that they are more concerned about the interests of mining companies than about the lives of people who reside on the South Coast. Members of the Opposition claim that they are concerned about jobs for miners. My concern is not only about jobs for miners but also for their lives and property. I agree that it is most important to protect people's lives. Lives and property are more important than jobs. All factors have to be considered.

The honourable member for Mosman appeared either not to have studied the bill or not to have understood it. He made some amazing assertions about the bill. He suggested that the bill would mean that the Metropolitan Water Sewerage and Drainage Board will, in effect, be both judge and jury. If the honourable member had studied the bill carefully, he would have seen that the Dams Safety Committee will not be the ultimate judge on any issue; its function is that of an advisory body. The actual decisions will be reserved to the Minister or, in the case of mining issues, to the Premier. I know that Opposition members do not accept me or the Premier as an authority on any matter.

The honourable member for Young, a former Minister for Mines, who claims great expertise on those matters, based his qualifications to be an expert Minister for Mines on the fact that he grew cherries and reared stud bulls. As a former bricklayer, I can at least claim as much expertise as the honourable member for Young in the administration of any department. Even the honourable member for Mosman, who administered a department for a short time, did not display any particular expertise in that position. A Ministry does not consist of a group of people with technical qualifications; usually it consists of persons elected by the people of New South Wales to make final assessments on the basis of advice that is furnished to them by expert public servants and others. As I said previously, the Opposition should not deprecate experts, particularly experts employed by the public service. Unfortunately, it has sought to deprecate these people throughout this debate.

The honourable member for Mosman claimed that clause 5 would override section 55 of the Metropolitan Water, Sewerage, and Drainage Act, but that is not so. Those two provisions deal with different matters and there is no conflict or inconsistency between them. The honourable member for Mosman suggested also that mines under Avon, Cordeaux, Cataract, Nepean and Woronora dams should be excluded from the provisions of this legislation.

Mr Arblatser: This is not true.

Mr FERGUSON: There is no doubt that the honourable member made that claim, for I have read the *Hansard* report of his speech. The honourable member suggested that there should be no power to inspect the mines or to stop any activity such as mining if it endangering the safety of a dam. He is not concerned about the water supply to the Sydney metropolitan area; he is more concerned with miners being able to dig under the water supplies of this city. What a sinister attitude. I remind the honourable member for Mosman that this power of inspection can be used only by a person authorized in writing by the Dams Safety Committee. Any such inspection can be made only for the purposes set out in the bill. Reasonable prior notice must be given to the owner or occupier. A mine can be inspected by the authorized person only if that person is accompanied on the inspection by the chief inspector of mines or his nominee. Obviously, the Dams Safety Committee or a person authorized by it will not be able to make inspections willy-nilly with no proper basis for doing so.

It is interesting to note that the mining lobby on the Opposition benches has found a sudden new respect for the Department of Mines. If a mine needs to be inspected, a representative of the Department of Mines must accompany the officers of the Dams Safety Committee. The bill provides that any person—which includes any mining company—who sustains damage in the course of an inspection will be fully compensated—I stress those last words. There is nothing sinister in the power of inspection. Surely it would be impossible for the committee to carry out its function of ensuring the safety of dams if it could not inspect an area of potential hazard. That is what this bill is all about—inspecting areas of potential hazard. The honourable member for Mosman is trying to inhibit the committee in the carrying out of the purpose of the bill.

The honourable member for Mosman criticized clause 18 in so far as it relates to mines. It provides that the Premier can give notice to cease an activity if the cessation is reasonably necessary to ensure the safety of a prescribed dam. There is nothing sinister in that. Any reasonable honourable member, in government or opposition, would agree that if inspection is necessary to ensure the safety of a prescribed dam, there is nothing sinister in that provision, as the honourable member for Mosman implied. Surely it is an objective test, not a subjective one. It is not a question of the opinion of the committee or of the Premier. Notice is possible only to the extent that cessation of the activity is reasonably necessary to ensure the safety of a prescribed dam. That means that the notice does not go on for ever. The necessary action is taken to ensure the safety of the prescribed dam, which means the safety of the water supply, the people and property on the South Coast.

If a mining company thinks that cessation of its activities is not reasonably necessary to ensure the safety of the dam, it can challenge the notice in the Supreme Court of New South Wales. Those people who subscribe to the rule of law on the Opposition benches, those law-and-order people, will find there is provision in the bill for a company to go to the Supreme Court. The court—not the Premier—is the ultimate arbiter. The criterion is that it is reasonably necessary to ensure the safety of a prescribed dam. If taken to its logical conclusion, the argument of the honourable member for Mosman is that, even if a court considers that the cessation of activity is reasonably necessary to ensure the safety of a prescribed dam, the Government should have no power to stop the mining activity.

The honourable member for Mosman suggested that the inquiry held under clause 19 is a kangaroo court, but it is nothing of the sort. It is not even a court. It cannot gaol people or fine them. It cannot decide on an issue of liability and award damages. It is an inquiry into a matter relating to the safety of a prescribed dam.

One hundred and forty-six dams have been prescribed. The Opposition has expressed concern for only seven dams. The honourable member for Mosman, who receives certain legal advice, should take notice of it. There is no prohibition on legal representation. The honourable member tried to make the point, but there is no denial of the right of natural justice. By clause 20 (5) any person who gives information or evidence in good faith and believes the truth of the information so given is specifically protected. The provisions in the bill are almost identical to those included in the Energy Act, 1976, and other legislation. There is nothing sinister or unusual about them.

I listened with considerable interest to the attacks made by honourable members of the Opposition on the integrity of public servants. There was somewhat reluctant recognition of the fact that two representatives nominated by the Institution of Engineers, Australia, would be on the committee. The big cry from honourable members of the Opposition was that no representative from the Department of Mines was on the committee. Though I do not think it is essential, to show my good faith I propose in Committee to move that a nominee of the Minister for Industrial Relations, Minister for Mines and Minister for Energy be included on the committee. That should reassure honourable members opposite. Quite frankly, the Department of Mines representative will not be an engineer with experience in dam engineering, for the department does not have such persons.

The important fact to bear in mind in regard to mining, as distinct from other dangerous activities near a dam, is that mining companies, unlike others in the community, are not liable for damage caused by their activities. Section 14 of the Mines Subsidence Act, 1961, specifically exempts a mine proprietor from liability for any damage occasioned by subsidence. Of course, the mine proprietor must pay his contribution to the mine subsidence fund and must comply with the conditions of his licence to mine. Also, he is not exempt from liability for damage caused by his own negligence. However, subject to those qualifications, the mining company is not liable for damage caused to a dam, so that when the company finishes mining it can walk away and leave the problems for others.

The honourable member for Mosman remarked about the proposal to put a coal rail link into Port Kembla that would go through an area where mining under stored water takes place. Any reasonable person would recognize that a properly constructed tunnel for rail carriages is markedly different from a tunnel for the extraction of coal. A tunnel used for this purpose is continually surveyed and inspected. As to mining under stored waters, I am concerned about what happens when the coal is taken out and the mine is abandoned. The mining company is then completely relieved of any further responsibility. I am not willing to take the risk of leaving abandoned mines that are under stored waters unless we can ensure that protection is provided.

It would be wise for the honourable member for Mosman to give more thought to the role of an engineer in the context of this bill. An engineer may be likened to the conductor of an orchestra. An engineer is deeply knowledgeable in the several aspects of dam engineering. He co-ordinates the work of a number of professional men including geologists and others skilled in soil and rock mechanics and structures. As a member of his institution an engineer subscribes to a code of ethics that governs him whether he is working in private enterprise or for the Government. I am amazed at the inference that if an engineer works in private enterprise he is as pure as the driven snow, but if he works for the Government, although he belongs to the same institute and subscribes to the same code of ethics, he is vulnerable to being stood over. Opposition members have said that the Minister might lean on him. That is an insult. Professional engineers employed by the Government subscribe to the ethics of their profession and do everything possible to uphold it.

I resent the assertion of the honourable member for Mosman that we should have on the committee people from outside the Government service. I have never tried to stand over the officers of my department. They supply information to me, which I either accept or reject. I do not ask them to alter the information. Having received it, I make my own decision. The inference of the honourable member for Mosman was indecent. This is not the first Government that has not accepted in its entirety recommendations contained in reports of Royal commissions or committees of inquiry. An inquiry is set up and the man in charge of it presents his **findings** and recommendations. Ultimately the decision on that matter rests with the elected government of the day. That is what government is about; that is what democracy is about. The Dams Safety Committee is to be established to give advice to the Government. It will be the Government's responsibility, after receiving that committee's expert advice, to make decisions. As I have said previously, one would not believe that if a doctor worked for the Health Commission he would be stood over by his Minister or that he would forget the Hippocratic oath and his code of ethics. I would not subscribe to that belief, but apparently it is believed by members of the Opposition that engineers, chemists or other professional people, if they work for the Government, might be stood over.

The honourable member for Mosman made great play about the report of Mr Justice Reynolds. It was primarily concerned with the resolving of a dispute between two parties—the Metropolitan Water Sewerage and Drainage Board and the Department of Mines. He described his report as being designed as a step in the resolving of that dispute. There is no doubt it is a valuable contribution. He said that he did not think it was appropriate to seek information or views independently of the people who were in dispute. The problem is to obtain the best solution to ensure the safety and integrity of Sydney's water supply and the best use of the State's coal resources and water resources. If the commissioner's solution is adopted it will mean that thousands of millions of dollars worth of coal will be left permanently under dam structures. Surely there are alternatives that may enable extraction of the coal with an assurance of safety. They should be explored. The Government's decision on the report will enable this to be done when each dam is considered separately. The committee will have an important role to play in assisting the Government to arrive at the best solution to this complex problem.

As to the composition of the committee, it will necessarily comprise representatives from the dam authorities of the State. Two will be nominated by the Institution of Engineers of Australia. In Committee I propose to move that an additional person be appointed to the committee and that he be a representative of the Department of Mines. As practically all the dam engineering in this State has been carried out by or on behalf of these organizations, it is highly likely that the nominees of the Institution of Engineers will have received most of their experience while working for similar authorities. The honourable member for Mosman referred to Mr Ivor Pinkerton, who is now in retirement. He gained his early experience with the Water Conservation and Irrigation Commission. His integrity shines through like the midday sun. Yet members of the Opposition deprecate public servants. The men in training now are not good enough, but a man who worked for the Government and is now retired is the person whom the Opposition suggests should be on the committee.

When the Snowy Mountains Hydro-Electric Authority was disbanded, many of its experts on dam building found employment in other government instrumentalities. The honourable member suggested that all these experts are now in the Snowy Mountains Engineering Corporation. The authority built dams but when it was wound up some of its experts entered government service. Apparently the **Opposition** doubts their integrity.

Mr Ferguson]

Let me tell members about some of these experts. Before Mr Eric Worrell worked for the Snowy Mountains Hydro-Electric Authority he was vice-president of the Metropolitan Water Sewerage and Drainage Board—that dreadful and sinister organization. Now he is working as personal adviser to me as Deputy Premier. Ken Aubrey worked for the Snowy Mountains Authority and now works with the water board. David Anderson, who also worked for the Snowy Mountains Authority, is now with the Hunter District Water Board. Perhaps if he were still working for the Snowy Mountains Authority the honourable member for Mosman would say that it would be all right to appoint him to the Dams Safety Committee. Of course, he could now be appointed as the nominee of the Hunter District Water Board.

As I said, the Snowy Mountains Engineering Corporation was preceded by the Snowy Mountains Hydro-Electric Authority, which was the constructing authority for the Snowy Mountains scheme. Incidentally, the Snowy Mountains Authority requested the New South Wales Department of Public Works to accept responsibility for engineering its biggest structure, the Eucumbene Dam. The honourable member for Mosman says that we cannot trust the officers of the Department of Public Works but claims that the engineers of the Snowy Mountains Engineering Corporation are acceptable as committee members.

The honourable member for Mosman believes that there would be something sinister involved in having the experts of the Department of Public Works on this committee. In any event nowadays the Snowy Mountains Engineering Corporation operates mainly overseas, and it is concerned with road construction and other projects not related to the building of dams. Many of its experts in dam engineering are now employed by water authorities throughout Australia. Some of them, like Mr Pinkerton, are in retirement; others, including Eric Worrell, Ken Aubrey and David Anderson, are now employed in New South Wales.

These men and their staffs will be available to undertake specific tasks for the committee, which will have power to delegate responsibility to individuals or other committees for report. The Metropolitan Water Sewerage and Drainage Board, the Hunter District Water Board and other water authorities in New South Wales have in their employ a tremendous body of talent in dam engineering. These men have built Warragamba Dam and other dams throughout the State.

Mr Fisher: They did not do much good with the Seaham Weir.

Mr FERGUSON: It was built during your period in office, and it was subject to your oversight when your party was in power. The whole thrust of the debate, and the contribution by the Opposition, has been concerned mainly with what appeared in the *Australian Financial Review*. That was the brief on which the Opposition relied. The honourable member for Mosman placed a sinister interpretation upon the history of the New Lambton reservoir. On 14th October, 1969, the Hunter District Water Board received notification of a proposal to conduct mining in proximity to the reservoir. On 7th January, 1970, the Mines Subsidence Board notified the Hunter District Water Board that a subsidence had occurred and the reservoir had failed. The great experts, from whom the honourable member for Mosman said we should seek advice, had been consulted and they had given an expert opinion to the Hunter District Water Board. According to them everything was rosy, but a subsidence occurred when mining was carried out under the reservoir. The Mines Subsidence Board says there is no doubt that it was the mining that caused the failure of the reservoir. Later the Hunter District Water Board received \$155,000 in compensation. Now this so-called expert comes in here and attacks the Hunter District Water Board and makes inaccurate statements about what happened twenty years ago. I have here documentary proof that the facts he alleged are untrue.

The honourable member for Young claimed that when a dam is silted up it can be a greater hazard than a dam containing water. Schedule 1 to the bill does not pretend to provide a comprehensive list of all the water storages in New South Wales. It represents an assessment, and includes **146** of the dams scattered throughout the State.

Mr Freudenstein: You still have not defined a dam.

Mr FERGUSON: No expert or water engineer anywhere in the world has been able to define a dam. If the honourable member for Young, with all his talents and capacity, is able to give me an acceptable definition of a dam, I am willing to incorporate it in the bill. The honourable member suggested that the proposed committee will be building dams. Surely he realizes that the committee is not to be a constructing authority. Its purpose will be to review the safety of dams; it will carry out only the work that is necessary to ensure the safety of dams. The main thrust of the bill is to ensure that there is no repetition of what happened when lives and property were endangered following failure of the Spring Creek Dam at Orange in 1966. The previous Government, in its eleven years in office, did nothing to ensure the safety of life and property from dam failure in this State.

The honourable member for Young made great play with his allegations that the bill proposes to set up a new bureaucracy. As I said in my second-reading speech, there will be no increase in staff ceilings, and no rise in expenditure, except to meet the fees of the members of the proposed committee. Surely the honourable member for Young would not deny the right of committeemen to receive fees for attending meetings while they are serving on the committee.

Mr Freudenstein: I did not suggest that.

Mr FERGUSON: But you suggested that the bill would set up a great new bureaucracy. I emphasize that there will be no increase above the present levels of staff ceilings.

Mr Freudenstein: The Act gives the Minister power to do that in section 432.

Mr FERGUSON: The honourable member for Young, who was a Minister for some time, still cannot read an Act or the bill. The honourable member for Pittwater said that the bill singles out five dams. It does no such **thing**. Schedule 1 to the bill lists **146** dams; a particular dam is not singled out for attention. The honourable member for Pittwater said that the Metropolitan Water Sewerage and Drainage Board has pressed for the introduction of this bill and was responsible for its preparation. That is not so; it emanated from the Department of Public Works. My instructing officers are all from the Department of Public Works; not one of them is from the water board.

I am not suggesting that we should not have officers from the water board. I am merely emphasizing that the bill had its genesis in the Department of Public Works. I assure members of the Opposition, who seem to have antipathy for the Metropolitan Water Sewerage and Drainage Board, that the board has not sought the introduction of this legislation. I am alarmed at the criticism levelled against the water board, its officers, and mostly against members of the board.

In his usual snide way, the honourable member for Byron made some most offensive remarks about the Premier. One would expect that he, a country member, would have appreciated the significance of the bill, and would have addressed himself to it from that angle. During the luncheon adjournment I was told that the honourable member for Byron has a reputation for being a dambuster even though he **was** once in the **army**, not the air force. Then I heard of a rumour that he is also known as

gelignite Jack. When I asked why, I was told that he had blown up someone's dam. I should think that would make him an authority on dams. If he knows how to eliminate them, he should be able to make a valuable contribution to this debate. In spite of his expertise on the subject, the honourable member for Byron spent his time attacking one of the greatest Premiers in the history of this State. The snide manner in which he did it ill-behoves him and belittles him in the eyes of this Parliament. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clause 8

Page 4

8. (1) The Committee shall consist of 7 part-time members appointed by the Minister.

(2) The members shall be—

- 15 (a) a person nominated by the Electricity Commission of New South Wales constituted under the Electricity Commission Act, 1950;
- (b) a person nominated by the Metropolitan Water Sewerage and Drainage Board constituted under the Metropolitan Water, Sewerage, and Drainage Act, 1924;
- 20 (c) a person nominated by the Water Resources Commission constituted under the Water Resources Commission Act, 1976;
- (d) a person nominated by the Hunter District Water Board constituted under the Hunter District Water, Sewerage and Drainage Act, 1938;
- 25 (e) a person nominated by the Minister administering the Public Works Act, 1912; and
- (f) 2 persons nominated by the Federal Council of the Institution of Engineers, Australia.

Mr FERGUSON (Merrylands), Deputy Premier, Minister for Public Works and Minister for Ports [2.50]: I move:

That at page 4, line 11, the figure "7" be left out and there be inserted in lieu thereof the figure "8".

In conformity with the undertaking that I gave at the second-reading stage, I propose to increase the number of part-time members of the committee to eight. The extra member will be a nominee of the Minister for Mines.

Mr Morris: That is democracy at work.

Mr FERGUSON: Yes, and that is what it is all about.

Mr ARBLASTER (Mosman) [2.51]: I propose to move:

That at page 4, line 11, the figure "7" be left out and there be inserted in lieu thereof the figure "10".

Also, I shall move:

That at page 4, after line 29, there be inserted the words

- (g) 2 persons nominated by the Australasian Institute of Mining and Metallurgy, one of whom will be a geologist experienced in the study of rock mechanics and the other will be a mining engineer.
- (h) A person nominated by the Snowy Mountains Engineering Corporation.

I dealt with this matter at some length at the second-reading stage. I emphasize that this is a most important committee. It will have enormous power. The Minister says that the committee has no power and in fact no teeth. He suggests that all it can do is to make recommendations. If that is so those recommendations must be the best possible recommendations from the best people available in Australia. The brains that go into that committee must be only the best. They must not only be the best but also appear to be the best so that the standing of this committee will be impeccable in the eyes of the general public. The Minister would not deny that over the past seventy years many people have disagreed with some of the decisions and recommendations that have been made with regard to dam safety.

This committee must have on it experts with wide experience. The Minister told us that in his view an engineer is an engineer. Apparently he was asleep last night when I made my contribution at the second-reading stage. I referred to a report by the senior vice-president of the Institution of Engineers in Australia. I described how it was suggested that Australia should adopt the system that is in operation in Great Britain. As an example, it would be virtually useless for a person in need of an eye operation to consult an orthopaedic surgeon. Similarly, in engineering, in which there is a wide diversity of specialization, one would need to seek out the expert for a particular aspect. In England engineers are required to pass an oral and written examination before they are classified as expert in a specialist field.

On several occasions the Minister in his contribution to the debate referred to doctors. Surely if he needed an operation in the thoracic region he would not have it done by a member of the Royal College of Physicians. Medical practitioners are all doctors, but some are surgeons and others are physicians. The term surgeon is a generic one applying a wide range of specialists including thoracists, orthopaedists and ophthalmologists. The public must be confident that decisions made by this committee will be correct. In order to ensure public confidence, the committee must have on it persons possessed of a wide range of skills. We must aim at a situation where decisions of the committee are taken as read. The Minister is naive if he believes that by his grandiose gesture of adding one extra member to the committee he will achieve that result. The measure provides, in effect, that the big dam owners will investigate their own interests.

If the books of a company are to be audited, it would be useless to appoint the managing director, the company secretary and the firm's accountant to review what they themselves have done. The honourable member for Campbelltown would rant and rave if that were to happen. What would the Minister say if Thomas Barton were appointed to audit the affairs of his own companies?

That is in effect what the Government proposes to do by this measure. It is wrong to have the people involved in making these decisions on the committee of review. They should not be given that responsibility. When a decision is made the Minister for Public Works and the Minister for Mines must be confident that the

decision comes from the best available source in Australia—an independent, impartial committee. They must have confidence that any decision or recommendation coming from it will be acceptable to everyone. The Minister is merely passing the buck. The members of the committee, in the form proposed by him will make decisions for him. The skills of the committee members should be wide enough to cover all the disciplines of dam engineering so that the advice it gives will be accepted as such.

The CHAIRMAN: The honourable member for Mosman has intimated that he has a number of amendments to the clause. He is permitted to speak on them generally because they are associated with one another. However, I can accept only one amendment at a time. Both the Minister and the honourable member for Mosman have amendments to leave out the figure 7 with a view to inserting different numbers. Standing Order 319 states that when it comes to a question of the greater and lesser sum, the least sum shall be first put to the question. In accordance with that standing order, after the blank is created I shall put the Minister's amendment, That the figure 8 be inserted. Should this be carried the honourable member for Mosman's amendment will be deemed lost. Should it be decided that the figure 8 be not inserted, I shall then put the question, That the figure 10 be inserted.

Mr FERGUSON (Merrylands), Deputy Premier, Minister for Public Works and Minister for Ports [3.2]: The amendment foreshadowed by the honourable member for Mosman is unacceptable to the Government. Once again, by implication the honourable member is attacking the integrity of the nominees who are engineers of various government departments. He has implied that what the Government is doing is passing the buck, though earlier he said that the Minister had too much power. The Government is not passing the buck. The Dams Safety Committee will advise the Government. There is no buck passing for the Government makes decisions following the Minister for Industrial Relations, Minister for Mines and Minister for Energy consulting with myself or with the Premier in relation to matters affecting dam safety. Previously members of the Opposition were wailing and gnashing their teeth because no representative from the Minister for Industrial Relations, Minister for Mines and Minister for Energy was to be on the committee. I conferred with my colleague **this** morning and it was agreed that a nominee of the Department of Mines should be on this expert committee.

The people who have been referred to in the amendment of the honourable member for Mosman can be included on subcommittees. There they will be able to give advice, notwithstanding their suggested lack of integrity. The honourable member has implied a lack of integrity on the part of officers and engineers of the Department of Public Works, the Water Resources Commission, the Metropolitan Water Sewerage and Drainage Board, the Hunter District Water Board and the Department of Mines. Those people will be able to give advice. The Government will be able to consult people such as those mentioned by the honourable member for Mosman. I ask the House to support the amendment I have moved on behalf of the Government.

Mr ARBLASTER (Mosman) [3.4]: I cannot let this go on. The Minister is paranoid in his hatred for the private sector. It is allowing him to go over the brink—to go too far the other way. At no stage has the Opposition denigrated the expertise of any of the people who could be nominated: at no stage has it denigrated their engineering experience. What the Opposition is saying is that if the Minister is really sincere in wanting a committee that will be accepted by everyone instead of creating a smoke-screen, the Minister should broaden the committee's base so that it is truly an expert committee representing all sections of the engineering profession. My colleagues and I do not intend to divide the Committee on my amendment. I am glad that the Minister has exhibited enough sense at least to add one more member to the committee. I hope that he realizes that he now has a committee of eight. Much will depend on the

Minister's appointment of a chairman and his other nominees to the committee. I made a suggestion with regard to Mr Pinkerton. Has the Minister read all the works in which he was involved?

Mr Ferguson: He was a good officer who worked with the New South Wales State Government.

Mr ARBLASTER: That is correct. After last night the Minister may have found out a little more about him.

Mr Ferguson: The honourable member for Mosman has been attacking people who work for the State Government.

Mr ARBLASTER: Does the Minister think I would choose a man like **that**—

Mr Ferguson: Surely it is—

Mr ARBLASTER: Is the Minister taking a point of order?

Mr Ferguson. Yes. I submit, Mr Chairman, that the honourable member for Mosman is now replying to my reply to his speech in the second-reading debate.

Mr Pickard: On the point of order. The Minister said that he would not accept certain amendments. In the process of his speech he made certain remarks about statements made by the honourable member for Mosman. It seems to me that as honourable members are in Committee and still have a point before them, the honourable member for Mosman has the right in his ten-minute period to raise anything that relates to the clause under consideration. Certainly he should be able to reply to the Minister, particularly as the Minister has constantly attacked him and accused him of adopting a position in his remarks that he did not take. The honourable member ought to have the right to reply.

The CHAIRMAN: The question before the Chair is, That the figure proposed to be left out stand part of the clause. The remarks of the honourable member are limited to that question.

Mr ARBLASTER: I ask for clarification. Are we still dealing with the figure 7?

The CHAIRMAN: Order! The question before the Chair is, That the figure proposed to be left out stand part of the clause. If the question is resolved in the negative, it will create a blank and then the Minister's amendment will be put as the question before the Chair.

Mr ARBLASTER: I think I have got my message over. The Minister has such a paranoid hatred that he is too blind to see that a committee of the nature I have suggested would enjoy better respect from the community and would be of greater service to the public. I am sure that it would be accepted by the engineers who will be appointed and would be appreciated by them—but the Minister has intimated that he will not accept the amendment.

Mr FERGUSON (Merrylands), Deputy Premier, Minister for Public Works and Minister for Ports [3.7]: The honourable member for Mosman put great stress on the suggestion that all disciplines of engineering must be represented on the committee. If that were carried to its logical conclusion, the committee would be large indeed. Why should the Government then not accept nominees who are experts in hydraulics, soil, geology, structures and physics? I could go on and on. If the contention of the honourable member for Mosman were followed through to its logical conclusion, it would be not a committee but a mass meeting.

Amendment (by Mr Ferguson) agreed to.

Amendment (by Mr Ferguson) agreed to:

That at page 4, after line 29, there be inserted the words

- (g) a person nominated by the Minister administering the Mining Act, **1973.**

Page 5

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

(4) Where, for the purposes of subsection (2), a nomination of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a

Mr ARBLASTER (Mosman) [3.9]: I move:

That at page 5, lines 2 and 3, the words "an engineer who, in the opinion of the person making the nomination, is experienced in dam engineering" be left out and there be inserted in lieu thereof the words "a person **who** is professionally qualified and suitably experienced in relevant aspects of dam engineering to allow him to engage in some or all of the investigation, design, construction, repair and remedial work, operation and maintenance and abandonment activities".

I have been told that the definition is not as wide as it could be. The reason **why** this definition was chosen to broaden the definition of dam engineering is that it is the definition contained in the Australian national committee report on large dams. The present definition will have to be widened if someone from the mining engineering field is to be on the committee. Under the proposed definition mining engineering **would** be included. The Minister asked why someone expert in hydraulics was not included: it is for the simple reason that rock mechanics and geology are the two disciplines most involved before one comes to the civil engineering side of pre-design structure. That is clear from American statistics. The United Nations listed causes of major dams failures. Matters coming within those disciplines were the causes of those major failures.

For that reason the Opposition believes that a wider definition should be given rather than "a person experienced in dam engineering". The amendment will allow people engaged in investigation, design, construction, repair, remedial operations, maintenance **and** abandonment activities to be appointed to the committee. As I have said, the definition I have proposed comes straight out of the Australian national committee report on large dams in its guidelines for operation, maintenance and surveillance **of dams**. It is wide enough to cover the skills and disciplines that will be required.

Mr FERGUSON (Merrylands), Deputy Premier, Minister for Public Works and Minister for Ports [3.12]: In the second-reading debate the reasons why I believe that the clause as set out should remain were well canvassed. The Government opposes the amendment.

Amendment negatived.

Amendment (by Mr Ferguson) proposed:

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

(5) Nothing in subsection (3) or (4) prevents the nomination or appointment of a person who is not an engineer and who is not, in the opinion of the person making the nomination or appointment, experienced in dam engineering as the member referred to in subsection (2) (g).

Mr ARBLASTER (Mosman) [3.14]: The Minister objected to my proposed definition, but I am grateful for this amendment. It is much wider and is acceptable to the Opposition.

Amendment agreed to.

Clause as amended agreed to.

Clause 14

[Functions of the committee]

Mr ARBLASTER (Mosman) [3.14]: I move:

That at page 7, after line 15, there be inserted the words

- (2) Nothing in this Act or done pursuant to it (other than sections 21, 22 and 23 relating to a declared state of emergency) shall authorise or empower the Committee to do or perform any act, matter or thing with respect to or affecting any aspect of mining for coal or shale in or under the environs of Nepean, Avon, Cordeaux, Cataract or Woronora Dams or in the vicinity of those dams carried out or proposed to be carried out in accordance with the findings or recommendations of the Honourable Raymond George Reynolds, a Judge of the Court of Appeal, after an inquiry held by him under a Commission dated 11th July, 1974, issued to him by the Minister for Public Works pursuant to section 146 of the Metropolitan Water Sewerage and Drainage Act, 1924.

This is an exemption. This bill affects particular mines and a state of emergency and powers of inspection, and clauses 21 and 22 will remain to give the Minister and the committee power. The Minister would still have the final power under the emergency clauses. The amendment would still allow right of entry to a mine, contrary to what the Minister said in his reply to the second-reading debate and contrary to what appears in *Hansard*—although he has denied it. It would allow mining within certain parameters. The amendment would still allow entry into a mine and monitoring and testing of conditions in it. If the person inspecting believes that conditions may lead to a dam failure, he may refer the matter to the Department of Mines and the Minister for Mines. If the department or the Minister does not agree, the Minister for Public Works has the ultimate power under the emergency provisions of the bill. In addition, the water board has covering power.

I went through the findings of Mr Justice Reynolds following an expert inquiry that lasted for three years and cost \$3 million. That inquiry took evidence from seventy-three people, many of them experts, and studied all aspects of **mining under** stored waters throughout the world. His Honour's recommendations have been studied and his findings in regard to the area to be mined under stored water are

conservative by world standards. What is to be considered is mining within the parameters set. There can be no mining under the dam wall and for a distance of 200 metres around the dam structure. The type of mining that will be undertaken is to be decided by the Minister for Mines.

After seventy years of conflict this inquiry was set up and all parties agreed to abide by the umpire's decision at the time. Now the Government suggests that these findings should be thrown out and the problem sent on to another committee. The Opposition's view is that a decision has been made as to the area in which mining may be carried out. The water board still has the benefit of sections 55 and 146 but in the Opposition's view mining should be allowed within that area under the control of the Department of Mines. The Dams Safety Committee still has the ultimate power.

Safety in dams is of paramount importance. What we are recommending is justice, because we believe that justice must not only be done but must also be seen to be done. The Opposition believes that mining operations to be carried out in these areas should continue, and should not just cease. If there is any hint of any dam having any possible fault that could arise from mining, the committee still has power to stop it. The Minister also will still have that power, because the committee has the authority to monitor and carry out tests and conduct continuous surveillance of these areas.

Mr FERGUSON (Merrylands), Deputy Premier, Minister for Public Works and Minister for Ports [3.21]: The honourable member for Mosman has stated what he believes to be the nitty-gritty of this bill. My view is that the bill is directed towards the protection of dams throughout the State. The honourable member is proposing that the Dams Safety Committee should be able to go into mines under stored waters if it believes there is some danger there, but he rejects the proposal that an application to mine under stored waters should receive approval from the Minister for Mines. When the Minister for Mines receives an application from a **mining** company, it is his prerogative to consider that application, but the honourable member for Mosman says that an expert committee set up under the bill should not advise him on the structure and maintenance of the dams that provide Sydney's water supply, although it can do so in respect of every other dam in New South Wales. He was, of course, referring to the Avon, Cordeaux, Cataract, Woronora and Nepean dams, which he seeks to have excluded from a decision by the Minister for Mines.

If the Minister receives an application to mine under stored water, the honourable member for Mosman contends that the Minister should be denied the right to receive expert advice and to act upon it. He says, "We shall give you power to take necessary action if the mines on the South Coast burst and flood the area, but we deny you the apparatus, served by special mining engineers, to examine the area before mining takes place, and to advise you on the effects of proposed mining". The Minister for Mines does not have dam experts in his department: they are in the Water Resources Commission, the Department of Public Works, the water boards and the Institution of Engineers. The Minister for Mines has engineers, but they are mining engineers, not dam engineers. Despite this, the honourable member for Mosman suggests that the Minister for Mines should not receive advice from dam engineers in respect of the water supply to Sydney. That is the nitty-gritty of his argument.

The mining companies do not want the Minister for Mines to get advice or to be required, if he receives the advice, to confer with the Minister for Public Works in order to decide what will happen. If the two Ministers confer and agree, the Minister for Mines would approve the application. This is a simple process. An application to mine under stored waters requires the Minister for Mines to seek the advice of this expert committee, which, the Opposition agrees, should have surveillance over all dams

in New South Wales. But the honourable member for Mosman suggests that if a mining company wants to mine under stored waters, no restriction should be placed on it. I submit that the bill will, in effect, give a greater capacity for mining under stored waters, with proper engineering advice, than would be possible under the Reynolds report. The parameters suggested by Mr Justice Reynolds impose a greater restriction, and affect millions of tonnes of coal under stored waters. Neither I nor the Minister for Mines nor the Government wishes to deny mining companies the opportunity to extract coal anywhere in New South Wales, but we will not agree to the extraction of coal to the extent that the lives of people and their property on the South Coast can be endangered. The honourable member for Mosman has to face up to that position, and stop being so keen and enthusiastic when speaking only in the interests of the mining companies and excluding the interests of the people on the South Coast.

Mr PICKARD (Hornsby) [3.25]: One wonders at the logic of the Deputy Premier when he says, on the one hand, that the Opposition is concerned to allow the extraction of large quantities of coal that would be disallowed under the Reynolds report although, on the other hand, he says that he and the Government will make sure that there will be an opportunity to extract additional coal beyond that covered by the Reynolds report. When asked, "Are you going to allow the Minister for Mines and his expert staff to come in and immediately take that coal?" the Minister said, "We won't allow the coal owners to have it." Who is to take out the excess coal that the Government will allow beyond the safety limits mentioned in the Reynolds report? Who is the mysterious person who will be let in to take out this additional coal? If the Government is going to allow this, why is it setting up a committee in the first place?

One wonders at the logic of the Minister when he constantly says—or implies—that the Minister for Mines will act irresponsibly and give a licence to mine under a dam without first getting all the necessary information relating to the safety of the public in that area. That seems to be to me an ugly thing to say against his colleague. Although the Deputy Premier has been constantly leaning across the table this afternoon saying that the Opposition members are the ones who have been running down public servants and the Minister for Mines, he has said that he is unwilling to trust the Minister for Mines and the Department of Mines to call upon the expertise and advice necessary in order to do what he himself says his party wants them to do. There are the contradictions. The Minister should be more careful when he speaks here on these matters.

Mr ARBLASTER (Mosman) [3.28]: I shall try to spell out, in simple terms, what I have been submitting. Under my proposed amendment the committee will still have the power to continue surveillance, to monitor the dams, and to monitor the workings within a coal mine. So long as it does not interfere with how the mine is managed mechanically, it still will have the power of entry. If the committee sees something wrong, or if it believes there is something wrong, it can then report to the Minister for Mines, who in turn would take action. In turn, it can report to the Minister for Public Works who, under his emergency powers in this bill, can take action. He can say that he will have an examination conducted of that mine. Every one of these mines has already been examined; indeed, they are the only mines in the State, together with their surroundings, that have been examined in this way. Other examinations have taken place over a period of seventy years. Is the report of Mr Justice Reynolds, a Royal commissioner, to be thrown out of the window? The Minister says, "We will have another inquiry."

I come into this House with no brief from anyone or for anyone except for the people of this State and for what is right for their benefit. On the other hand, the Minister comes in with a brief of hatred against mine owners, even though some of

the greatest job opportunities are provided by them. I believe that the future of this State depends largely upon our commercial, industrial and mining industries. Regrettably, the Minister would kill the mining industry.

Mr PETERSEN (Illawarra) [3.30]: I had not intended to speak on this proposed legislation. There was a lot of discussion on it in Caucus and within the mining committee of the Parliamentary Labor Party. My electorate is affected by this measure. I am amazed that members opposite who voted in favour of the bill would now move amendments which would have the effect of totally negating it. If mining below sea level is carried on under stored waters, should the water get into the mine the mine workings would be flooded. However, if the mine is 500 feet or 1 000 feet above sea level, as is the case on the South Coast, and water stored above were to find its way into the mine there would be a disastrous flooding of the surrounding area.

I suggest that it is just not enough to be concerned with this matter from the point of view of mining or even the safety of a particular mine. The safety of people who live and work in the area is paramount. As the Minister said, we must be concerned for people not only as workers but also as residents of the area. I commend the Government and the Minister for bringing forward legislation which will offer safeguards to avoid massive flooding through leakage of water from one of the dams into one of the mines and on to residential areas and places of work on the South Coast.

Mr FERGUSON (Merrylands), Deputy Premier, Minister for Public Works and Minister for Ports [3.32]: The honourable member for Mosman protesteth too much that he is not responding to any pressure group. The honourable member for Illawarra summed up what this bill is really about—the protection of life and property. I commend the honourable member's concern for his constituents. The honourable member for Mosman takes a great interest in protecting the morals and feelings of his constituents by raising in this Parliament the big issue of nude bathing. However, he is not so concerned about the constituents of the honourable member for Illawarra whose aim is to protect their life and property.

The honourable member for Hornsby made a brief contribution to this debate. For a short time he was Minister for Education in the former Government. From his performance I am glad that his term of office was only short. I am sure my colleague the Minister for Industrial Relations, Minister for Mines and Minister for Energy would be most concerned about his position in this State were he to learn that he is being showered with praise and accolades by the honourable member for Hornsby. As my colleague has intimated in this Parliament, he and I are in complete accord on this bill.

The honourable member for Mosman suggests that if approval is given to mine under stored waters and the water looks like bursting out and flooding the South Coast something can be done to rectify the situation. That is a completely unrealistic attitude. The Government intends to set up a committee to advise the Minister for Mines of any dangers that might exist. The honourable member for Mosman suggests that approval should be given to mine unless there is a danger. It may be that when the danger is found the situation is irretrievable. By this bill the Government will ensure that the Minister for Mines will receive advice from experts in dam safety before he approves mining under stored water. He will receive the best advice available from experts and will be able to make a proper decision.

Mr BOYD (Byron) [3.35]: I am staggered to see such a difference of opinion on the Government benches in relation to what might happen arising out of mining under stored water. The honourable member for Illawarra seems to have the opinion

that greater safety would occur as a consequence of this bill. We would all hope he is right. On the other hand the Minister says that although he has read the expert opinion of Mr Justice Reynolds, he would cast it aside as he knows more than the commissioner. There seems to be a wide gap between the two points of view. I do not know how the Labor Party conducts its caucus meetings but when this sort of situation develops and the local member is quite happy with the safety of the workings and believes that his constituents are getting a better deal but the Minister says that more coal will be mined, perhaps the whole matter should go right back to caucus to be straightened out. They both cannot be right. Someone is right and someone is wrong.

This is a most important issue. I have read the Reynolds report on coalmining under stored water. There are some interesting parts in the report. Many theoretical propositions were advanced to the inquiry on behalf of the board and in the end, in the light of practical experience in the southern coalfields and for other reasons, those propositions were discounted as being unrealistic and out of perspective. The report contains this statement:

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

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

As the inquiry proceeded it was recognised that such fears were quite unrealistic at the depths of cover and with the systems of mining proposed. In the end the submission was abandoned and in the light of the evidence it came to be submitted by the Board that the danger lay in the insidious depletion of stored waters by the loss of "invisible water".

That is the expert opinion, for what it is worth. I do not doubt that both the honourable member for Illawarra and the Minister have read the document and understand it. The Minister has rejected it. It would seem that he would do something better through another committee. This position should be clarified. Who is right, the honourable member for Illawarra or the Minister? Will the Government make the situation safer by ignoring the Reynolds recommendations and permit the mining of more coal or, by accepting the report, will it offer greater safety for the people whom the honourable member for Illawarra represents?

Amendment negatived.

Clause agreed to.

Clause 18

Page 10

- (b) where the work or activity relates to the operation of—
- (i) a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act; or
- (ii) a mine within the meaning of the Mining Act, 1973,
- 15 the Premier.

Mr Boyd]

Mr ARBLASTER (Mosman) [3.41]: I move:

That at page 10, line 18, the word "Premier" be left out and there be inserted in lieu thereof the words "Minister for Mines".

I shall not take up the time of the Committee to any extent with this amendment. It is obvious where the responsibility should lie—with the Minister responsible for **mines**. During the debate attention has been drawn to the fact that the Premier has to sign documents with regard to mining. In his reply at the second-reading stage the Deputy Premier, Minister for Public Works and Minister for Ports said that would be done either by the Governor or the Premier but as the Governor does what the Minister tells him to do, it was decided to place the word "Premier" in this provision.

Mr Ferguson: What an inference to draw.

Mr ARBLASTER: That is exactly what the Minister said. Subclause (3) of clause 18 provides:

A notice under subsection (2) requiring the cessation of **any** work or activity being done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by a person other than the owner of the prescribed dam shall not be given without the **approval of**—

I submit that when something is done by a government department the relevant **Minister** should be responsible for it, not the Premier. The Opposition believes that the Premier should not have to sign the notice referred to in clause 18. It should be signed by the Minister responsible for mines.

Mr BOYD (Byron) [3.43]: Earlier the Minister said that a right of appeal is contained in the bill and he mentioned the Supreme Court. While the Committee is discussing this clause the Minister might look at that matter again. He might be kind enough to point out where in the bill I will find that provision. A right of appeal against a decision of the Premier is a basic concept of justice. The Deputy Premier, Minister for Public Works and Minister for Ports has already shown a deal of confusion on this matter.

The CHAIRMAN: Order! The honourable member for Byron is quite removed from the amendment before the Chair, which is to leave out the word "Premier" and to insert the words "Minister for Mines".

Amendment negatived.

Clause agreed to.

Adoption of Report

Bill reported from Committee with amendments, and report adopted on motion by Mr Ferguson.

COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION) AMENDMENT BILL

Second Reading

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [3.45]: I move:

That this bill be now read a second time.

The Coal and Oil Shale Mine Workers (Superannuation) Act, 1941, prohibits the employment and continuance in employment in the coal and oil shale mining industry of persons of or above the age of 60 years. Certain exceptions are made. Also, the Act provides for the payment of pensions on retirement to mineworkers who contribute to the fund. Pensions are also payable if the contributor is compelled to retire due to injury or ill health. Allowances are paid in respect of dependants and to widows on the death of the pensioner.

The Act provides for the establishment of a superannuation fund financed by contributions from the mineworkers and the colliery proprietors principally and, to a limited extent, from the Government. Provision is also made in the Act to subsidize the workers' compensation payments where the mineworker concerned is incapacitated due to the inhalation of dust in coal mines. A compensation subsidy fund established under the Act is wholly financed by the employers. Both the superannuation and the compensation subsidy funds are administered by the superannuation tribunal which comprises a chairman, three representatives of the owners of coalmines and three representatives of the employees of coalmines.

The Coal and Oil Shale Mine Workers Superannuation Fund was set up in 1941 following a period of industrial dispute. The fund started with a major deficit because all the existing mineworkers and those who had retired during the previous twelve months were entitled to full benefits. Until 1970 there was no specific legislative requirement for the building up of the fund to meet the accrued liabilities. Following that year the tribunal was required to raise sufficient contribution income to cause the fund to increase annually by 85 per cent of its investment income. The Government Actuary, in his report of 10th October, 1975, said that the fund had a capital deficiency of \$35.3 million on a "closed-fund" basis, that is, on the basis of a fund closed to new entrants. In this report he said it was clear that, sooner or later, reconstruction of the fund would have to be considered. The deficiency has continued to grow since that date. A private actuary commissioned by the New South Wales colliery proprietors has put the capital deficiency in early 1977 at \$101.1 million. However they point out that this amount is not strictly comparable with the Government Actuary's figure as the private actuary assumed indexation of gross pension levels in accordance with movement in social security levels, whereas the Government Actuary assumed no increase in gross pension benefits. Regardless of the exact deficit, reconstruction of the scheme is now a necessity.

In an effort to achieve a more satisfactory scheme, on 16th February, 1977, the mineworkers put forward to the colliery proprietors certain proposals for altering that scheme. In July of that year the colliery proprietors advised the mineworkers that they were unable to accept those proposals because they considered them actuarially unsound. The mineworkers accepted that assessment. Their proposals had been put forward on the basis that if unacceptable the colliery proprietors should submit alternative ones. On 12th July, 1977, the colliery proprietors therefore put forward to the mineworkers basic proposals for revision of the scheme. These were considered on behalf of the mineworkers by a mining unions central liaison committee and, following consideration by delegates conferences in the New South Wales coalmining districts they were formally agreed to by that committee.

In a discussion with representatives of the parties on 30th August, 1977, I said that I would be willing to consider implementing any proposals put to me jointly by the representatives of the mineworkers and colliery proprietors in relation to a revised superannuation scheme. Subsequent to that discussion the colliery proprietors furnished me with a report covering results of an actuarial investigation of their proposals carried out by consultants to the association. As a preliminary to considering those proposals the Government sought the comments of the Government

Mr Hills]

Actuary on that report. The Government Actuary advised that the structure of benefits in the existing scheme was unsatisfactory; that the financing system was unstable; that reconstruction of the fund was highly desirable, and that the general concept in the proposed amendments of the continuing payment of pensions to existing pensioners and of providing capital sum benefits for active contributors was desirable.

The basic proposals put forward by the colliery proprietors on 12th July, 1977, were revised at subsequent meetings between mineworkers and the colliery proprietors and on 16th November, 1977, the parties reached final written agreement on details of the revised scheme and submitted that agreement to me. The parties to that agreement are the New South Wales Combined Colliery Proprietors Association, the Australian Coal and Shale Employees Federation, the Australian Collieries Staff Association, the Amalgamated Metal Workers and Shipwrights Union, the Electrical Trades Union of Australia, the Federated Mining Mechanics Association of Australia, and the Federated Engine Drivers and Firemen's Association of Australia. The parties have also advised me that the organizations of employees not a party to the scheme, namely the four deputies associations in New South Wales and the New South Wales Colliery Managers Association, have accepted the proposals. They have also advised me that the organizations of retired mineworkers were consulted by the unions involved in the discussions and they have reported that the State body of retired mineworkers has fully endorsed the proposals and that there are no remaining objections on the part of any of the branches.

The parties have formally requested the Government to implement the terms of their agreement by an amendment of the existing Act. The Government has expeditiously done this in the bill before the House and I shall now deal with its major provisions. All employees active at the date of commencement of the new scheme will be covered for the new type of benefits but the existing pensioners, with the exception of those entitled to commute their pensions, will continue to receive pensions. In other words, we shall have a new scheme that provides for workers in the industry to receive a new type of benefit. These pensions will be fully indexed, according to the mechanical unit rate. The mechanical unit rate is the weekly rate of wage prescribed under the classification of loaderman in industry awards applying to the New South Wales coalmining industry. The single male pensioner will receive 35 per cent of the MUR, a married male 50 per cent, a widow 30 per cent and a child 5 per cent per week. Any movement of rates of pension in accordance with this provision will have effect, in general terms, from the date upon which the corresponding movement in the MUR has effect.

Under the existing scheme the fortnightly rate of pension for a single man is \$126.10. From this is deducted, where applicable, the fortnightly social services benefit of \$98.60, leaving a net fortnightly benefit for a single man of \$27.50. A married man currently receives a pension of \$197.40 a fortnight from which is deducted, where applicable, the social services benefit of \$164.40, leaving a net fortnightly benefit of \$33.00. A widow currently receives \$109.10 per fortnight from which is deducted, where applicable, the social services benefit of \$98.60, leaving a net pension of \$10.50. Under the existing scheme, whenever the rate of social services is increased, the rate of pension is increased by a similar amount. In the revised scheme, increases in pension will follow movements of the MUR and not social security pensions.

On present indications the new pension rates will be as follows: a married man during the first five years of receipt of a mineworker pension will receive \$200.10 a fortnight. After five years he will receive \$35.70 a fortnight. A single man during the first five years on a mineworker pension will receive \$140.10 a fortnight. After five years he will receive \$41.50 a fortnight. A widow during the first five years of

receipt of a mineworker pension will receive \$120.10 a fortnight. After five years she will be paid \$21.50 a fortnight. A dependant child up to the age of 16 years will receive \$20.00 a fortnight.

The amounts I have given, modified to a weekly basis, are set out in columns 4 and 5 of item 40 of schedule 1 of the bill. Honourable members will see that after five completed years on the full mineworker pension set out in column 4, the pensioner will receive henceforth the amount set out in column 5. The amount in column 5 has been calculated taking into account the full amount payable by the Commonwealth Department of Social Security for age or widow's pensions. The operation of this provision is subject to the qualification that, where it would have the effect of reducing from the commencement of the revised scheme the weekly rate of mineworker pension payable to a person immediately prior thereto, the provision shall not apply to that person until a further period of six months has elapsed.

It has been felt for many years in the coalmining industry that the structure of the mineworkers superannuation fund has been inequitable, in that it pays larger pensions to pensioners who are better placed financially than to those who are of limited means. The amendments in this bill will give effect to the same basic pensions for all pensioners in each class—for example, married pensioners retired less than five years; married pensioners retired for at least five years; widows widowed less than five years; widows widowed at least five years and so on, irrespective of their social security entitlements. This is the standard practice for all occupational superannuation schemes.

This provision has been discussed with the representatives of the parties. They consider its purpose is to restore a basic intention of the mineworker pension scheme. They see its intention as being to supplement, to a relatively minor and supportable extent, other income available to the pensioner by way of Commonwealth social services, social security or otherwise; and, additionally, in the case of a mineworker compulsorily retiring at the age of 60 years, to make provision equivalent to the total of the supplement and the current Commonwealth age pension for the period elapsing before he attained the age of qualification for the latter pension.

The parties contend that it was never intended that the mineworker pension would replace the Commonwealth pension or subsidize the Commonwealth Government's social services scheme. The amount of the Commonwealth pension has accordingly always been taken into account in arriving at the rate payable to a pensioner so that the net charge on the fund is only the amount of the supplement. The parties to the new superannuation scheme see this result as having been achieved in respect of the great majority of mineworker pensioners, but that in the past it has been defeated in respect of a relatively few mineworker pensioners because they had sufficient income to debar them from receiving the appropriate Commonwealth pension for which they would otherwise be eligible.

These people, in the parties' view, have therefore received a greater net pension from the fund and, accordingly, have imposed a greater burden on it than those whose relative lack of means has enabled them to qualify for Commonwealth pension payments. Even though the number involved has been relatively few, the parties to the scheme see the cost to the mineworkers superannuation fund as being high and an important factor contributing to the massive insolvency which the new scheme is designed to correct.

The parties to the new scheme view column 5 of the schedule as primarily directed to the case of a mineworker compulsorily retiring in due course, and not to the case of a mineworker forced to retire prematurely because of physical incapacity disabling him unexpectedly from continuing employment in the industry. Accordingly,

Mr Hills]

under the bill the provisions governing rates of pensions will not operate so as to reduce the mineworker pension awarded to a person because of incapacity under section 7 of the Act before that person reaches the age of 60 years.

I want to mention here that in Committee I shall be moving two amendments to item (18) of schedule 1, which will affect subsection (5) of proposed substituted section 10EA. This relates to a mineworker in receipt of a pension under section 7 or section 8 who, at the age of 60 years, is ineligible for a Commonwealth invalid pension because he is not incapacitated within the meaning of the social service Act. I shall be moving those amendments to make it clear that a person in those circumstances will be able to receive a full mineworker pension until he attains the age of 65 years, or becomes eligible for an invalid pension. The operation of the provision will be subject to the discretion of the tribunal. In addition, those persons in receipt of a T.P.I. pension will continue to receive the full mineworker pension until they reach the age of 65 years.

As I mentioned, this provision will not operate for six months in any case where it would reduce the existing amount payable to a mineworker pensioner. During that period the Government will be asking the parties to the agreement to give detailed attention to the precise practical effect on pensioners. I shall be asking those parties to discuss the matter with the Government's representatives in an effort to avoid any working of the provision that might cause unacceptable hardship or produce inequitable results. If that is its potential effect, the Government will be seeking to alter the operation of the provision to produce a more satisfactory formula. I have, in fact, already mentioned to the parties my intentions and they have agreed to take part in these discussions. I had talks last Friday with the colliery proprietors' representative and the unions' representative, and they are willing to take part in these discussions. Any necessary amendment can be effected by using the interim regulation-making powers in the bill to modify the scheme. That will avoid the necessity of bringing the legislation back to this Parliament. These discussions will take place between colliery proprietors and the unions, and if the parties agree I shall have an opportunity, as Minister, to modify the scheme by regulation.

The regulation-making powers are contained in item (39) of schedule 1. They allow the scheme embodied in the bill to be altered by regulation, subject to the concurrence, on matters of principle, of the parties to the agreement. The intention is to enable the revised scheme to operate as agreed by the parties, pending submission of further legislation. Nobody's pension will be reduced, for the bill provides that no reduction shall occur for at least six months—in other words, until about 23rd September. That will give us an opportunity in the interim to have these discussions, to resolve the difficulties and, where the parties are willing to agree upon changes, to make them by regulation. It is to be expected, of course, in a major revision such as this that a number of provisions may not, in practice, work in true accord with the parties' wishes. The use of this regulation-making power will, pending covering legislation, limit any initial problems encountered. The Government would undertake any necessary changes to the relevant clause prior to the expiration of the six-month period if that course met with the concurrence of the parties at the discussions to be held.

Certain pensioners will have a right to commute their pension to a lump sum. These are those reaching the statutory retiring age or incapacitated through injury or illness on or after 7th November, 1977, and before the commencement of the new provisions. The parties to the agreement selected that date because this was the start of the first pay period following the date when substantial, though not written, agreement was reached between the parties. The reason for this provision is that the mining industry believes persons retiring or incapacitated after this date are morally entitled to share in the new lump-sum benefits provided by the revised scheme. To be

able to commute their pensions these persons will need to show that they would, at their date of retirement, have qualified for a lump-sum benefit if the relevant provisions governing those benefits had been in force at that time.

I shall now set out the provisions relating to lump-sum benefits. A mineworker compulsorily retiring on or after the proposed amendment will be entitled to a lump-sum benefit if he has been continuously employed as a mineworker for not less than ten years immediately before the date of retirement. He will, however, be entitled to a lump-sum benefit if he has been continuously employed as a mineworker for that period, apart from interruptions approved or authorized by the tribunal—for example, where the continuous employment was broken by retrenchment, ~~cavel~~ out or ill health. The lump-sum retirement benefit under this provision will be calculated at a prescribed amount for each calendar month of service as a mineworker.

The prescribed amount has been fixed by agreement between the parties at \$100 for each month of service. This sum will be increased in the period prior to the completion of the first actuarial investigation of the new scheme whenever the mechanical unit rate is increased. It will go up in this period by the same percentage as the mechanical unit rate is increased. Thereafter this amount will be varied to the extent that contributions will support. On the starting rate of \$100 a month, a man with forty years' service will get approximately \$48,000.

The lump sum payable on permanent disability varies according to whether the injury arose in the course of employment. If the incapacity is shown to have been caused by injury as a mineworker, that person will receive a sum equal to the retirement benefit that would have been paid to him had he remained continuously in the industry until his statutory retirement and been eligible for that benefit. The dollar value of each calendar month's service will, in the case of disablement, be the level applying at the date of disablement. Where incapacity arises from another cause, the mineworker will get a sum according to the past period of service—that is, 10 per cent if the disability occurs in the first year of service, 20 per cent in the second year of service and so on, reaching 100 per cent in the tenth and subsequent years of service as a mineworker. Disablement or incapacity will be deemed to have occurred on the date determined by the tribunal.

Where a person employed as a mineworker dies after the commencement of the revised scheme, his widow will be entitled to a benefit equal to half the benefit that would be payable to a contributor with forty years' service as a mineworker retiring at the date of death. In addition, an amount equal to one third of the widow's benefit is payable for each of the first three dependent children. If there is no widow, an amount equal to two thirds of the widow's benefit is payable for each of the first three dependent children. A benefit is payable to other dependants only if there are fewer than three dependent children. In those circumstances a dependent father or mother would receive three quarters of the widow's benefit. A dependent immediate relative would receive half of the widow's benefit, and any other dependants one quarter of the widow's benefit.

A person would be regarded as a dependant if he or she, as determined by the tribunal, was wholly or mainly dependent for financial support at the date of death of the deceased contributor. Where a contributor dies without leaving a widow or other dependants, his estate would be entitled to a return of contributions plus bank interest. From the commencement of the revised scheme ordinary contributions will be payable in respect of each mineworker at the rate of 10 per cent of the mechanical unit rate, or such other rate as may be fixed by the Minister after considering recommendations made by the tribunal. A recommendation by the tribunal would be subject to an actuarial investigation and discussions between the tribunal and representatives of the employers and contributors.

Mr Hills]

The ordinary contributions would be payable, as to one quarter, by the mine-worker and as to three quarters by the employer. From the commencement of the revised scheme the employers will pay a special contribution commencing at the rate of 5.5 per cent of the mechanical unit rate per employee each week, that is, \$11.00. This special contribution, agreed to by the coalowners, is to meet liabilities in respect of existing pensioners and their dependants. Its period of payment will be set to overcome short-term cash-flow problems arising from the introduction of the revised scheme, but the payment will not exceed the lifetime of those pensioners and their dependants. This short-term contribution will be actuarially reviewed in the course of the investigation made by the actuary appointed under the Act. The amount of the contribution may be adjusted by the tribunal if the actuary's report indicates this course is warranted. It will cease to be payable when it has achieved its purpose.

Where the employment of a mineworker is terminated and he is not entitled to a pension or lump sum, his contributions will be refunded with Commonwealth Savings Bank interest. This right will apply only to a person who has made contributions to the fund for at least a year. The compensation subsidy fund set up under part IVA of the Act will be retained. This fund covers persons disabled by inhalation of dust in coal mines. Persons who have already become eligible for subsidy will continue to be paid it. After the commencement of the new scheme, persons who would otherwise qualify for a subsidy will be eligible for a lump-sum disablement benefit. However, such a person would be paid, in addition, a subsidy if that were necessary to ensure, subject to authorized deductions, that he received by way of workers' compensation and subsidy, a weekly sum equivalent to workers' compensation for total incapacity due to the inhalation of dust. This fund will continue to be financed solely through employers' contributions.

I come now to the very important matter of actuarial reviews. Under the revised scheme, the Minister will appoint an actuary from time to time and the tribunal will arrange for him to investigate and report on the state and sufficiency of the fund. This investigation and report will take place at the end of the first full year of the operation of the revised scheme and thereafter at intervals of not more than three years. The investigation will cover an analysis of the assets and liabilities of the fund. It will take into account the future indexation of contributions to the fund by mineworkers and employers, the future indexation of pensions in payment and any other factors which the actuary and the tribunal decide are relevant to the investigation.

The actuary's report will include a recommendation as to the rates of increase in the prescribed amount of the retirement benefit to be effective until the completion of the next actuarial investigation. However, no increase in that benefit will exceed the percentage increase in the mechanical unit rate applicable in each subsequent year for as long as the employers are contributing at a level greater than the ordinary contributions required of them. If the increase in the retirement benefit recommended by the actuary is less than the actual rate of increase in the mechanical unit rate, the report shall include a recommendation for a variation in the ordinary contribution level sufficient, in the actuary's opinion, to enable the retirement benefit to be increased at the actual rate of increase in the mechanical unit rate.

Financing of the miners' pension is largely on a pay-as-you-go basis. Fifteen per cent of the investment income is available to meet current benefits and expenses; the remainder is raised by contribution. The New South Wales Government contributes but these contributions are being phased out. The statutory contributions remaining to be paid by the Government are \$48,000 in the year commencing 1st July, 1977, \$32,000 in the year commencing 1st July, 1978, and \$16,000 in the year commencing 1st July, 1979. After that date no further contributions will be made by the Government.

From 1980 this scheme will be run solely by the mineowners and mineworkers. The administration of the fund will continue to be conducted by the tribunal and the miners pension branch. The costs of administration are payable, as in the past, out of the fund itself. When the parties came to the Government with their proposals they indicated they were seeking, as a general objective, a superannuation scheme for mineworkers that had a real assurance of long-term stability and financial soundness. It was their intention to improve the existing value of benefits and to arrest and eventually reverse, the growth of the capital deficiency.

These things cannot be achieved overnight. The possible changes to the scheme are necessarily limited by the industry's present capacity to bear the cost of them. The new scheme is, nevertheless, a major landmark in mineworkers superannuation and is a commendable reflection of the harmony between all sections of the coal industry that have joined in producing it. I ask all honourable members to give it their support.

Mr FREUDENSTEIN (Young) [4.23]: Though the Minister for Industrial Relations, Minister for Mines and Minister for Energy and I often disagree on how he conducts his department, I give him the assurance now that the bill will not have any opposition from this side of the House. The Coal and Oil Shale Mine Workers (Superannuation) Amendment Bill seeks to amend the original Act of 1941. Since I have been a member of the House that Act has been amended during every Parliament, so honourable members have seen amendments to the Act about seven times. I am pleased to see the honourable member for Cessnock present in the House. He has probably forgotten more about the legislation than any other honourable member ever knew. The honourable member for Cessnock has had experience with this matter since the foundation of the fund.

As I pointed out at the introductory stage, the fund that was set by the original Act was a most unstable and unsatisfactory one. It was never operated with any of the traditional conventions associated with an actuarially sound scheme. I think it could be said that it survived only by a hand-to-mouth existence. It has not done much for the security of miners in their retirement. The hand did not reach the mouth so often that the body seems to have begun to fade away. As the Minister pointed out at the second-reading stage, the Government Actuary said that there was a deficiency of \$35.3 million in the fund. Another actuary said that it is deficient to a much greater extent. However, both actuaries agree that the fund is deficient. Honourable members will not quibble about how unstable the fund is; they simply recognize that it is unstable. It must have been clear to all honourable members and those associated with the industry, particularly those who should be benefiting from the fund and the colliery proprietors, that urgent action had to be taken to give stability to the fund. It was necessary to correct the situation before it became worse.

I believe the miners will now take a personal interest in the fund. After all, it is their own fund. They are not going to see it ripped off. The miners wanted a lead and the bill gives them that lead. When I was Minister for Mines the fund was not under my administration, but was within the portfolio of the Treasury, where the Assistant Treasurer had supervision of all superannuation funds. I did not have to administer the scheme. Under it basic pensions have been subject to fluctuations of federal social security pensions. I have always been suspicious of the scheme. I looked at it closely when I was Assistant Treasurer and I ascertained that not only did it follow those fluctuations of the federal social security pension, but also it seemed to be extremely costly to contributors. From the point of view of the amount that the miners had to pay in, it seemed a costly scheme.

From an administrative point of view I did not think that the miners were getting enough out of the fund in proportion to the amount they paid in over the years and in proportion to the amount paid by the employers. The scheme has never recognized length of service or the amounts contributed by individual beneficiaries. It is the basis of any good superannuation scheme that two factors should be recognized—**length** of service and the amount contributed. The bill seeks to correct that. It also preserves the minimum qualifications of the original Act. There is no need for me to draw attention to those qualifications.

The bill corrects a number of anomalies. First, it brings stability to the fund and will stop the downward trend. Second, it sets up a new structure by way of lump-sum payments. The Minister in his second-reading speech stressed that the bill sets out to improve the value of benefits. I hope that is so, but only time will tell. For a number of those mineworkers who have retired already there will be disadvantages. However, in a statement towards the end of his second-reading speech the Minister said that he will call the parties into conference in an effort to rectify that anomaly. Under the bill there will be greater benefits for the majority and, from the point of view of the unions and the colliery proprietors, I suppose that is a desirable feature of the bill. However, people who are totally and permanently incapacitated ex-servicemen and others may be disadvantaged. The majority must not take the view of "I'm all right, Jack". I ask the Minister to keep the House informed on developments when and if agreement is reached on the minority at present adversely affected by the bill.

The bill continues the present definitions in the original Act. It includes employees of certain contractors in the coal industry. By schedule 1 pensions are removed and the revised scheme of benefits commences. It retains the qualification relating to retirement ages and compulsory retirements. The Opposition finds no fault in that. It does not wish to oppose the system that is designed to arrive at benefits based on the mechanical unit rate. The mechanical unit rate, upon which the rate of pension will be calculated from the commencement of the revised scheme, seems to be a somewhat vague and movable figure—or feast—on which to set a scale. I am not objecting to it, but it is rather vague. The Minister in his speech made reference to the mechanical unit rate but I could not find that phrase in the bill.

It is described as the reference rate. Members of the public or people who are not used to reading bills could easily be confused. In any case, the mechanical unit rate, described by the Minister, or the reference rate as it is called in the bill, appears to mean the weekly rate of wage prescribed for the classification of **loaderman** in industrial awards applying to the coalmining industry in New South Wales. Agreement has obviously been reached on the percentages of the mechanical unit rate to be paid to classified and defined contributors. These have been made clear by the Minister. They are—for a single male, 35 per cent; a married male, 50 per cent; a widow, 30 per cent; and a child, 5 per cent.

The definitions are set out in schedule 1. Relationship is dealt with in the amendments to section 10. By the amendments proposed to section 10F of the Act the scale of benefits will be varied to equal the amounts payable under the federal social welfare legislation. The Minister has already referred to that matter. The honourable member for Upper Hunter and the honourable member for Maitland, who are vitally interested in the coalmining areas, will be looking at this bill closely to ensure that no one is disadvantaged. As they have some knowledge of people in this position, doubtless they will be speaking more fully than I am on that aspect—and probably with more emotion.

The bill, which has the full support of the Opposition, introduces a new principle—lump-sum payment—which will give a greater feeling of security to mine-workers. It gets away from the devious exercise of trying to avoid or get round payments made under the federal social services legislation. The lump-sum payment provisions have been dealt with fully by the Minister and I shall not subject the House to tedious repetition by going over them again. How one qualifies for a lump-sum payment is clearly set out in new division 3. Among other things, to qualify for a benefit a mine-worker must have been employed continuously in the industry for ten years, or for two or more periods under certain circumstances. No good purpose is served by going into those matters in detail.

The tribunal as at present constituted will continue to administer the scheme and pay the benefits. The tribunal recognizes that there are two parties to the agreement. Often it is not appreciated that all schemes should recognize that payment should be made on service and the amount paid in and that a means test should not be taken into consideration. It concerns me that a thrifty person who saves his money or wins a lottery might be disqualified from a right conferred by this legislation. If a person is thrifty or inherits money, the tribunal has the right to deny payment under sections 7 and 8 of the Act. This should be looked at closely as it is a departure from what is becoming the system in Australia—that the means test should be abolished for persons receiving pensions.

During last quarter the contribution of a mineworker into the fund was \$4.87 a week. Last Monday that rate went up to \$5 a week. As the colliery proprietors contribute three-quarters of the money that goes into the fund, from last Monday they will pay \$15 a week for each employee. No variation is being made to this system of financing the fund. The Opposition supports that provision.

The fund is subject to actuarial review. With this fund that is vital. I gather from the Minister's second-reading speech that a review will be done twelve months from the commencement of the new scheme. The Opposition strongly supports that proposal. The bill represents a practical approach to correcting a difficult problem. The fund has had a most unsatisfactory life and the Opposition will support the bill in the hope that it will give the fund greater stability and the miners greater security in their retirement.

Mr NEILLY (Cessnock) [4.37]: I was thinking about this matter at about 4 o'clock this morning. I recalled the opening of the new Methodist church at Cessnock. After opening the new church we went back to the old one. There I saw a foundation stone bearing the name John Kennedy. What I am attempting to say is that we have repealed an old Act and replaced it with a new one but we are inclined to overlook the the foundation stone on which it was based. Nothing in life is as simple as ABC. Certainly it was not for me in my early days as a miner. I was cavelled out three times before I reached the age of 21. When I went into the mines at 15 the boss said: "Boy, you can't work here until you are 16. Look for another job." I went back at age 16, got a job underground and I was paid 5/7d a shift for my efforts. When I reached the grand old age of 21, and was due for adult wages of 17/6d a day, I and a few others were told: "We don't want you boys any longer. You cost us too much." My grandfather was over 70 when he finished at the coal face. That was when this pension scheme was started, and we should not forget it.

As a result of an industrial dispute a scheme was introduced in 1941 known as the mineworkers superannuation scheme, which was joint Commonwealth and State legislation. Before an amendment could be made to that Act it required the Commonwealth's agreement. During the time when the late Joe Arthur was Minister for Mines the Commonwealth announced, "We propose to get out and leave this problem to the State." A matter to which we should all give some thought is that the **greatest**

beneficiary in Australia from the production of coal is the Commonwealth Government, although it incurs no costs in doing so. Although a number of amendments have been made to the Act since its introduction in 1941, the basic principle of this superannuation scheme has not been altered. However, this is 1978 and it is proper and appropriate that it should be brought up to date.

In effect the Minister was faced with something akin to a shotgun wedding. He was asked whether the Government would introduce appropriate legislation if the unions and employers reached agreement. To the credit of the Minister he said he would. In keeping with his word, he has introduced the bill. It contains a clause that empowers the Minister to correct by regulation some obvious matters that should be corrected. If I were to say that I was completely happy with the bill I should be misleading the House. This might be the last speech I shall make in this Parliament, in which I have served as a member for twenty-five years. Therefore the last thing I should want to **do** would be to mislead honourable members. My wife often refers to the deeming provisions in mining legislation as the "demon" provisions. The deeming provisions apply to former miners who are receiving "burnt-out" pensions and have income in excess of the amount that would entitle them to an age pension. They apply to those who are receiving workers' compensation payments and others who, because of certain requirements in the Commonwealth legislation, cannot qualify for social service payments. If you, Mr Speaker, will excuse the expression, how the hell can a person be deemed to be receiving something when he is not? Either he is receiving it or he is not. If he is not receiving it, he should not be deemed to be receiving. I am sure that with the application of a little commonsense any problems that arise can be overcome. The Minister has said that he is willing to confer with the colliery proprietors on problems that arise under this legislation. **Having** spoken to several of the **proprietors** I am sure that any problems can be resolved within the six months or before any person can be adversely affected.

Sufficient finance will be available under the proposed scheme to meet the pension payments of those who are entitled to receive them. Like coal and minerals, miners are a wasting asset. **From** the time the first tonne of coal is extracted from **a** mine it is in the process of becoming waste. So is a mineworker's pension as an asset. In future lump-sum payments will be made out of the fund, not pension payments. In other words, that lump sum will be losing value as a consequence of the effects of inflation.

One cause of disputation will be the linking of pensions to a mechanical unit rate rather than to social service benefits. When the fund was established pensions were linked to the rate for a first-class shiftman. At that time the big grizzle within the industry was that the pension was tied to the social security allowance. Thus people on the pension were losing out because they were tied to the prevailing level of social security payments, not to the current first-class shiftman's rate. The game of politics is tight; one receives something only before an election and nothing until the next elections. Substantial pension increases have never been granted and consequently relativity with the shiftman's rate has not been maintained. The proposal is to tie the pension to the mechanical unit rate, which is the average rate within this industry. Although I am not normally a betting man, from my knowledge of miners I would bet that they will be seeking an increase quickly. It would be of benefit for those who work in the industry to join together with those who are retired to attain joint benefits. I have sufficient faith to believe that the benefits to be gained from the scheme proposed in this measure will give the colliery proprietors and the unions an opportunity to begin negotiations within the next six months to resolve any little problems that arise in the meantime, so that the scheme will get ~~off~~ the ground, and be established on a sound basis.

Mr FISHER (Upper Hunter) [4.50]: I am pleased to have this opportunity to rise in this Chamber and support this measure which, as explained by the Minister, proposes a completely new approach to the payment of superannuation benefits to coalminers. The honourable member for Cessnock just outlined the conditions that prevailed in the industry when he first entered it as a miner many years ago, when he was 16 years of age. The coalmining industry has become a very large undertaking in the Upper Hunter region of New South Wales, and I think it is worth comparing the conditions that prevailed when the honourable member for Cessnock first entered the industry with those in the industry today.

Last Friday the Minister for Industrial Relations, Minister for Mines and Minister for Energy was in my electorate at Warkworth, attending the opening of the extension of the Buchanan Borehole colliery. On that occasion about 1 000 people, almost all of them directly associated with the coalmining industry, were entertained royally by the company. The organization of the function was a great credit to the company, and I am sure that the Minister appreciated the opportunity of being there as a guest of the proprietors of Buchanan Borehole. The company entertained not only all the employees and the families of those associated with that mine, but also all the employees and the families of those associated with the company's other mine near Newcastle. Those people were brought to the function by bus so that they could enjoy the occasion and hear what the Minister had to say. Also present were members of the board of Colonial Sugar Refining Company Limited and of the Buchanan Borehole colliery, together with many representatives of Japanese and Korean companies that are customers for coal from the Hunter Valley.

The most significant feature of the function was that it was attended by people from all sections of the industry—ranging from men employed underground to those operating the large machinery used in open-cut mining, representatives of management and customers. All joined together to celebrate the opening of probably the most modern mine in New South Wales. The success of the function was a tribute to the organizing ability of Jim Johnson, the general-manager of the company, and it is a pointer to the splendid relationship that prevails between all sections of the industry. I can contrast this atmosphere with what has obtained even in my short period as a member of this House. I can speak of the conditions that prevailed about seven or eight years ago when I represented the Gunnedah area, where there were two mines.

Mining involves some risk, and it demands considerable capital investment and outlay—far greater than the sums required when the honourable member for Cessnock was employed in the industry. Also, these days the industry is [much more dependent on overseas markets. When the two collieries in the Gunnedah area were obliged to close, inevitably a number of coalminers had to be relocated. Some went to Queensland, and others to different parts of New South Wales. I mention that that happened because honourable members must appreciate that coalmining is a risk industry which is enjoying a profitable boom that the colliery proprietors have never before experienced in the long history of coalmining in New South Wales.

I am sure that everyone in the industry is pleased that the proprietors are willing, under conditions of greater buoyancy and higher profits, to ensure that conditions and rates of pay are much better, and also that, upon retirement, the people who have worked in the industry will be looked after in the form of increased benefits in their superannuation payments. The latter purpose is the subject of the measure before the House. Together with all the other people who have been associated with this scheme in the past, I came to realize that any improvements made to coalminer pensions immediately benefited the Commonwealth Government because the amount

payable by the Commonwealth then was reduced proportionately as mineworker pensions were increased. I am glad that the scheme now being presented to the House completely overcomes that problem by introducing the principle of lump-sum payments.

I fully endorse the proposal outlined by the Minister, and I commend the people who have been responsible for it. Representatives of the colliery proprietors and the unions have thrashed out a suitable scheme, which is acceptable to both parties and is now embodied in the bill. I am glad that the Minister mentioned that, although some pensioners will be adversely affected by this scheme, negotiations will take place in an effort to find a solution for this problem. Although I appreciate that the scheme includes higher benefits that will be acceptable to all workers in the industry, I regret that at this stage it has made no provision for pensioners who might be adversely affected.

For these reasons, I welcome the Minister's statement that a committee is to be formed to inquire into these problems. My only small qualification concerns another of his statements that when representatives of the unions and the proprietors get together he hopes they can agree to remove the anomalies that adversely affect certain pensioners. I am sure all honourable members sincerely hope that agreement will be reached, and that there will be no ifs or buts about it. The Minister has probably gone as far as he can in the matter, but I trust that the representatives of the industry and the unions will ensure that agreement is reached and that no person currently receiving a pension will be adversely affected. The present pensioners were the mainstay of the industry over a long period, and I believe the scheme owes to them even more than it does to present employees. I welcome this opportunity to support a bill that provides for benefits that will considerably improve pensions payable to former miners.

Mr PETERSEN (Illawarra) [5.2]: Speaking in support of the bill to amend the coalminers superannuation Act, I am conscious of my responsibility to the workers in the industry, the retired workers, their dependants and the widow pensioners. The Minister has given a concise summary of the bill as it affects 16 500 mineworkers in New South Wales who will each pay 2.5 per cent of the mechanical unit rate—now \$5 a week—while employers pay 7.5 per cent—\$15 a week—for the current scheme and 5.5 per cent—now \$11 a week—to provide funds for superannuees retired before 7th November, 1977. In return, workers with ten years' service will be entitled on retirement at age 60 to \$100 per month of service; widows will receive \$24,000 plus \$8,000 for each child up to the third. Invalids will receive \$100 for each month of service plus each month up to the time when they will be 60. If they have served less than ten years and the incapacity was not due to employment, they receive a percentage for service to age 60 based upon 10 per cent for each year of service. Those workers not entitled to lump-sum payments will receive a refund of contributions plus bank interest.

Obviously this is a very simple scheme and a vast improvement on the existing scheme. There was some opposition to it on the South Coast when some workers argued that better benefits could have been obtained, having regard to the prosperity of the industry. The remarks of the honourable member for Upper Hunter have confirmed that opinion. They also expressed reservations about the actuarial soundness of the employers' proposals and about the reduction of the employers' contributions from 4.5 : 1 to 3 : 1. As my time is limited, I do not want to argue this matter in detail. All I want to suggest is that when the first annual review occurs, workers in the mining industry should carefully study the solvency of the fund having regard to the actuary's report.

It is good to see that lump-sum payments and contributions will be linked with the wage payable to the classification of loaderman in industry awards. In my view this is far preferable to linking pensions with cost of living indices, which are essentially

arbitrary. I much prefer the remuneration of retired workers to be linked with that of workers on the job, who will themselves benefit in due course and are consequently concerned to fight for the best possible results.

The current pension scheme suffers from many grave disabilities. Those disabilities arise largely from the fact that the miners superannuation scheme was the **first** industrial pension scheme when it was established in 1941. Other superannuation schemes before that date usually fell into one of two categories. Either they were pensions paid to retired workers who had been employed by federal, State or local government, or they were special schemes to make provision for administrative and professional staff employed by private capitalist enterprises. What was unique about the miners superannuation scheme was that it was designed to cover all employees in a pit, from the lowliest wheeler to the mining manager.

In my view, a fatal error was made in linking the scheme with social service pensions, with the provision that any social security pension received would be a direct deduction from pension. How that works I can illustrate with examples. I have here a statistical table and I should like permission to have it incorporated in *Hansard*.

Leave granted. [*See Addendum I.*]

Addendum I

RATES OF SUPERANNUATION PAYABLE IN PRESENT SCHEME

	Per fortnight \$
Married Man	197.40
Single Man	126.10
Widow—no children	109.10

In all cases \$15 per fortnight is paid for each dependent child.

MAXIMUM RATES OF SOCIAL SECURITY PENSIONS

	Per fortnight \$
Married Couple 2 X \$82.20	164.40
Single man	98.60
Widow	98.60
Widow with children—add Guardian's Allowance \$8 per fortnight if all children over 6; \$12 per fortnight if a child under 6.	
Child's allowance—\$15 per fortnight each child.	
Widow—1 child receives either \$121.60 or \$125.60 per fortnight.	

SUPERANNUATION PAYABLE IF RECEIVING MAXIMUM RATE SOCIAL SECURITY PENSIONS

	Per fortnight \$
Married Couple	\$197.40—\$164.40 = 33.00
Single man	\$126.10—\$ 98.60 = 27.50
Widow	\$109.10—\$ 98.60 = 10.50
Widow with children	\$124.10—\$125.60 = Nil or \$121.60 2.50

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It will be easily seen from those figures that the pensions payable to those in receipt of social security pensions could not be described as generous by any stretch of the imagination. The fund was principally of benefit to those who were not eligible for social service pensions, because they were either males who had not attained the age of 65 years or widows without children who were not 50, or superannuees debarred from receiving social service pension because of the income means test. These now amount to 2 700 of the existing 9 800 pensioners. As the Minister pointed out in his second-reading speech, the fund was basically inequitable for, apart from those not qualified for pensions because of age, it paid larger pensions to pensioners who were better placed financially than to those who were of limited means.

I intend to return to this point later when dealing with the question of those superannuees who will lose because of the new scheme. I have dealt with the question of benefits payable under the new scheme to the existing 16 500 contributors. However, I should now like to point out the benefits that will accrue to almost 9 000 of the existing 9 800 superannuees. Two rates of superannuation will be payable as shown in schedule 1 to the bill—the higher rate payable for the first five years of entitlement, in column 4, and the lower rate payable thereafter as shown in column 5. New rates will be as shown in another statistical table that I should like permission to have incorporated in *Hansard*.

Leave granted. [*See Addendum II.*]

Addendum II

NEW RATES OF SUPERANNUATION TO BE PAID

For first 5 years of entitlement:

	Per fortnight \$	Increase per fortnight \$
Married Man	200.10	2.70
Single Man	140.10	14.00
Widow	120.10	11.00
Plus \$20 per fortnight paid for each dependent child.		

After 5 years of entitlement:

The amount of superannuation payable is reduced by the full amount payable by the Commonwealth Department of Social Security for age or widow pensions. It might be noted however, that, unlike the present scheme, guardian's allowance or children's allowance payable is not deductible from pension. In these circumstances, a person receiving social security pension who has been a superannuee for five years will receive superannuation as follows, under the present scheme:

	\$ Per fortnight		\$ Per fortnight		\$ Per fortnight		\$ Per fortnight
Married Man	200.10	less	164.40	=	35.70	inc.	2.70
Single Man	140.10	less	98.60	=	41.50	inc.	14.00
Widow	120.10	less	98.60	=	21.50	inc.	11.50
Widow—I child	140.10	less	98.60	=	41.50	inc.	41.50
						or	39.00

It is particularly pleasing that the new scheme means a substantial increase in pension to widows with children who are in receipt of social security widow pensions. I have always been ashamed of the fact that because the social security pension was approximately the same as miners **superannuation** for widows, widows with children received either nothing or a miserable \$2.50 a fortnight. They will now receive \$41.50 a fortnight plus \$20 a fortnight for each child after the first—still a poor amount, but at least it demonstrates an acceptance that the previous rates were grossly inadequate. Some widows will receive much more than this. A widow receiving the social security widow pension, whose husband died less than five years ago, will receive an increase of \$109.60 a fortnight to raise her superannuation to \$120.10 a fortnight. When the five years have expired her pension will be reduced to \$21.50 a fortnight. A widow with one child now receiving social security pension will have her pension increased by \$137.60 a fortnight to \$140.10 a fortnight, to be reduced to \$41.50 a fortnight at the expiry of the five-year period.

Invalid male superannuees who retired before they reached age 60 will not have the lower rates of pension applied to them until they reach that age or until they have completed five years from the date of retirement if that date is after they reach age 60. Even then the lower rate will apply only if the superannuee is considered by the pension tribunal to be eligible for a Commonwealth pension. When the higher rate continues past age 60 it will apply until the superannuee reaches age 65, the age of eligibility for age pension. I congratulate the Minister on bringing forward this amendment at the Committee stage. Those men now receiving maximum rate invalid pensions will receive a substantial increase—for a single man, \$112.60 a fortnight. For a married man on the maximum pension, whose wife is a pensioner, the increase would amount to \$167.10 a fortnight.

When I first heard of this superannuation scheme it seemed to me that it would result in real hardship to an invalid who was considered unfit for work in a coalmine but could not qualify for a Commonwealth invalid pension because he was not 55 per cent incapacitated within the meaning of the social services Act. It is good to see that the bill now presented to Parliament provides for the higher rate to continue in all cases to at least age 60, and to age 65 if Commonwealth pension is not payable.

What I have said so far indicates that there are good reasons for supporting the scheme so far as most of the 9 800 superannuees are concerned. This part of the scheme will be financed by a levy of 5.5 per cent of the mechanical unit rate per employee. At present this amounts to \$11 a week to be paid by the employers for each of 16 500 workers. Criticisms of the scheme have come largely because it is realized that, as the honourable member for Upper Hunter has said, a number of superannuees will in future be worse off than they are at present. I was pleased to hear the Minister say that no reductions in superannuation payments will occur for six months, that is, until 23rd September, 1978. The Minister said that in the meantime he will ask the parties to the agreement to discuss the matter with the Government's representatives in order to avoid any working of the provision causing reductions which might cause unacceptable hardship or produce inequitable results.

However, in my view the scheme also has some basic inequities. I see these inequities as falling under three headings. The first is that pension rates for a single male are 35 per cent of the mechanical unit rate; married male, 50 per cent of the mechanical unit rate; widow, 30 per cent of the mechanical unit rate; and child, 5 per cent of the mechanical unit rate. The most obvious discrepancy is that between the widow rate and the single male rate. There is no justification for this sexual discrimination. It does not cost a woman less to live than a man. I do not like to be a party to the concept that women are pets who need less money on which to live than a man. Also, I do not understand why, if there is a discrepancy between

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the married and single rates, a married couple should receive \$70.10 a fortnight less than two single men. Some critics have pointed out that under this new scheme a married man's pension increases by \$2.70 a fortnight and a single man's pension increases by \$14. In my view the criticism is warranted and that is one of the issues that should be examined when the whole scheme is being reviewed.

The second inequity is that widows are transferred to the lower rate of pension after five years. This provision can be contrasted with the position of male invalids transferred to the lower rate at age 60, and then only subject to three conditions—that five years have elapsed, that they are eligible for or receiving a Commonwealth pension, and that they are not receiving a totally and permanently incapacitated pension. Otherwise, the higher rate continues until they attain age 65. Though it may be well argued that women under 50 years of age without children should not need a pension at the higher rate for more than five years, that argument is rather hollow when dealing with a case where the lady concerned has the care of children. I suggest that they need special consideration and a continuation of the pension at the rate prescribed in column 4 of schedule 1 until their children leave school.

The third basic inequity is the major objection, as I see it. The principal objection to the scheme provided for in this bill is that approximately 840 superannuees will be subjected to a reduction in superannuation after 23rd September, 1978. The increased rates will apply to all superannuees for six months from 25th March, 1978. When the six-month period has expired a number of superannuees will suffer reductions which would not have applied had this legislation not been introduced. For convenience I divide those 840 people into five categories. Category A is widows of five years' standing without children, not eligible for social security pensions until they reach age 50, when they become eligible for a social security class B widow pension. At present they would receive \$109.10 a fortnight. From 25th March, 1978, they will receive \$120 a fortnight, and from 23rd September they will receive \$21.50 a fortnight—a net loss of \$87.60 a fortnight.

Category B consists of male pensioners between the age of 65 and 70 years who receive other income from earnings, war pension, compensation or property income which precludes payment of age pension before they attain 70 years of age and become eligible to receive means-test-free age pensions. I can show what can happen, in a table headed present rate per fortnight, new rate from 25th March, new rate from 23rd September and reduction per fortnight. A single man would have a present rate of \$126.10, a new rate from 25th March of \$140.10, and a new rate from 23rd September of \$41.50, resulting in a reduction per fortnight of \$84.60. For a married man the present rate is \$197.40, the new rate from 25th March \$200.10, and the new rate from 23rd September \$35.70, showing a reduction per fortnight of \$161.70.

Category C includes male pensioners between 65 and 70 years of age, widows of five years' standing under 70 years of age, and perhaps some invalids, receiving reduced social security pensions because of the application of the income means test. Their miners superannuation payments will be reduced from 23rd September, 1978, to the lower rates prescribed in column 5 of schedule 1 to the bill. Under the Social Security Act Commonwealth pensions are reduced by half the amount by which income exceeds \$40 a fortnight for a single man or woman, and \$69 a fortnight for a married couple, with an allowance of \$12 a fortnight for each child. Consequently, a decrease in income received from miners superannuation will result in an increase in social security pensions, though only to the extent of half the amount of the decrease. I note, too, that the bill provides that men receiving the totally and permanently incapacitated pension from the Department of Veterans' Affairs are exempt:

from this provision until they reach 65 years of age. I understand that only two superannuees are affected by this provision. Perhaps other cases deserve similar consideration.

Category D consists of male pensioners receiving service pensions from the Department of Veterans' Affairs who are age 65 years and over. Payment of service pensions precludes payment of social security pensions. Consequently they now receive miners superannuation at either \$126.10 a fortnight for a single man or \$197.40 a fortnight for a married man. From 25th March, 1978, they will receive \$140.10 a fortnight or \$200.10 a fortnight as prescribed in column 4 of schedule 1 to the bill. But from 25th September, 1978, they will receive only \$41.50 or \$35.70 as prescribed in column 5—a loss of \$84.60 a fortnight and \$161.70 a fortnight respectively.

Because of the operation of the means test, they now receive service pension of \$55.60 a fortnight for a single man and \$100 a fortnight for a married man. I should say first of all that from 23rd September, 1978, their service pensions will increase to \$98.60 a fortnight and \$164.40 a fortnight respectively. Therefore, their net loss in income will be \$41.60 a fortnight for a single man and \$97.30 a fortnight for a married man. The position will be complicated where war pensions also are payable. But the principle remains the same—there will be a considerable loss of income under the new scheme. Service pensioners who are 70 years of age receive means-test-free government pensions at the maximum rate. Their net loss under the new scheme will be the same as that in category B—\$84.60 a fortnight for a single man and \$161.70 a fortnight for a married man.

Category E includes widows of five years' standing who are not eligible for social security pensions because of other income such as war widow pension, earnings, property income and so on. From 25th September, 1978, they too will receive the lower rate of pension prescribed in column 5, and they will lose \$87.60 a fortnight of their basic superannuation.

It has been argued that, with the exception of category A, the persons concerned are people who have already benefited considerably from the old scheme, that the old scheme gave maximum benefit to the "haves" who received other income, rather than the "have-nots". Though this is true, I must confess to a certain diffidence at being part of a government which is introducing a scheme that will result in considerable reductions in benefits to quite a number of former workers and their dependants, though 16 500 workers now in the industry and 9 000 of the 9 800 superannuees will benefit.

However, it should be emphasized—and the Minister brought out this point—that the Government is not the initiator of the scheme. What the Government is doing, as the honourable member for Cessnock correctly pointed out, is implementing a scheme that was the result of an agreement between the mineowners, both government and private capitalist, and the mining unions, with right, left and centre leadership, supported by the retired mineworkers—although I have been advised that the Retired Mineworkers State Council at its meeting on 7th February, 1978, carried a motion accepting the scheme in principle but urging an immediate move for a 10 per cent flat increase and removal of the clause providing for a superannuee automatically to be deemed to be in receipt of a social security pension after five years. The honourable member for Cessnock described this as the demon clause.

It is worth noting, too, that the 16 500 workers in the industry were called upon to look at the scheme from the point of view of how it affected them rather than the existing superannuees. I have with me a document given to workers at Huntley colliery dated 12th July, 1977. In the six foolscap pages of the document the only

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references to existing pensioners are a reference to the employers' contribution to the present fund of \$10.49 a week in respect of each employee, and two vague references in the employers' proposals, namely:

- (b) Existing pensioners to be given an increase in pension levels from the commencement of the new arrangements, and provision be made for indexation of these levels in future.
- (c) As under the scheme which has applied in Queensland since 1971, mineworker pensioners to be deemed (subject to a period of grace) to be in receipt of full social security pensions after five completed years of receiving full mineworker pension.

It is because, in my view, inadequate consideration was given to the position of existing superannuees that it is vital to carry out a full review of benefits to existing pensioners. One of the major difficulties is that very few people have understood what the old scheme is about, and the arguments for and against the new scheme have been productive of a great deal of heat and not much light. That is particularly the case in the northern district where a public meeting at Cessnock attracted an attendance of 850 people. I understand that the meeting was distinguished more by its noise than by its reasoned argument.

I must say that I agree in principle with the statement that no current pension should be reduced, but that principle will be extremely difficult to implement. What will be difficult about obtaining a hearing for existing pensioners is that in future there will be a virtual cessation of the introduction of new pensioners to the scheme. In future, workers will receive a lump-sum payment, or those with less than ten years' service on retirement at age 60, or less than one year's service on retiring because of invalidity, will receive a refund of contributions. The only persons who will be receiving pensions in future will be the widows of existing pensioners, those 60 years of age with less than ten years' service who entered the industry before 25th May, 1971, or those incapacitated prior to 7th November, 1977. Obviously the two latter small categories will vanish in the very near future and the only new entrants will be widows.

So, we shall be faced with a pension scheme financed by a levy on employers of 5.5 per cent of the mechanical unit rate, with virtually no new entrants except widows of existing married male pensioners. There will then be no economic incentive for workers currently employed in the industry to seek improvements of the scheme or rectification of anomalies. For that reason I urge workers in the mining industry to have a good hard look at the current scheme with a view to removing the anomalies that now exist, and to do so for the benefit of retired workers who fought for the scheme, so that they may derive benefit from workers' efforts. They should not be left on their own. There should be particular emphasis on improving the scheme for the benefit of those who have no income except social security pensions and miners superannuation—particularly widows, both with and without children. Most widows with children in a mining town will be in poor financial circumstances indeed, with no other work available. The basic rate is far too low and should be increased by 10 per cent as called for by the retired mineworkers.

I can see the difficulty that would arise if transitional provisions were to be introduced so that nobody now receiving superannuation payments would have those payments reduced. The Government and the parties to the miners superannuation agreement do not want to have the scheme linked in future with social security pensions, and all the difficulties that that would entail. It is time we got away from that idea, and it is good that we are getting away from it. However, most of the 840 superannuees concerned would have had their payments reduced in due course—and I should think

that most cases of that sort could be met by checking with the categories I mentioned, by having category A superannuation payments continue until the person concerned is 50 years of age when she is eligible for receipt of the widow pension, and payments to those in categories B, C and E should continue until the pensioners are 70 years of age, at which time they become eligible for means-test-free age pensions.

Those in category D, service pensioners, are a headache. If they are to be exempted from the five-year rule with the lower rate payable after they have been in receipt of superannuation for that time, everybody else has a case to be exempted, including all 7 100 superannuees receiving social security pensions. What we are dealing with here is an inequitable position that has existed for thirty-seven years—ever since 1942, after the scheme was introduced in 1941. The only difference between a service pensioner and a social security age pensioner is that a male receives a service pension at age 60 and an age pension at age 65. Therefore, if social security pensions were to be a deduction from miners superannuation, service pensions should have been deductible also. However, that did not happen and some people will now suffer considerable reductions in income. This may be a case where a compromise can be worked out.

The bill is an epoch-making achievement. With all its defects, the legislation is an enormous improvement on the existing coalminers superannuation scheme. For 16 500 mineworkers and for 9 000 of the 9 800 superannuees the bill will have benefits, and very real ones. In my view those benefits will not be as great as could have been obtained having regard to the prosperity of the industry. Workers in the mining industry have a duty to look at those benefits and see what improvement can be obtained in them, not only for themselves but also for the 9 800 superannuees who have unfortunately suffered through being first in the field with an inadequate and, I must confess, inequitable pension scheme. When the agreement was signed the Minister had a clear obligation to bring forward legislation embodying the results of that agreement between the mineowners and the mining unions. I congratulate him on doing that. For the first time it now appears possible to build up a fund from which actuarially sound benefits can be paid. I therefore support the legislation, but I urge that there be an immediate review to remove the anomalies and inequities I have outlined and to ensure, so far as possible, that no existing pensioner suffers a loss because of the new scheme.

Mr MORRIS (Maitland) [5.28]: In 1939 there was a general stoppage in mines in New South Wales. After a considerable period of hardship and misery in the lives of many thousands of persons in this State, it was decided that there would be a resumption of work on the government of the day agreeing to establish a Royal commission into the whole of the ramifications of the mining industry. One of the recommendations that flowed from the Royal commission was that a superannuation fund should be established for the employees of the coalmining industry in this State. As has been said already, in 1941 the enabling legislation was introduced in this Parliament.

At that time the legislation was regarded as most enlightened—perhaps even before its time. When the mineworkers were receiving superannuation—that was the name that was given to it though I thought it was overstating it to call it a superannuation fund—employees in the steel industry at Newcastle and Wollongong were not even in receipt of annual leave or sick leave. In that context one can see that it was fairly enlightened legislation which brought in a superannuation fund for employees in the coalmining industry. Some few years ago, when my colleague the Hon. W. C. Fife was Minister for Mines, I made some inquiries of him and was surprised to learn that living in my constituency were more than 500 retired mineworkers and

more than 1 000 men who were actively engaged in working in the pits. Obviously, as the member representing those people, I am vitally interested in any amendment to their superannuation fund.

The contributors and the beneficiaries must have confidence in the fund. During the debate it was said that the mineworkers superannuation fund, which has served the mineworkers and their families reasonably well for thirty-six or thirty-seven years, is now totally unsatisfactory, mainly because of its insolvent position. People in a fund like this and who lack confidence in it must hold fears about their future security. That is only human nature. There have been other funds—the railways superannuation fund comes to mind—which have been totally and absolutely insolvent. The same principle probably applies to the mineworkers' superannuation fund. I remember that my late father subscribed to the railways superannuation fund for forty years with a contribution of 10/1d a fortnight. In the first nine months of his retirement he drew out everything that he had paid in over that period of forty years, and for the next twenty-three years he was living on the fund. That is the reason why the miners' fund and the railways fund have been such a dreadful drain on the finances of the State in recent years. Contributions by the employees and by the employers have been quite inadequate.

The Minister has said that the miners and the coalowners conferred and agreed upon this new scheme. They gave any Minister a dream. The Minister did not have to make any decisions at all. The parties said to the Minister: "Here is the agreement. We have signed, sealed and delivered it. Will you have passed the necessary legislation?" ♣ ♣ should have said exactly what the Minister said, "Of course I will". It was one of the pleasant little jobs that sometimes comes the way of a Minister. It was something that did not require too much effort on his part. The parties got together and negotiated a settlement. Therefore it is perhaps not appropriate in this second-reading debate to deal fully with how the agreement was reached, or to deal with who might have been left out of the consultations preceding agreement.

I suppose that most honourable members who represent mining areas have received letters from many individuals with their own points of view to place before them. In this matter agreement has been reached on the basis that 92 per cent of the people who work in the industry will be better off. However, 8 per cent will have lost something. I presume that the new fund will be actuarially sound. I know that the Minister feels it will be, though a contrary thought has been propounded. Only time will tell. By 1980 honourable members will know, because by then the Government's contribution to the new fund will cease. Mineworkers are being called upon to make an increased contribution to the new retirement fund. By agreement with both parties, the coalowners have gained a decrease in their contributions. That is quite a remarkable achievement. The contribution of the owners will decrease from a contribution of \$4.50 for every \$1 contributed by the employees to a contribution in the proportion of 3:1. How that has been achieved is not for me to question. It was an agreement by both parties, the mineworkers and the mineowners, and I shall leave it at that.

Without a doubt employees retiring these days prefer a lump-sum payment instead of a pension. Generally speaking, I feel that is so because of the interference and overlap that occurs with weekly payments of Commonwealth social service benefits. I agree with the Minister that up to now government superannuation funds have been heavily subsidized by the Government and we do not want them to be used as a means of subsidizing the Commonwealth Department of Social Services. That was also happening with the railway superannuation fund. As the amount paid to retired railway workers by way of superannuation was increased they then made a commensurate refund

to the Commonwealth Department of Social Security. The State was on the merry-go-round, carrying the bag. Most people, including the thousands of mineworkers, will be in accord with the idea of receiving a lump-sum payment upon retirement.

I believe that in the bill no provision has been made for any automatic adjustment to the lump-sum payment for the cost of living, but I have no doubt that that aspect will have the Minister's consideration. It seems to me that even with the present rather low inflation rate of about 10 per cent a year considerable erosion will occur over the next five years in the lump-sum payment, which is a fixed and specified amount, unless some adjustment is made. Perhaps there will be consultation and negotiation on this aspect and, I hope, agreement reached between the two parties, just as there has been on other matters.

May I say one thing about the minority of 8 per cent—the people who would sustain a reduction and have to give away something when the new bill becomes law. Strong representations were made by retired mineworkers, especially those who had served their King and country during war, who, oddly enough, would have suffered a reduction. I received a message from the retired mineworkers association and I say publicly to the Minister that the reception he gave its representatives, his willingness to listen to them and his earnest desire—which would be understandable in view of the Minister's industrial background—to see that no one would suffer a reduction, was much appreciated. An undertaking has been given to this minority of 8 per cent of mineworkers that nothing will happen within the next six months and that during that period further discussions will take place.

No one in the Ministry, save perhaps the Premier, is in a stronger position to exercise influence over the people who come within his portfolio than is the Minister for Industrial Relations, Minister for Mines and Minister for Energy. People are always knocking on the door of that Minister looking for favours. I believe the Minister can exercise some influence. He should do so in whatever way he can on behalf of the 800 or 900 people who would, by this proposal, suffer a reduction in their present emoluments. If the Minister states unequivocally that it is his wish that the mineowners should come to some agreement in respect of this 8 per cent, I believe the matter will not need to be ventilated further in this House. The Opposition supports the bill.

Mr HUNTER (Lake Macquarie) [5.40]: I speak on this bill with mixed feelings. For some years I have been aware that the miners' pension scheme, as it is commonly known, had a lot of faults and anomalies. The bill is proof of that fact. One has lost count of the number of times the Act has been amended since it was passed in 1941. Most of the amendments made to the Act were designed to correct anomalies in it. Unfortunately, I predict that it will not be very long before it is necessary to amend the Act again after this amending bill, for in my opinion the bill, also, contains anomalies. However, I congratulate the Minister for having introduced it and stating that he intends to establish an inquiry after the bill becomes law. I join with other honourable members in expressing the hope that this inquiry will iron out many of the anomalies that have arisen over the years. The honourable member for Illawarra dealt with the bill in detail and I support him generally in what he said.

I propose to outline in broad terms some of the anomalies apparent in the measure. One such anomaly has not been criticized during this debate; in fact, the opposite view has been taken about it. I refer to the contribution ratios. The Opposition claims that the colliery proprietors are going to do such a good job. The fact is that soon coalowners will be making a much smaller contribution towards the miners' pension scheme than they are now paying. The honourable member for Maitland said that under the bill workers would contribute one-third of the cost of the scheme while mineowners would pay three-quarters. It was said also that, in addition, coalowners

would have to pay a special contribution. However, no honourable member indicated what would happen when the people in receipt of miners' retirement benefits pass on and that special contribution is no longer needed. As the years go by that contribution will become smaller until eventually it is no longer necessary. In a few years the colliery owners will be paying much less towards the new scheme.

Under the present set-up workers pay two-elevenths of the cost of the scheme while mineowners contribute nine-elevenths of its cost. The new proportions of one-quarter and three-quarters are quite different. If the contributions remain unchanged, mineowners would eventually receive a benefit. Unfortunately, as a result of its interest in the Elcom and the Newcom group of mines, the Government is in the position of being a colliery proprietor. In the long run it, too, will gain the same sort of benefit. There will eventually come a time when the Government will not have to contribute to the miners' pension scheme.

In this debate honourable members have concentrated on the benefits paid to retired miners, but eventually miners still working in the industry will also miss out. In 1966 the honourable member for Wollondilly held the mines portfolio. At that time he announced that he intended to introduce a new scheme—and in fact he did bring one in. The scheme was intended to cover about 2 000 retired miners. The miners played merry hell when they learnt about it. Soon afterwards, the Hon. W. C. Fife became Minister for Mines and the honourable member for Wollondilly assumed another portfolio. It was then left to the Hon. W. C. Fife to alter the arrangements that the previous Minister had made. The original scheme would have resulted in financial loss to about 2 800 retired miners. I can well remember a former member and Minister for Mines, the Hon. J. B. Simpson, saying when that legislation was introduced that the honourable member for Wollondilly had acted in an arrogant manner. He said that that measure was unsatisfactory. He went on to say that many retired miners would suffer hardship if some new arrangement was not arrived at in the next six months.

I have done some research into the introduction of the original legislation dealing with this scheme. I think the honourable member for Maitland said that in 1939 the Government of the day and the Labor Opposition then both announced their intention of introducing legislation in this field. The promise was an election gimmick before a State general election. Both parties promised that if elected to office they would introduce a retirement scheme. However, when the Liberal-Country party Government was elected it conveniently forgot its promises. As long ago as 1932 a bill to set up the miners' pension scheme was introduced into this House and eventually passed through another place. Unfortunately, as that legislation did not receive Royal assent, it lapsed. The result was that miners had to wait until 1941, when a Labor government again came to office, for a measure to establish the miners' pension scheme. A big improvement took place as a result of that legislation, because previously the miners had no retirement scheme at all. Unfortunately, it seems that the Minister for Mines at that time, the Hon. J. G. Baddeley, did not realize how many anomalies would arise in the future.

Mr J. A. Clough: What did Mr Simpson do when he was Minister for Mines?

Mr HUNTER: He introduced a number of amendments to the Act. Unfortunately, he did not continue to hold the mines portfolio and for that reason he was not able to introduce the amendments brought forward in 1965.

[Interruption]

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

Mr HUNTER: I am not taking a shot at the Minister for Industrial Relations, Minister for Mines and Minister for Energy, or indeed, any other Minister who has held the mines portfolio, but I must say that most people would agree that the late Jimmie Simpson was probably one of the finest Minister for Mines that this State has ever had. Anybody who expresses a contrary view has no knowledge of the man and the mining industry. A number of honourable members have taken part in this debate. I do not know whether some Opposition members deliberately made it appear as if they did not know much about the miners' pension scheme, but they certainly displayed a lack of knowledge about it. Though I am no expert, I know more about the scheme generally than members of the Opposition. The honourable member for Upper Hunter directed most of his remarks to an opening ceremony at a new colliery washery established in the Hunter Valley, which has nothing to do with the miners' pension scheme. It was probably good for the local miners to be invited to the opening and to get a big feed, but it certainly did not help the retired miners. If that expense had been put towards looking after the retired miners, perhaps the colliery owners' proposals would not be in this bill.

I have attempted to outline some anomalies in the bill and said I believe it will have to be amended very soon. I support the concept of lump-sum payments, which the unions have been endeavouring to get into the scheme for many years. Unfortunately, because the colliery owners' contribution has been reduced, mineworkers will not get the lump-sum payments that they should. For many years it has been banded about that, because it was necessary to reach agreement with the Commonwealth Government, the present scheme could not be altered. I do not know whether I have read incorrectly the debates that have appeared in *Hansard*, but I understand that about 1950 the Commonwealth let some of its powers go. This field is now controlled almost entirely by the States. I ask the Minister to have another look at this matter. The reason that has been given to me for many years why miners' pensions could not be subsidized by a levy from coal is that the Commonwealth would not allow it. Apparently there was an agreement with the Commonwealth that because New South Wales exported coal to other States, the State would not impose a levy on coal. It would have meant that the other States would pay more for it. These days most of the coal in this State is exported. It would be a poor show if we could not place a levy on coal going overseas to help to provide miners with a decent pension.

In the discussions that are to take place over the next six months I hope a better scheme can be worked out. Public servants and many others have been entitled to lump-sum payments for many years. It is common knowledge, for example, that shire engineers and town clerks have been entitled to lump-sum payments and at the same time have received pensioner concessions. If a miner receives his lump-sum payment at age 60 years, it will tide him over until he is 65 years old when he will become entitled to what other superannuatees are entitled to in Commonwealth social services. Retired miners receiving pensions should get a better deal. I hope that I shall have an opportunity to participate in the forthcoming discussions, which I trust will be fruitful. I am pleased that the Minister has given this House and retired miners an assurance that all these anomalies will be looked into. It is to be hoped that they can be corrected by next September.

Mr WADE (Newcastle) [5.55]: My colleagues from the north, the honourable member for Cessnock, the honourable member for Maitland and the honourable member for Lake Macquarie, and the honourable member for Illawarra from the south have made comprehensive contributions to the debate. They have intimated that the bill contains an agreement between the Miners' Federation and the colliery owners. Successful representations were made to the Minister to introduce a bill in conformity with the recommendations that they made. I cannot see why the unions should

sacrifice about 850 people who are in receipt of social security benefits—widows and retired miners—for the sake of the majority. That is what has been done. I hope that the Minister will be able to overcome some of these problems by regulation. It is odd that a union official should put aside the pleas of the minority for the sake of the majority. I suppose that people **servi**ng in the industry feel that they have a case and they want their pound of flesh. I could not imagine any trade union leader or organization forsaking his colleagues in their hour of need, but that has been done.

Recently at Cessnock there was a meeting of 850 people. It was attended by the general secretary and federal officers of the Miners' Federation; and they had a busy time there. My colleague the honourable member for Lake Macquarie was in attendance and represented those who could not get away from the House. The honourable member for Lake Macquarie heard the problems at first hand. Next Monday another public meeting, called by retired miners and their widows, is to be held in Cessnock. All honourable members from the northern coalfields have been invited to attend. Probably not all of them will be able to get there. The honourable member for Cessnock and the honourable member for Lake Macquarie will be there. They will have a case to put.

It was not at the Minister's behest that this bill was brought in entirely in its present form. Representations were made by the colliery owners in conjunction with the Miners' Federation. He has come up with a pretty good scheme. I am sorry it did not include the people who have been forsaken. I have had many discussions with the Minister, the Miners' Federation and the registrar and officers of the previous fund. A number of anomalies have been straightened out. One was in relation to miners in receipt of TPI pensions. I hope that in due course the other problems will be solved and that the people who have been sacrificed will be given some attention.

The Labor caucus has discussed this bill in committee. Because the majority of those concerned will receive some benefit out of it, the measure has been supported. The Minister has given an assurance that he will act by regulation. As the honourable member for Lake Macquarie suggested, the bill may have to be amended to overcome some problems. Some widows in my area have complained about the loss of \$92 or \$80. It is incredible that people who have been in receipt of that type of benefit should suddenly lose it because of the introduction of a new scheme. I understand that the old fund has reserves of about \$1.5 million. That will rapidly be eaten up. I hope that the contribution made by the colliery owners and the mineworkers, amounting to about \$20 a week, will grow and that eventually the fund will become buoyant and allow the other persons of whom I have spoken to come under the new scheme. I congratulate the Minister on introducing the bill.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [5.58], in reply: The payment of contributions was mentioned by the honourable member for Maitland and the honourable member for Upper Hunter. The position ought to be clarified. The owners will make two contributions—an ordinary contribution of \$15.01 and a special contribution of \$11.01, a total of \$26.02. That will be in effect 5.2 times the contribution paid by the employees. At the moment the owners' contribution is 4.5 times the employees' contribution. The honourable member for Lake Macquarie said that the time will come when the special contribution made by the owners will cease because it is paid for the purpose of paying existing pensions. The estimate by my officers is that that special contribution will continue for at least twenty years. That was the experience in Queensland.

The honourable member for Lake Macquarie asked whether a levy could be imposed on the coal. That matter has been tested. It is an excise and the State has no jurisdiction to impose such an excise. This suggestion was made when the Government was considering the legislation and legal advice was obtained at that time. It would have been much simpler to impose a levy of 1c, 10c or some such amount on each tonne of coal, but that is completely beyond the legal capacity of the State. The honourable member for Upper Hunter referred to my exercising my rights to confer with the mine-owners and the employees and, providing their agreement was obtained, dealing with matters by regulation. The bill provides that there must be agreement between the parties.

The honourable member for Maitland raised a most important issue. In my capacity as Minister for Mines I have other powers, which I shall not discuss now, by which I can exert influence on mineowners to have them rectify obvious anomalies. If I am unable to exert influence on mineowners, it may be necessary to rectify the anomalies by bringing the legislation again before the Parliament. First I shall endeavour by persuasion and co-operation to have the parties agree. If agreement is reached I shall bring in regulations. I give the honourable member for Young an undertaking that the Parliament will be notified about what the Government is doing. I thank honourable members for their contributions and their understanding. We all appreciate that substantial improvements will be made to the rights of those who work in the mining industry. I give an assurance to those who may suffer disability that immediately after Easter the Government will meet with the parties concerned.

Motion agreed to.

Bill read a second time.

In Committee

[The Chairman left the chair at 6.6 p.m. The Committee resumed at 7.30 p.m.]

Schedule 1

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5 (5) Notwithstanding subsections (1), (3) and
 (4), where, but for this subsection, a pension would be
 payable at 23rd September, 1978, to a person referred to
 in subsection (1) (c) (ii) at the rate specified in Column
 10 5 of Schedule 1 (1) or (2) and the person was, in the
 opinion of the Tribunal, not at that date eligible for a
 pension under any law of the Commonwealth, then sub-
 section (1) (c) shall be construed as if it provided for the
 day immediately preceding the first mine workers' pension
 pay period occurring after—

- (a) the day on which he attains the age of 60 years;
 or

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [7.30]: I move:

That at page 17, line 10, after the word "shall" there be inserted the words " , if the Tribunal in its discretion so **directs**,".

At the **second-reading** stage I indicated to the House that I would be moving this amendment to clarify the position of mineworkers in receipt of a pension under sections 7 and 8 of the Act for incapacity, who were not upon attaining the age of

60 years eligible for a Commonwealth invalid pension. I am referring to a person who is ineligible for a Commonwealth invalid pension because he is not incapacitated within the meaning of the Social Services Act. In normal circumstances, under the provisions of the bill, a person in receipt of a section 7 or section 8 pension for five years who has turned 60 years of age would be paid a pension at the reduced rate set out in column 5 of item (40) of schedule 1. The amount set out in that column has been calculated on the basis that the person receiving that amount is in receipt of a Commonwealth invalid pension at the weekly rate. However, it has been brought to the attention of the parties that a mineworker on a section 7 or section 8 pension may not, at the age of 60 years, be sufficiently incapacitated within the meaning of the Social Services Act to obtain an invalid pension under that Act.

The amendment that I propose will, subject to the discretion of the tribunal, make that person eligible to be paid a **full** mineworkers pension **until** he attains **the** age of 65 years or becomes eligible for a Commonwealth invalid pension, whichever happens first. Both this amendment and the following amendment that I shall propose have the support of both parties.

Mr FREUDENSTEIN (Young) [7.32]: The Opposition will not object to this amendment. I mentioned at the second-reading stage that the principle embodied in the bill is contrary to the general trend in Australia towards observing a means test. Under section 7 and section 8, people who are incapacitated and have attained 60 years of age would well and truly be thrown out if the tribunal in its discretion believed that they should be thrown out. I believe that the amendment will cover only two or three people. I hope that the tribunal will seriously consider including a few more people. I understand from what the Minister said earlier that the matter will be entirely within the discretion of the tribunal. The amendment is necessary and the Opposition has no objection to it. However, I do not like tribunals having to make decisions that are not clearly defined in legislation. This concession is being allowed but it is not clearly documented in the bill. These matters should be clearly spelled out in the legislation.

Mr Petersen: It is difficult to spell it out.

Mr FREUDENSTEIN: I realize that. Attention was invited to this matter at the second-reading stage. Unfortunately, only a few people are **affected**. Though the Opposition does not object to the amendment, at some future stage when the legislation is being reviewed, possibly this matter can be spelled out more clearly, rather than leaving it in the hands of the tribunal. As the tribunal will have members who are at present employed in the mines, they would be rather inclined to protect their future interests. The proprietors would certainly be keen to protect their interests, so that these benefits will not be extended over an area that is too wide. Therefore, these matters should be spelled out more clearly in future, to ensure that a thrifty person, or a person who has had a lucky run, is not excluded.

Mr PETERSEN (Illawarra) [7.35]: I appreciate the point that was made by the honourable member for Young concerning the need to spell out these things. In fact, what the Minister is doing with this concession does not concern the means test. It concerns incapacity of people who are medically ineligible for an invalid pension.

Mr Freudenstein: A man might have a windfall or gain substantial benefit from a court judgment.

Mr PETERSEN: That has nothing to do with it. It is concerned only with people who are medically incapacitated. That is the purpose of the amendment.

Amendment **agreed** to.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [7.36]: I move:

That at page 17, line 13, the figure " 60 be left out and there be inserted in lieu thereof the figure "65".

This amendment is complementary to the previous amendment. I submit the same reasons in support of it.

Mr FREUDENSTEIN (Young) [7.37]: The Opposition does not oppose this amendment, which is what the bill is all about. I am amazed that it is necessary to make the amendment. I do not suggest that this is the fault of the Minister, but apparently someone has printed the wrong number. Discussion about retiring ages reminds me that the parliamentary superannuation fund is not very stable. It has been in that condition for a number of years. We are trying to rectify it. Probably it should be based not on retiring ages but on terms of service.

Amendment agreed to.

Schedule as amended agreed to.

Adoption of Report

Bill reported from Committee with amendments, and report adopted on motion by Mr Hills.

BULLS RETURNED

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

Crimes (Banking Transactions) Amendment Bill
Evidence (Amendment) Bill
Securities Industry (Amendment) Bill
Business Franchise Licences (Tobacco) Amendment Bill
Workers' Compensation (Amendment) Bill

PRINTING COMMITTEE

Thirty-seventh Report

Mr Jones, as Chairman, brought up the Thirty-seventh Report from the Printing Committee.

INDUSTRIAL ARBITRATION (REINSTATEMENT AWARDS) AMENDMENT BILL

Second Reading

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [7.40]: I move:

That this bill be now read a second time.

As I stated in my introductory speech, this bill has two purposes—first, to confirm the powers of industrial tribunals constituted under the Industrial Arbitration Act, 1940, to order the reinstatement of employees in employment; and second, to confer

jurisdiction on industrial tribunals to order the reinstatement in employment of an employee of a local government body who elects to have his industrial union pursue the matter on his behalf under the Industrial Arbitration Act in lieu of the employee proceeding under the Local Government Act; and also an employee of a government body or instrumentality who elects to have his industrial union pursue the matter on his behalf under the Industrial Arbitration Act in lieu of the employee proceeding under the Crown Employees Appeal Board Act.

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

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

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

The effect of the judgment is to deny to industrial tribunals a jurisdiction which they have exercised over a considerable period in determining questions concerning reinstatement in employment of an employee dismissed by a municipal authority.

As honourable members will appreciate, it is not uncommon for such a dismissal to give rise to a stoppage of work by the employee's fellow workers and in consequence thereof it often happens that members of the public are seriously inconvenienced—for example, if those workers are sanitary carters or garbage collectors. Settlement of such a dispute may not be separable from review of the equity of the dismissal but at present the Industrial Commission is precluded from ordering reinstatement even if the circumstances so warrant. The bill will remedy the position in relation to local government employees by empowering industrial tribunals to consider the warrant for dismissals and, if necessary, to order the reinstatement in employment of employees of municipal bodies.

As I intimated earlier, Mr Speaker, the bill proposes only to confer jurisdiction to order a reinstatement in respect of employees of municipal bodies who elect to have their industrial union pursue the question on their behalf under the Industrial Arbitration Act in preference to proceeding under section 99 of the Local Government Act. In other words, an employee's right to proceed under section 99 of the Local Government Act will be affected by the provisions of this Act only by the employee's own election.

Although Dunn's case was specifically directed to the question of employees in local government, the reasons expressed by the High Court Judges in arriving at their decision give reason to believe that challenges to the jurisdiction of industrial tribunals to order reinstatement in respect of employees of statutory authorities other than those constituted under the Local Government Act could well be successful. The Government considers it is undesirable that there be any doubt cast on the jurisdiction of

industrial tribunals in respect of employees of statutory authorities and indeed of the public service itself and is taking the opportunity by this bill of placing employees who are government employees or who are employed by government instrumentalities in the same position as is proposed in respect of employees in local government.

To show the importance of these matters, I shall refer to one case which occurred in 1971. It provides an illustration of how essential it is in the public interest that the industrial tribunals should have jurisdiction to deal with industrial disputes relating to employees of government instrumentalities. The case to which I refer relates to the dismissal of two employees by the Metropolitan Water Sewerage and Drainage Board. Other employees of the Board went on strike and the maintenance of essential public services was seriously affected. This dispute was settled following proceedings, first before a conciliation commissioner and later, by way of appeal, before a member of the Industrial Commission. The Government's intention in relation to employees of the public service and government instrumentalities is supported by the Public Service Board, the instrumentalities and the unions covering the employees concerned, including the Labor Council of New South Wales.

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

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

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

I now turn to the provisions of the bill. While doing so I shall take the opportunity to foreshadow amendments which I propose to move at the Committee stage. The necessity for amendments arises from further consideration of the bill in so far as its

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provisions propose to allow an employee of a municipal council the right to elect and are considered necessary to ensure the practical operations of the bill's intention. The amendment will provide that once such an employee commences proceedings under an Act other than the Industrial Arbitration Act he is bound thereby and cannot at a later stage proceed under the Industrial Arbitration Act. Also, on further consideration the bill appears to extend the jurisdiction of industrial tribunals beyond the Government's intention. Accordingly, I propose to remove the insertion of a new subsection (2) in clause 2 of the bill.

Clause 1, as is usual, gives the short title of the proposed Act. Clause 2 enacts a new section 20A which by subsection (1) enables an award of reinstatement in employment to be made, including reimbursement of the whole or part of wages lost by reason of the dismissal, and also an award prohibiting an employer from dismissing an employee, and in either case subject to such terms and conditions as are appropriate. New subsection (2) simply enumerates those provisions of the Public Service Act whereby a person employed under that Act may be dismissed in circumstances which enable him to appeal against that dismissal, or proposed dismissal, to the Crown Employees Appeal Board.

Proposed subsection (3) ensures that any award made under subsection (1) has effect regardless of any other statutory award or provisions. New subsection (4) provides that no award may be made pursuant to subsection (1) if the dismissed employee or the employee proposed to be dismissed has instituted proceedings under an Act other than the Industrial Arbitration Act, or if the employee concerned has not lodged with the Industrial Registrar an instrument in writing indicating his intention not to pursue his rights under any other Act. Proposed new subsection (5) provides for the form of an instrument in writing to be prescribed by regulation and new subsection (6) prohibits the revocation or withdrawal of an instrument in writing. Finally, proposed subsection (7) provides that after an employee lodges an instrument in writing with the Industrial Registrar he forfeits any rights he had to proceed under any other Act. That concludes my explanation of the contents of the bill. I commend it to the House

Mr DOWD (Lane Cove) [7.53]: I have already intimated to the Minister's officers that at the Committee stage the Opposition will move amendments to this measure. As has been my invariable custom, I have given copies of the proposed amendments to the Minister so that he and his officers might have an opportunity to examine them in some detail rather than look at them quickly during the debate. The Minister is well aware of the nature of the amendments he is proposing, the complicated problems that exist and the litigation that could well arise from amendments to legislation such as this. I had thought that by this stage of the life of this Parliament the Minister would have put before Parliament the major reform of the Industrial Arbitration Act that has been hinted at and suggested at various times during the life of this Parliament.

The principal Act we are amending today is an appalling piece of legislation. Its terminology creates real problems of interpretation. It ought to be our function in this Parliament to reduce the opportunities for litigation. Though I have had a day or so to look at the legislation, I should have liked more time to consider the amendments. I am indebted to the officers of the Minister's department for the assistance they have given me in discussing my proposals.

In the past year or so some persons have attempted to enforce what might be called the right of employment, the right not to be capriciously dismissed, and the right not to be subjected to intimidation and pressure from co-workers, other employees, people outside that employment or members of a union that is unsympathetic to their interests. It must be remembered that we live in a new era following the

enactment of the federal Trade Practices Act whereby secondary boycotts are being examined by the courts. Proceedings are being brought effectively under that legislation. We hope that a new era in which there will be no intimidation of people in their employment is starting.

The Premier said in this Chamber that legislation would be introduced to protect individuals who do not have the support of their union or do not belong to a union. Members of the Opposition and, one would hope, members of the Government were most concerned about the plight of Mr John Latham at Broken Hill. Regrettably the Premier was heard to say in this Chamber words to the effect that if one lives in Broken Hill one must abide by the rules. People are sick and tired of Broken Hill being treated as though it were not part of this State. For the benefit of all the people of Broken Hill, the sooner that attitude changes the better it will be. If it does not change, industry will not establish itself there. Broken Hill is probably our most isolated town. Undoubtedly this is because of the power that remains with men whose numbers are becoming smaller. In addition the mining industry is shrinking. This has cast a pall over the town.

The history of Broken Hill is known to all honourable members. It is a sorry history of the use of power to enforce entrenched rights, with consequent domination of the public and individuals. It is a sorry state of affairs to hear the Premier of the State of New South Wales say that if one lives in Broken Hill one must abide by the rules. On 4th October last the Premier was asked a question in relation to Mr Latham. He replied in these terms:

He has been dismissed by a council duly constituted under the Local Government Act. At this stage that has nothing to do with the trade unions and, quite apart from what has been said by one or two **editorialists**, it has nothing to do with the Government. Section 99 of the very Act under which Mr Latham was employed—an Act which, incidentally, in its present form was enacted by honourable members who now sit on the Opposition benches, including the Leader of the Country **Party**——

That is utter nonsense. Section 99 of the Local Government Act was not amended in the term of office of the former Government. So what the Premier said was quite wrong. He went on to say:

——deprives Mr Latham of the right to seek reinstatement. Before honourable members now on the Opposition benches took the Local Government Act to pieces Mr Latham would have had the right to seek re-instatement——

Again, that is a false statement because as I say, the former Government did not amend section 99 of the Local Government Act. The Premier misled the House for a third time when he said that the Latham situation would not have arisen if the **former** Government had amended the law following a number of decisions. The fact is that Dunn's case has not caused a plethora of legislation. There has not been the flood of decisions that might have been feared in 1971. It is a sorry state of affairs when the Premier makes that sort of statement to the House.

I am pleased to know that the Minister for Local Government will soon be introducing amending legislation to restore the reinstatement remedy to local government employees. The Premier got the Act wrong, which is understandable in view of his knowledge of the law, but he did not get wrong what he intended to say. He said that the reinstatement remedy would be returned to all local government employees, not just to those who happened to be members of a union or to have union support.

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Mr Latham who is not supported by a union, does not have that remedy, and the Government has not amended the legislation to give it to him—and does not intend to do so.

In my view section 99 of the Local Government Act is an unfortunate provision. The sooner it is reviewed the better. Indeed, if the Minister for Industrial Relations, Minister for Mines and Minister for Energy were proposing that a similar provision be inserted in the Industrial Arbitration Act, I could see some merit in the idea. I am of the view that section 99 of the Local Government Act could be adapted for certain purposes of the Industrial Arbitration Act in regard to reinstatement. In spite of what the Minister has said in that regard, I believe it is desirable to have one piece of legislation dealing with the whole matter. A few days ago in this Parliament the Minister for Local Government was asked about the Premier's promise to establish the right of all local government employees to seek reinstatement. Honourable members would have expected the Minister to know the Act he administers. The Minister said that that right would be granted by a bill to amend the Industrial Arbitration Act after it had been approved by Cabinet, and presumably after it had reached final form. However, as the Minister for Industrial Relations, Minister for Mines and Minister for Energy well knows, this bill does not cover all local government employees.

The House is considering in this measure the fundamental rights of people. I do not find the decision in Dunn's case attractive, but the fact is that the Industrial Arbitration Act, as interpreted in Dunn's case, has been limited, and it has become necessary to clarify the situation. That is not what the Minister is doing with the bill. The Minister, in attempting to solve a particular problem, is creating a series of other problems for those in employment, for those who have to interpret the legislation, and for those who have to make decisions about dismissals and reinstatements. The section of the principal Act being amended is badly arranged from the viewpoint of interpretation. That is partly the responsibility of the Minister for, as I recollect, he was responsible for administering this Act in an earlier Labor government. He and the Government he supported failed to bring the legislation up to date to cure the problems that were known to exist under it.

The amendment now proposed will cause problems because of the loose **draftsmanship** and the loose conceptions about the problems that have to be solved. I am not concentrating on the **Latham** case, except in so far as it helps to illustrate **my** point, but those who are in semi-government employment are analagous to members of the public service proper and should have certain protections. Why should a distinction be made between them? The membership of local councils changes from time to time. Those who make their careers in various facets of local government are sometimes subject to capricious decisions not only because of the personalities of the elected representatives of the people but also because those representatives have pressures applied to them, as happened in the cases of **Kerrie** Ferguson and Mr **Latham**. Miss Ferguson sought exemption as a conscientious objector from union membership to placate the Municipal Employees Union. She was not even covered by an award that obliged her to join that union. Therefore a preference-to-unionists clause did not apply. Nevertheless, she was ostracized by her fellow employees, who brought unreasonable pressure to bear on the council.

It is disgraceful that the rule of law can be avoided in that way, as we have seen it avoided on so many occasions in recent weeks. The Government **will** bend, remove or abrogate the law at whim, and its failure to deal in this legislation with a weakness in the law governing the protection of citizens is typical of its attitude under a Premier who will prosecute this one but not that one. The key to dictatorship is abuse of discretion by those in authority, and we in New South Wales now have

government by discretion. The citizens of this State are entitled to seek employment in their own calling without having some group—trade union or other—take away that right for their own purposes and for political ends.

I turn to the proposals in the legislation outlined by the Minister. I am indebted to him for supplying me with copies of the Government's amendments hot off the press this afternoon, but I am concerned that the House should be required to debate a matter about which the Government had not clarified its own thinking until this afternoon. One would have hoped that the Minister would have spent a little more time preparing an important piece of legislation like this so that honourable members would have a better opportunity of considering it. We are left with having to present amendments that might not be as carefully prepared as we should like. Take new section 20A (1) as an example. It is proposed to give a conciliation committee power to oblige an employer to reinstate a dismissed employee in a position not less advantageous to the employee than the position held by him prior to his dismissal.

If a building construction job is winding down and I say to one employee that he is to do another job instead of his present job and to another employee that he will be dismissed, if the committee decides to put back the dismissed employee he has to go back in a position of the same status as the one he held previously, whereas the employee who was not dismissed does not have that right. Construction jobs reach a stage where positions are no longer available. It produces an absurd situation if the employer has to reinstate a dismissed employee to a position that is equal to or better than the former position he held. The problems facing employers should be appreciated, particularly in New South Wales where a number of businesses are closing down. It may be that employees would prefer to have a position of lesser status than be dismissed.

The second point relates to the power to reimburse a dismissed employee for part or all the wages lost by him. This is an interesting matter. The words, "clarify the powers of industrial tribunals" are in the explanatory note. If legislation were needed to clarify the powers of industrial tribunals, this is not it. The terminology will create problems and obscure the powers. I understand the point and I accept what the Minister has said, that employees of other statutory authorities should not be placed in the same position as happened in Dunn's case. But there has not been any problem and we ought not to create problems in this sort of legislation.

That part of proposed new section 20A substantially reflects the existing law. In this State under the common law system we have done well. We should not try to crystallize the law into words that have to be interpreted, in or out of context, by people not always as skilled in the law as those who made up the law, as interpreted by the High Court. The committees that will deal with these matters, though experienced in the trades, are not necessarily skilled in interpreting legislation. They are not necessarily able to cast aside the very words that are placed before them about making orders for reinstatement or otherwise. I suggest that if the legislation is passed by both Houses of Parliament there will be problems of misinterpretation. The existing law is settled and is not creating problems. I should think it an elementary rule that if an immediate problem is not posed, one does not suddenly change the law.

Dealing with proposed new section 20A (1) (b), where an employer has intimated he proposes to dismiss an employee, the employer may be directed to refrain from implementing that proposal. That is an injunction power. I appreciate that only a power is being given but the expression of the words, in the experience of those in the industrial jurisdiction, is more likely to create a situation whereby an order is made under this section. It may be an order to reinstate a particular employee but the rest of the employees might then go out on strike. Though in some industries

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there is chaos and lawlessness, the solving of a special problem by reinstating **an** employee might lead to others going out on strike. Greater disruption **might** be caused. If there are to be any injunction powers under any laws there ought to be protection granted in **terms** of damage and so on. But, there is total power, with due respect to those who will deal with the matter and, unless those people are used to dealing with injunctions, problems will be experienced. Paragraphs (c) and (d) of proposed new section 20A (1) read:

- (c) such provisions for determining any dispute or question with respect to the promotion or regression of the dismissed employee or the employee proposed to be **dismissed**, as the case may be; and
- (d) such terms and conditions,

as the body or person making the award thinks fit.

We are not dealing here with an employee who has been dismissed and wants to be reinstated. If he is reinstated he is in exactly the same position as he was before, with appropriate compensation, which in some cases he should have. But, if times and conditions are attached to the employee there will be some odd birds fluttering around in the industrial scene. If a man of a particular ethnic group does not want to work with members of another ethnic group, but his reinstatement is ordered, one can see that a tag is being put on him to the effect that he will not be obliged to work with that other ethnic group, work on a Friday or on a race day or whatever the case may be. I appreciate that there will be special cases for which special orders have to be made, but honourable members should not encourage the extension of such a system. **An** employee is an employee. If he has lost his job wrongfully he should get it back but not with all sorts of tags attached. That will create problems.

The Opposition supports the concept that the Minister has introduced of giving alternative remedies. Honourable members have had to deal with amendments to the Crown Employees Appeal Board Act and the Local Government Act. It is proper that an alternative remedy should be available, at this transitional stage, before all these dismissal matters are dealt with under the Industrial Arbitration Act. I should not want it to be thought that in my remarks I am critical of the decisions made by judges of the Industrial Commission of New South Wales and others who serve at various points within the structure. I have immense admiration for the men and women who have to administer the Act. Though I do not always agree with their decisions, I am conscious of the problems they face. There is some impressive **judge-**made legislation. Honourable members on this side of the House do not oppose the concept of the alternative remedy.

I cannot believe for a moment that the Minister accepts as reasonable that any person should be obliged to do the things set out within the short time available under the Local Government Act—seven days. It is utterly unreasonable that in a period of seven days, which always includes a weekend, so in effect it is five working days, a man should have to make such a judgment on whether to get legal advice, seek union help or other advice and make an ir retrievable and permanent election about the course he will take. I should not think that many employees would use section 99 of the Local Government Act while the other power is available.

I am certain that a lot more actions will be brought by dismissed municipal employees. My municipality has the highest standard of municipal care in the **State** but I am sure that many municipal employees—I am sure that the Minister knows one or two—ought not be in the positions they hold, at public expense. Some people who are dismissed will lose a reinstatement application but they ought not, as a matter

of law, be given an absurdly short time in which to make a decision on the remedies they seek. In its amendments the Opposition will seek in Committee to limit the extent of the application of proposed new section **20A** (1) and (2).

The Opposition does not oppose the proposed amendment to subsection (2) if section **20A** is retained in its present form. If section **20A** (1) (ii) had added to it a new subsection (2) the Opposition would not oppose the amendment. Nor does the Opposition oppose the other amendments proposed by the Minister for they appear to be an improvement on the present legislation. However, the Opposition does see the necessity for proposed new section **20A** (1) and (2). The Opposition proposes that these subsections be deleted but that provision be made in the legislation to clarify the problem caused by the court decision. Such a provision should **contain** a clear statement that a reinstatement under the Act applies to an employee who has already been dismissed. The Opposition foreshadows an amendment in those terms. I have indicated to the Minister and to his departmental officers that failure to recast those sections of the Act will lead to misinterpretation.

Section **20** of the Act deals with committees. Section **25** is concerned with the responsibilities of conciliation commissioners. This provision can be quite misleading from an interpretation point of view. The Government has failed to place within the structure of this provision a power to be exercised by a conciliation commissioner. That would have been a proper way to deal with the matter. The Opposition accepts the other amendments proposed by the Minister. It considers them to be an improvement on the existing legislation, except in respect of the 7-day deadlock given to a dismissed employee. The amendments foreshadowed by the Opposition seek to remove what are seen as offending, troublesome words in the **first** part of proposed new section **20A**. Employees **who** are not supported by a union—indeed those who are not members of a union—still have rights, whether the Minister likes it or not, that are enjoyed by other employees in this State. The Opposition seeks to give these people the right to have their dismissal tested in the same way as those who choose to join a union.

I have always opposed compulsory unionism although I have always supported the concept of **unionism**. A member of a union ought not to be put in a more favourable position than an employee who is not a member of a union. The Opposition would have preferred the Government to introduce an amendment to section **25** of the Act, although I appreciate that it would have raised some procedural problems. In an endeavour to eliminate these problems, the Opposition foreshadows an amendment to section **20**. The Opposition would also like an amendment to be made to section **25**. The Minister's officers take the view that section **25** deals with the power to summon a person to a compulsory conference, and as a matter of strict interpretation that may be correct. In practice a person affected by section **25** should be treated as a party to proceedings. For that reason the Opposition proposes to move an amendment to clarify the position in respect of a person who is not a member of a union but wishes to proceed with his application. In that way such a person could appear before a conciliation commissioner and be treated in the same way as a union that is making a claim.

This may be an untidy way of amending the Act but the procedures that ought to be amended in this regard prevent its being done in any other way. The amendment that the Opposition seeks would give an individual employee the right to bring a notification before a conciliation commissioner. The last amendment the Opposition proposes to move deals with the non-retrospective nature of this legislation. The Premier has told the Parliament and the public that a remedy would be given to **all** municipal employees. Honourable members are reminded from time to time that in **this** State—that is under this Government—all people are equal, and some are more equal than others. The Opposition wants all people to be treated equally. All people

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should have the same rights. All people like Mr Latham who have lost their rights should be treated equally. I appreciate that the suggestion will be made that the result of the Opposition's foreshadowed amendment would be that a great many reinstatement applications would be made. If that happens it would be disappointing, but the fact is that it will not occur. There have not been a great number of cases in which that could be done. The proposed amendment might have to be made in the other place, where there is greater flexibility in these matters.

I propose, therefore, that because of the problems that will arise as a result of the operation of proposed new section 20A (6), because many people have already made an election, a further provision be added to section 20A to give such a person a new right of election. The result would be that, after this legislation is promulgated, a person in this category would have one month in which to make an election. The Opposition shares the feelings and the fears of the overwhelming majority of people in this State who do not like to be threatened and intimidated. The Opposition takes the view that in the industrial scene might is not right.

If a person chooses to exercise his democratic rights, he should not be deprived of those rights by force. The freedom of the individual is becoming increasingly difficult to maintain in our society. Except in one or two instances there has been a growth in government. The result is that constant attacks are being made on the freedom of the individual by governments that exercise their discretion in a capricious way. This Government is willing to dismiss the problem of Broken Hill as though it were not part of its responsibility. I assure the Minister that the Opposition is not willing to dismiss Broken Hill for it is an important part of this State. Everything should be done to encourage industry and tourism to this area in an effort to stop the present trend. Broken Hill is a classic example of this Government's attitude to the type of problems that have occurred there. The Government just does want to hear about them. It is willing to mislead the House about its intentions, for when it comes to the crunch it refuses to bring in proper legislation to deal with any problems.

The Opposition proposes to move the amendments I have foreshadowed to prevent obfuscation in the law rather than mere clarification of it. The Opposition proposes that local government employees who are capriciously dismissed should have rights analagous to those of public servants. People who have been dealt with harshly should have the right to take the issue before a court—not necessarily to be reinstated. They should have the right to make their claim and to have it determined properly. Any person would consider that to be reasonable. It is all very well for the Minister to say he hopes the bill is supported. However, we are not here just to solve problems of unionists; we are here to help solve the problems of all people. We applaud the provision which seeks to give an election to a person to enable him to get round the unsatisfactory nature of the Local Government Act. Although some unnecessary applications might be made following dismissals, the Opposition stands for the individual, not just for the people who are entrenched in power. I hope that the Government will seriously consider the amendments the Opposition proposes to move in Committee. If these amendments are not couched in language that satisfies the provisions of sections 20 or 25 of the Industrial Arbitration Act, the Minister could seek the leave of the House to have the order of leave amended. I hope that he will not hide behind that technicality to prevent the introduction of appropriate legislation. If it is good enough for the Minister to present the House with amendments, we hope that he will take a little time to think about what the Opposition proposes.

Mr CAMERON (Northcott) [8.30]: Some of the views that I express in relation to this bill are distinctively personal to me. I do not pretend that they in any way reflect the official view of my party. I pay the warmest possible tribute to the honourable member for Lane Cove, as spokesman for the Opposition on industrial

relations, for the learned and expert manner in which he has addressed himself to the bill. He undoubtedly reflects *in toto* the official position of the parliamentary Liberal Party and in effect the parliamentary Opposition. I shall strongly support the amendments that he has foreshadowed if I am right in thinking that their effect is to limit the application of the legislation and to prevent it from being a burden upon private industry. Nonetheless, I make it clear that my own inclinations, were they given free rein, would be to go much further than was contemplated in the address given by my esteemed colleague.

I regard this legislation as being wrong in principle and oppressive in character. My personal view is that, unique as it is to Australia—it is undoubtedly part of the culture and traditions of Australia—our system of arbitration and conciliation is part of the Australian millstone. Also, the New South Wales system of arbitration and conciliation is part of the New South Wales millstone. I believe this country would be earning much more abroad, obtaining more new markets abroad and giving many more job opportunities to Australians who are now out of work if we did not have either the State or federal system of arbitration and conciliation.

When I address myself to a bill such as this, every part of which imposes further burdens and restrictions upon employers, which is unilateral in *toto* in terms of its acting against employers as compared with employees, I see it as being a further burden that must inevitably worsen the overall situation. It is all very well to say that we have gone forward in the past upon the implicit assumption that our arbitration and conciliation processes had all these powers. If a decision of a court suggested that that they did not have those powers, my reaction would be to say that it is better that the system did not have them.

On a number of occasions I have expressed strongly the firm view that our Australian system of arbitration and conciliation—or our New South Wales system, if you like—is wrong in principle in that it is thoroughly socialist and utterly inflationary. It is quite wrong that there should be nationwide or statewide awards that have the effect of remunerating the lazy worker equally with the industrious one and calling upon the industry in difficulty to pay the same wages and to grant the same conditions as the flourishing one. I adhere most strongly to all of those propositions. We are dealing with a bill that proposes to insert a new section 20A. Each segment of that section imposes further burdens upon industry. It indicates that the power conferred by this Act to make an award determining an industrial matter includes the power to **make an award—**

- (a) in the case where an employer has dismissed an employee, directing the employer—
 - (i) to reinstate the **dismissed** employee in his old position or in a position not less advantageous to the employee than that held by him prior to his dismissal . . .

We not only have the absurd, ridiculous and bizarre proposition that, by virtue of the provisions of the Anti-Discrimination Act, an employer is deterred from choosing the person he wants to employ, but if he has already employed a person and dismisses him he can now be required to reinstate **him** in his old position or in a position not less advantageous to him than that held by him prior to his dismissal. Paragraph (ii) states that the employer is to be burdened again by an obligation to reimburse the dismissed employee for all or part of the wages lost by him by reason of his **dismissal**. Paragraph (b) of subsection (2) of proposed section 20A states that where an employer has indicated that he proposes to dismiss an employee, the industrial arbitration and conciliation system will have the power to direct the employer to refrain from **implementing** that proposal.

Mr Cameron]

In my view all of these provisions are oppressive. We have reached the stage where fashionable bodies like the Australian Union of Students oppose Australian nationalism, to use their own phrase, because it is chauvinist, racist and sexist. I have no hesitation in saying that I am without any qualification at all an Australian nationalist. I am an Australian patriot and I hope that the other ninety-eight members of this Parliament—the honourable member for Monaro alone excepted—likewise are Australian nationalists and patriots. But I do not allow my patriotism to uphold my country right or wrong. If some features of Australian life are burdensome, counter-productive or disadvantageous to the Australian nation or to New South Wales, one ought to be honest enough to recognize that and to strive to get rid of them. If we strove to get rid of our State Industrial Commission, we could do so without the constitutional difficulties that would be encountered if we tried to get rid of the Australian system.

The private industry that I so vigorously champion is in many respects open to criticism. Through its managers it has sat down and let its self-defence muscles atrophy. It has stood back and, whatever arbitration has commanded, it has simply accepted in a compliant way. In effect, it has been willing to put off all the difficult decisions, working on the assumption that if the State Industrial Commission has decreed it, what else can private enterprise do but accept it? In the process costs have continually risen, the flow-on processes have continually expanded and magnified the inflationary spiral until today the situation exists in which the Australian worker has been priced out of employment in field after field and the Australian exporter has been priced out of market after market. Although there can be absolutely no doubt that the elements principally responsible for the creation of unemployment in Australia are, first, the extremist union leaders, equally there can be no doubt that the people who are secondarily responsible have been the leaders of the national and State arbitration and conciliation systems.

They have rewarded the extremist unions that have taken industrial action to press their claims. Further, they have delayed the cases of moderate unions which have behaved more responsibly. In all cases, like ordinary human beings **everywhere**—and I do not suggest they are guilty of anything that is not thoroughly human—they have bowed to pressure of numbers. Because the unions have had the numbers and the employers have not, they have **supinely** bowed to the pressure of the unions, with the primary result that our costs of production have been forced up and up, and with the secondary result that Australians one after the other, hundreds after hundreds and thousands after thousands have lost their jobs and been forced on to the social service system.

We can face up to it if we want to or ignore it if we want to: all the bill does is worsen the overall position. It is laughable that at least in the corridors of this Parliament, if not on the floor of the Chamber, the excuse has been made that the bill is really to help that heroic man, Mr Noel **Latham**. The reality is that the bill does not help him at all. Mr **Latham's** problems, persecution and victimization have flowed not from the conduct of employers but from the conduct of unionists. To pretend that Mr **Latham** will be helped by attacking the employers and putting heavier burdens and tighter restraints upon employers is the most laughable proposition that could be advanced.

I put my position in those respects quite clearly: even if I am the only member in this Parliament to voice opposition to the socialist and inflationary nature of our conciliation and arbitration processes, in ten years' time the whole **community will** recognize those facts. I hope we shall move towards the much more sensible American system of collective bargaining which, as everybody knows, produces the highest wages and the best conditions of any working system anywhere in the world today. If we

want to be an **affluent** and productive nation selling to the markets of the world and giving jobs to Australians rather than having them in the dole queues, we will not boost and strengthen the powers of our processes of arbitration and conciliation, but will move towards the free market; we will put more emphasis upon higher productivity at home, upon reducing costs and becoming an efficient productive machine. I have no hesitation in saying that the bill goes completely in the wrong direction.

Mr **CATERSON** (The Hills) [8.43]: The bill, like many others that the Government has introduced into this House, is ill conceived. Although I do not wish to go into any detail on the matters raised by the honourable member for Lane Cove, I **express** my support for his views. I wish to examine the position of reinstatement as it applies under the Industrial Arbitration Act. The **definition** of industrial matters is set out in these **terms** in section 5:

"Industrial matters" means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry . . . and, without limiting the ordinary meaning of the above definition, includes all or any matters relating to— . . . the right to dismiss or refuse to employ or reinstate in employment any particular person or class of persons therein . . .

Paragraph (e) of subsection (1) of section **20** gives to committees that are subject to the provisions of the Act the power to make an award or order determining any industrial matter. Therefore, a committee may make an order or award on the right to dismiss or refuse to employ or reinstate in employment any particular person or class of persons. The commission would appear to have similar powers under section **30** of the Act. Down through the years the test that the commission has applied when asked to order reinstatement is not whether the employer had a right of dismissal available to him at the relevant time, but whether the exercise of that right was so harsh in all the circumstances as to amount to an abuse of power in an industrial sense. I am referring to the words used by the Chief Justice of the High Court, Sir Garfield Barwick. He said:

The question is whether the employer has acted so harshly and so abused his legal right that an intervention of the arbitral tribunal is necessary to secure justice to the particular employee in relation to the employment which he formerly had.

The Minister said that the bill gave to certain employees in local government and statutory authorities the right to seek from the Industrial Commission of New South Wales reinstatement in employment brought about, so he said, by the 1971 High Court case of *North-west County Council v. Dunn and Others*. That is not the whole story. It widens beyond measure the powers of the commission to reinstate employees. It opens the door for all dismissed employees, irrespective of the reason for their dismissal, to seek a review of their dismissal. Only in cases where there is some doubt as to whether an employer has acted harshly and most unjustly is there normally a referral to the commission seeking an order for reinstatement. Only infrequently and in exceptional circumstances is an order for reinstatement made by the commission.

The bill is an employee's heaven and an employer's nightmare. If a provision had been included in the bill that the conciliation committee or the commission should make such an order as new section 20A envisages only when the committee or commission finds that the employer has exercised his right to terminate so harshly in all the circumstances that it amounted in an industrial sense to an abuse of power, the Minister may have had some justification for introducing the measure. This is not the position. It **destroys** the common law right of the employer to choose the employee he wishes to work for him. After all, the employee has a similar right. He may leave the employer at any time, subject to his giving the required period of notice under

the agreement or the award. In fact he may leave his employment without observing the obligation placed upon him to give notice. All he may suffer is a monetary penalty—and even that not always. An employer will no longer be left with the choice of whom he may employ.

It will be argued by trade unions that, because Parliament has seen fit to include in some detail in the Act specific powers of reinstatement. Parliament intended that power to reinstate should be used more generously. The old test of capriciousness and harshness will be thrown out the window, and new and less particular tests will be applied. This is one of the problems of the provisions as the Minister has presented them to the House. As a result of all the arguments that will be put to commissioners and committees regarding the intentions of the Legislature there will be a widening of the powers of the Industrial Commission or a committee. For many years the Act has provided that employers generally have the power of reinstatement in the form I have already stated. I apply that remark to private industry and not to the employees of local government and statutory authorities, who were particularized by the Minister in his remarks.

The bill undoubtedly could add a further burden to employers and to the cost of industry. It could protect indolent and inefficient employees, so adding to the cost of the operation of the employer and the economy of the country. These are important issues, even if the honourable member for Monaro does not think they are. It is important that employers retain a profitable operation, and that the economy of the country is preserved.

However, the bill does not stop there. It introduces a completely new concept. It not only gives power to reinstate but also delves right into what has, through the years, been regarded as a management prerogative; that is, who will be promoted to a particular job. Paragraph (c) of subsection (1) of proposed new section 20A provides that the committee may make an order with respect to the promotion or regression of a dismissed employee, or an employee proposed to be dismissed. Time does not permit my describing all the possibilities that could be introduced by this provision. Suffice it to say that it is an obnoxious provision and should be taken out of the bill.

[*Interruption*]

Mr SPEAKER: Order!

Mr CATERSON: I have done much more work in my time than the honourable member for Monaro will ever do even if he lives until he is **200** years of age. It is being said that the bill is being introduced for certain reasons. The honourable member for Northcott put it more kindly than I would have when he suggested that it was being introduced to cure or to cover the notorious **Latham** case. The Minister has claimed that it is to cure a problem created by the **Dunn** case. I shall refer first to the **Latham** case. The honourable member for Lane Cove has already spoken about this matter in some detail, so I shall not spend much time on it. However, the best that can be said is that if it is intended to cover the **Latham** case, it seems to be a year or so too late. But, for the life of me, I cannot see how this argument can be sustained. In fact, the honourable member for Lane Cove pointed out that it could have no application whatsoever to the **Latham** case. If there is anything we can do, it will be to introduce the amendment that will particularize the **Latham** case, and will give some degree of justice in that matter.

Subsections (2) and (3) of proposed new section 20A are obviously intended to give certain public servants, local government employees or employees of statutory authorities the right to seek redress by way of reinstatement in employment rather

than through the provisions of the Act covering their employment. In particular, I suppose section 99 of the Local Government Act gives servants of councils and county councils special protection where their services are to be terminated. Under that Act there is a system of suspension and inquiry, but notwithstanding the report of the person holding the inquiry, the council may still terminate the services of the employee. In such a case it is obliged to pay to the employee whatever amount of compensation the Minister for Local Government determines. However, this bill gives such servants, as they are described by the Act, or employees, as they are generally known, the right to choose whether they will seek an order for reinstatement, or non-dismissal if they have not been dismissed, or go for the doctor and get all the moneys they can by way of compensation. It is a case of two bob each way.

The only redeeming feature of these provisions is that the unions and employees thought they had this right before the 1971 High Court decision in the case of the *North-west County Council v. Dunn and Others*. As the honourable member for Lane Cove said, as far as we on this side are concerned, if they seek to have the right to choose whether local government employees will have the benefits of section 99 of the Local Government Act or the provisions of the Industrial Arbitration Act, that is something that, although we do not like it, we would not oppose.

I shall sum up briefly my attitude to the bill. First, the inclusion of specific provisions for reinstatement in the Act will, without doubt, widen the scope for reinstatement, and thus will have a most adverse effect on commerce and industry. Therefore, it should be deleted from the bill. Second, the widening of the provisions to enable the commission to take over the prerogative of management in regard to promotion is obnoxious and should be deleted. Third, it is a matter of concern to local government that it is difficult to terminate the services of indolent and inefficient employees. The bill will add to local government's problems. Fourth, if the bill seeks to cover the *Latham* situation, it seems to fall far short of that aim, and it should be amended to make this clear.

I completely support the views expressed by the honourable member for Lane Cove and the amendments he proposes to move. If the position must be catered for, I believe that the provisions should be restricted to employees of local government, certain public servants, and employees of statutory authorities, and that private commerce and industry should not be shackled by the provisions of this bill.

Mr MOORE (Gordon) [9.0]: I do not think any reasonable man would argue with the proposition that in certain circumstances a discretion should be vested in the Industrial Commission of New South Wales, the conciliation commissioners or the conciliation committees to deal with questions of reinstatement of employees when their dismissal has been for harsh or capricious reasons, or where it is contrary to the principles of natural justice and other reasons that have been given as matters of interpretation of the powers of those bodies in the past. Indeed, the definition of industrial matter in the Industrial Arbitration Act makes it perfectly clear that power is vested in the commission, the committees and the commissioners to look —

Mr Akister: The commission.

Mr MOORE: I know why the honourable member for Monaro is in this place. It is because the less time he spends on the telephone to his constituents, the less likely he is to lose votes. He should keep quiet and listen to what is going on, instead of bleating like one of the *wethers* in his electorate.

Mr Morris: You are flattering him by recognizing him.

Mr MOORE: He will be a marked man, like some of the wethers in his electorate—a marked sheep. The need is there. The power has been exercised wisely in the past by the commission. The Minister says he believes there is a need to codify the law to overcome some judicial interpretations and for other reasons. But the provisions of the bill go much further than the law as applied in the past by the commission, the committees and the commissioners. I see no reason why this Parliament should express a lack of confidence in the wisdom of those people by enacting this measure, particularly if it is to be dressed up as something to protect the rights of a man in the county of Yancowinna, when in fact it does nothing of the sort.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.2], in reply: I shall deal with the last speaker first. He agrees that the industrial courts and committees should have the power to deal with questions of reinstatement. The Government was informed by Sir Alexander Beattie in 1971 that something needed to be done to codify the law in this regard. That is what the bill is doing. I should have thought the honourable member for Gordon would have been aware of that. We are doing just what he asked his question about. That disposes of that point.

The honourable member for Lane Cove dealt at length with the problems in Broken Hill. That seems to be a matter that is exercising the minds of members of the Opposition. He implied that the Government, the courts and the industrial commission have simply forgotten about Broken Hill. Surely I do not have to remind him that under the Industrial Arbitration Act of New South Wales a judge of the State Industrial Commission went to Broken Hill and dealt with the problems that occurred there.

On the question of Mr Latham's application for a section 99 inquiry, the Minister for Local Government was concerned that if an officer of his department went and dealt with the matter as a section 99 inquiry it might be implied that somewhere within the machinations of the Department of Local Government Mr Latham might not receive justice. So the Minister for Local Government asked me whether a conciliation commissioner could be made available, and a conciliation commissioner has been dealing with the matter of the section 99 inquiry. It was completed last Friday and the decision has been reserved. To suggest that the Government wants to forget about Broken Hill and what goes on there industrially is not true for, as I have said, a judge of the Industrial Commission went there and dealt with the matter. Subsequently, when the Minister for Local Government asked me to provide a conciliation commissioner to deal with the matter I approached the chief conciliation commissioner and he made a commissioner available. To suggest that the Government was not concerned about the Latham case is certainly not true.

The bill proposes to rectify a situation that was created by Dunn's case, which I referred to during my second-reading speech. It does just that for all local government employees who had rights before that case. Under the bill their rights are being restored. The honourable member for Lane Cove dealt with the question of the seven days. Seven days are available under section 99, so we are not in any way interfering with that situation. The person affected will decide whether he or she wants to use his or her rights under section 99 and then proceed subsequently to the other proposition.

The House heard from the honourable member for Northcott. He said he would not change his mind in ten years' time. I am not surprised that he would make those utterances. He would throw out of the window the whole industrial system, not only in New South Wales but throughout the Commonwealth. He believes in collective bargaining. In other words, he believes in the law of the jungle—let us face that—the sort of thing that is happening in the United States of America today. He says it is a

good thing to have a big coal strike over there that has been going on and on and is bringing that nation to its knees. He says that is a great thing—let us have more of it.

All I have to say in answer is that that sort of thing happened in Australia in the days before the Coal Industry Tribunal was established under legislation enacted jointly by the federal Parliament and the State Parliament of New South Wales. That tribunal has had fantastic success in dealing with industrial problems on the coalfields. I am sure that all honourable members who are connected with the coalfields will have observed the introduction of mechanization and the extraction of pillars and, on the other hand, they will have seen that improved remuneration is being paid to coalminers, who are now able to earn substantial sums of money, that their conditions of employment have improved and that they work a thirty-five hour week. Their man-unit production is as good as or better than anywhere else in the world.

Employers would not accept the point of view that has been propounded in this House this evening by the honourable member for Northcott, who believes in the law of the jungle. Sensible people who deal with industrial relations, and industrial tribunals whether they be the courts or the committees, simply do not accept that point of view. They think it is much better to have proper and orderly control over industrial affairs throughout the Commonwealth. I do not think the honourable member for Northcott would subscribe to the view that we should also throw overboard the High Court of Australia, the Supreme Court and all the other jurisdictions that we have to which people can go and have their important matters dealt with and decided in a sensible way. He would not suggest that for one moment. Yet he wants some sort of special proposition to allow people to get at one another's throats industrially and thus introduce chaos. I cannot believe that he meant what he said.

I heard from some members of the Opposition that in their view the Government is not going far enough in this bill. Other Opposition speakers intimated that in their view the Government is going too far with this legislation, giving too many rights to employees in dealing with the question of appeals. I should like to deal with one aspect referred to by the honourable member for The Hills relating to giving a wider interpretation than that formerly given on the matter of reinstatement of employees. In November last the Full Bench of the Industrial Commission reaffirmed the validity of its test on the question of reinstatement and said that it was a matter of whether or not an employee had been treated unfairly in all the circumstances. This bill will give effect to that test. It will give the court the right to determine the question. I should hope that all honourable members will support the bill.

Motion agreed to.

Bill read a second time.

In Committee

Clause 2

Page 2

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20A. (1) The power conferred by this Act to make an award determining an industrial matter includes the power to make an award—

- (a) in the case where an employer has dismissed an employee, directing the employer—

- 20 (i) to reinstate the dismissed employee in his old position or in a position not less advantageous to the employee than that held by him prior to his dismissal; and
- 25 (ii) if the body or person making the award thinks fit, to reimburse the dismissed employee for all or part of the wages lost by him by reason of his dismissal; or

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- (b) in the case where an employer has indicated that he proposes to dismiss an employee, directing the employer to refrain from implementing that proposal,
- 5 and, in either case, to include in the award—
- (c) such provisions for determining any dispute or question with respect to the promotion or regression of the dismissed employee or the employee proposed to be dismissed, as the case may be; and
- 10 (d) such terms and conditions, as the body or person making the award thinks fit.

15 (2) Subsection (1) has effect notwithstanding any provisions relating to conditions of, termination of, dismissal from, or suspension from, employment contained in any other Act or in any regulations or by-laws made under any other Act and notwithstanding anything contained in any contract of service or award that relates, or at any time related, to the dismissed employee or the employee proposed to be dismissed, as

20 the case may be.

Mr DOWD (Lane Cove) [9.11]: I move:

That at page 2, all words on and from line 15 down to and including line 21 on page 3 be left out and there be inserted in lieu thereof the words "in the case where an employer has dismissed an employee".

In the event of this amendment being lost I do not propose to move my second circulated amendment, which is a consequential matter. I support and underline the points made by my colleague the honourable member for The Hills with regard to this clause. In my twenty years' association with the law I have heard many commissioners and conciliation committees say that the Legislature would not have put the words there if it did not want the tribunal to do something about them. No matter how much the Minister might suggest otherwise, the fact is that tribunals will look at it and say that that is what it was before and that is what it is now. As the honourable member for The Hills correctly points out, there **will** be an expansion of the existing position however much the Minister may wish otherwise. It is for that reason that I propose this amendment.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.13]: I propose to move:

That at page 3, after line 12, there be inserted the words

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

The CHAIRMAN: The honourable member for Lane Cove proposes an amendment to leave out all words from line 15 on page 2 down to and including line 21 on page 3. The Minister proposes an amendment to insert words after line 12 on page 3, that is, within those words proposed to be left out by the honourable member for Lane Cove. To preserve the rights of both the Minister and the honourable member it will be necessary to test the Committee on a token of the amendment of the honourable member for Lane Cove—that is, down to the point at which the Minister's words would be inserted. Should it be decided that those words stand, the amendment of the honourable member for Lane Cove **will** be deemed lost and I shall then put the Minister's amendment to the Committee.

Mr CATERSON (The Hills) [9.15]: I support the amendment moved by the honourable member for Lane Cove. At the second-reading stage I dealt generally with this matter and detailed my reasons for supporting the amendment. I was surprised to hear the Minister in his reply to the second-reading debate say that he did not think there would be any widening of the powers of conciliation committees or the commission in respect of reinstatement by reason of the inclusion in the Act of the specific provision relating to reinstatement. Any industrial advocate worth his salt would be able to convince a conciliation committee or the commission that the Legislature, in putting this into the Act, intended to widen the powers. That is the argument that would be used. It has been used down the ages to get an extension of powers when Acts have been amended by the Parliament in a way such as the Minister now seeks to do.

It is surprising that the Minister, with his industrial background, should claim that the committees would not widen the power and would still use the test that I referred to earlier as being the test used by the Chief Justice of the High Court, Sir Garfield Barwick, in the case of *North West County Council v. Dunn and Ors.* I should be most surprised if fairly soon after this measure is enacted—and I hope it is not—a conciliation committee or the commission did not heed the pleas of an advocate that because this has been specifically put into the Act at this time the Legislature intended a widening of the powers of restitution. Over the years there have been numerous examples of this sort of thing happening in industrial courts. This must be known to the Minister and his advisers.

I support completely the amendment put forward by the honourable member for Lane Cove. The Act as it stands in respect of the powers of the committee and presumably the commission to determine industrial matters by reinstatement of employees is an appropriate way of doing this. The amendment ought to be accepted to ensure there is no proliferation of cases wherein the conciliation committees or the commission might order reinstatement on a wrong basis.

Mr MOORE (Gordon) [9.18]: I direct attention to the wording in paragraph (c) of subsection (1) of proposed new section 20A. Earlier the Minister said that the general intention was to codify the law as it now stood. That would deal with the scope of industrial matters, as defined in the Industrial Arbitration Act. The High Court, when dealing with that sort of terminology in the federal jurisdiction in the Altona Petrochemical case, referred to the concept of preference of employment

and made it fairly clear that the concept of promotion, taking of leave and that sort of thing should not be regarded generally as within the concept of preference for employment.

I ask the Minister to explain the provision to the Committee. Is it merely a codification of the law as it now stands, or does it go further than the existing practice of the New South Wales Industrial Commission, its committees or its commissioners when dealing with questions of reinstatement? They do not deal with matters of **promotion** or regression, though in some cases recommendations are made about alternative places of work or alternative roles within the job structure so as to avoid the sort of friction that may have given rise to the dismissal.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.20]: I think it appropriate that I read to the Committee the recommendations of Sir Alexander Beattie. He said;

In these circumstances I suggest that it is desirable for early consideration be given to the desirability of amending the Industrial Arbitration Act, and in particular section 5 in so far as it defines "industrial matters" and section 20 (1), to make it clear beyond doubt that industrial tribunals constituted by the Act have power to make binding awards

- (a) requiring an employer to reinstate a dismissed employee in employment, and in his old position or in one not less advantageous, notwithstanding that the dismissal of the employee has been in accordance with the terms of contract of service and of any relevant award; **and**
- (b) settling any disputed questions concerning regression or promotion of an employee.

Surely the Government must heed the advice of a person as eminent as Sir Alexander Beattie when he is concerned enough about a matter to make a recommendation to the Government on it. That is why the Government is proceeding as it is. The Government is concerned on questions or reinstatement about continuity of employment, and about preserving the rights of persons in relation to long service leave and other matters. It should be within the power of a tribunal considering a claim to reinstatement to deal with those matters specifically. I should imagine that if honourable members opposite thought an employee had been harshly treated by an employer, whether that person was employed in local government, by a State instrumentality, or in private enterprise, they would wish to ensure that his rights were not in any way abrogated and were considered in conjunction with the question of his reinstatement. I cannot understand the attitude of honourable members opposite. The Government rejects the amendment moved by the honourable member for Lane Cove.

Question—That the words stand—put.

Ayes, 49

Mr Akister	Mr Degen	Mr Jensen
Mr Bannon	Mr Einfeld	Mr Johnson
Mr Barnier	Mr Face	Mr Johnstone
Mr Bedford	Mr Ferguson	Mr Jones
Mr Booth	Mr Flaherty	Mr Keane
Mr Brereton	Mr Gordon	Mr Kearns
Mr Cleary	Mr Haigh	Mr L. B. Kelly
Mr R. J. Clough	Mr Hatton	Mr McGowan
Mr Cox	Mr Hills	Mr Maher
Mr Crabtree	Mr Hunter	Mr Mallam
Mr Day	Mr Jackson	Mr Mulock

Mr Neilly	Mr Renshaw	Mr F. J. Walker
Mr O'Connell	Mr Rogan	Mr Wilde
Mr Paciullo	Mr Ryan	
Mr Petersen	Mr Sheahan	<i>Tellers,</i>
Mr Quinn	Mr Stewart	Mr Durick
Mr Ramsay	Mr Wade	Mr Whelan

Noes, 45

Mr Arblaster	Mr Griffith	Mr Punch
Mr Barraclough	Mr Healey	Mr Rofe
Mr Boyd	Mr Jackett	Mr Rozzoli
Mr Brewer	Mr Leitch	Mr Schipp
Mr Bruxner	Mr Lewis	Mr Singleton
Mr Cameron	Mr McDonald	Mr Taylor
Mr Caterson	Mr Maddison	Mr Viney
Mr J. A. Clough	Mr Mason	Mr N. D. Walker
Mr Coleman	Mr Meillon	Mr Webster
Mr Cowan	Mr Moore	Sir Eric Willis
Mr Dowd	Mr Morris	Mr Wotton
Mr Doyle	Mr Murray	
Mr Duncan	Mr Mutton	<i>Tellers,</i>
Mr Fischer	Mr Osborne	Mr Mackie
Mr Fisher	Mr Park	Mr West
Mr Freudenstein	Mr Pickard	

Question so resolved in the **affirmative**.

Amendment (by Mr Dowd) negatived.

Amendment (by Mr Hills) agreed to.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.30]: I move:

That at page 3, line 15, the words "dismissal from, or suspension from," be left out and there be inserted in lieu thereof the words "or dismissal from".

Mr DOWD (Lane Cove) [9.31]: The Opposition does not oppose the amendment.

Amendment agreed to.

Page 3

30

direction may be made awarding any redress to the dismissed employee in respect of his dismissal or to the employee proposed to be dismissed in respect of his proposed dismissal; and

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.32]: I move:

That at page 3, line 33, after the word "dismissal" there be inserted the words "or requiring an inquiry to be held relating to the dismissal or proposed dismissal of the employee".

Mr DOWD (Lane Cove) (9.331: Similarly with this amendment and the next amendment, the Opposition supports the insertion. The clause would have been far from clear if these words were not inserted.

Amendment agreed to.

Page 4

(b) if proceedings under the provisions referred to in paragraph (a) (i) have been commenced and have not been withdrawn.

10 (4) Where the regulations so provide, an instrument referred to in subsection (3) (a) (ii) shall be in or to the effect of the prescribed form.

15 (5) An instrument referred to in subsection (3) (a) (ii) may not, after it has been lodged with the registrar, be revoked or withdrawn.

20 (6) Any provisions referred to in subsection (3) (a) (i) do not apply in respect of the dismissal or proposed dismissal of an employee after he has lodged with the registrar an instrument referred to in subsection (3) (a) (ii) relating to that dismissal or proposed dismissal.

(7) The foregoing provisions of this section (subsection (3) excepted) do not limit, and are not limited by, any other provisions of this Act.

Amendments (by Mr Hills) agreed to:

That at page 4, line 9, the words "and have not been withdrawn" be left out and there be inserted in lieu thereof the words "by the dismissed employee or the employee proposed to be dismissed".

That at page 4, line 11, the figure "(3)" be left out and there be inserted in lieu thereof the figure "(4)".

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.34]: I move:

That at page 4 all words on lines 13 to 15 be left out and there be inserted in lieu thereof the words

(6) An instrument referred to in subsection (4) (a) (ii)—

(a) has no effect if it is lodged with the registrar after the dismissed employee or the employee proposed to be dismissed has commenced proceedings under the provisions referred to in subsection (4) (a) (i); and

(b) may not, after it has been so lodged, be revoked or withdrawn.

Mr DOWD (Lane Cove) [9.35]: As the Minister agreed at the second-reading stage, the period of seven days provided by section 99 of the Local Government Act is grossly inadequate for the sort of election cast upon an employee in these circumstances. One would have thought that it would not be a difficult matter to amend the Local

Government Act to provide a longer time. I should have thought that fourteen days would be appropriate. The Opposition will not oppose the amendment. We do not want to create problems in the structure of the bill. But the Minister for Industrial Relations, Minister for Mines and Minister for Energy, and the Minister for Local Government ought to consider allowing a period of at least fourteen days for such an election because of the draconian effect of making a wrong election on inadequate advice and within too short a time.

Amendment agreed to.

Amendments (by Mr Hills) agreed to:

That at page 4, line 17, the figure "(3)" be left out and there be inserted in lieu thereof the figure "(4)".

That at page 4, line 19, after the word "an" there be inserted the word "effective".

That at page 4, line 20, the figure "(3)" be left out and there be inserted in lieu thereof the figure "(4)".

Mr DOWD (Lane Cove) [9.36]: I move:

That at page 4, after line 21, there be inserted the words—

- (7) For the purpose of this section, where the employer is the Government of the State including the Crown, a public authority, county council or any council of a municipality or shire any employee shall be deemed to be a person within the provisions of section 25 of this Act.

The Opposition wants to make it abundantly clear that any employee of the Government, a public authority, county council or any council may appear before the tribunal.

Mr HILLS (Phillip) Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.37]: The Government considers that the amendment is unnecessary. As any person may be summoned before the Commission, there is no need to deem him to be a person within the provisions of section 25 of the Act.

Mr MOORE (Gordon) [9.38]: The purpose of the amendment moved by the Opposition is not to give an individual the right to be summoned; rather it is to have him regarded in a particular way when he is there. The Opposition believes that is not clear and that it ought to be altered by the amendment.

Amendment negatived.

Mr DOWD (Lane Cove) [9.39]: I move:

That at page 4, after line 21, there be inserted the words

- (8) For the purpose of this section, where the employer is the Government of the State including the Crown, a public authority, county council or any council of a municipality or shire any employee shall be deemed to be an industrial union for the purpose of section 25A of this Act.

This is a fundamental question that the Parliament has to determine. The Parliament **must** determine whether in fact it believes that an **individual** has freedom not to belong **to** an association or union. If the Government opposes the amendment the Opposition will know just where it stands in relation to serious problems faced by an individual **who** has not the support of a union and does not want to be a member of a union. It

is an important matter. It is unfortunate that it has to be covered by proposed new section 20A rather than by section 25A of the Act. I have already adverted to the reasons.

Mr HILLS (Phillip) Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.40]: The Opposition takes the view that individuals should have the right to approach industrial courts. I remind honourable members of the Opposition that the Full Bench of the Industrial Commission of New South Wales on 24th June in the case of *Australian Workers Union v. Commissioner for Main Roads* said this:

The notion that individuals have rights under the Industrial Arbitration Act personally to seek protection concerning their employment by order or award is inconsistent with the fundamental scheme of the Act.

In the Steelworks case, re engine drivers, the Full Bench of the Industrial Commission of New South Wales said:

Basic to the scheme of industrial arbitration set up by the Act is the conception that in the case of employees, proceedings for an award must be instituted by an industrial union of employees, that is, a trade union registered under the Act as an industrial union and which as a consequence of its registration is subject to the supervisory control of the commission. The Act does not make any provision for an approach by individual employees to a conciliation committee. Employees must come to the committee through their appropriate industrial unions.

The proposals put forward by the Opposition strike at the very heart of the arbitration system, not only in New South Wales but also throughout Australia. The Government rejects the amendment.

Mr MOORE (Gordon) [9.41]: The purpose of the Opposition's amendment, which seeks to make a deeming provision with respect to section 25A of the Act, is to give an individual right of access to the conciliation commission, particularly in cases where his rights are being denied by the union to which he belongs. It concerns also a particular case where an employee is faced with the prospect of dismissal as a result of actions taken against an employer—and thus against the **employee**—by the unions to which he belongs. The Minister would be aware of the problems caused by the case of *Merrit v. Cobarr District Hospital*. The Opposition believe that in cases of this type an individual ought to be regarded, for the purpose of this quasi-codification of a right of reinstatement, as a person with a right of notification under section 25A. If a person lacks the right of notification he will have no case to put before a tribunal.

Mr DOWD (Lane Cove) [9.42]: The Minister was not right when he spoke about the fundamental structure of the Act. The Opposition's proposal seeks a change, but it does not strike at the heart of the conciliation and arbitration system. Such a claim is fatuous twaddle. The Opposition is proposing to **fill** in a gap where a person does not have any rights. The amendment does not apply to all employees; it applies to employees of the Crown, statutory authorities, county councils and municipal and shire councils. They are in a similar position to public servants, but they do not have the protection they should have. The Opposition proposes an addition to the system, not a change right across the board. It is a fundamental matter. It is fallacious to suggest that we are trying to destroy the whole system.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.43]: The Opposition has not produced evidence of one single

case where a union has not acted for one of its members. Each case is dealt with on its merits. No evidence has been adduced that any union has refused to take a case on appeal for one of its members.

Question—That the words be inserted—put.

The Committee divided.

Ayes, 45

Mr Arblaster	Mr Healey	Mr Rofe
Mr Barraclough	Mr Jackett	Mr Rozzoli
Mr Brewer	Mr Leitch	Mr Schipp
Mr Bruxner	Mr Lewis	Mr Singleton
Mr Cameron	Mr McDonald	Mr Taylor
Mr Caterson	Mr Mackie	Mr Viney
Mr J. A. Clough	Mr Maddison	Mr N. D. Walker
Mr Coleman	Mr Mason	Mr Webster
Mr Cowan	Mr Moore	Mr West
Mr Dowd	Mr Morris	Sir Eric Willis
Mr Doyle	Mr Murray	Mr Wotton
Mr Duncan	Mr Mutton	
Mr Fischer	Mr Osborne	
Mr Fisher	Mr Park	<i>Tellers,</i>
Mr Freudenstein	Mr Pickard	Mr Boyd
Mr Griffith	Mr Punch	Mrs Meillon

Noes, 49

Mr Akister	Mr Haigh	Mr O'Connell
Mr Bannon	Mr Hatton	Mr Paciullo
Mr Barnier	Mr Hills	Mr Petersen
Mr Bedford	Mr Hunter	Mr Quinn
Mr Booth	Mr Jackson	Mr Ramsay
Mr Brereton	Mr Jensen	Mr Renshaw
Mr Cleary	Mr Johnson	Mr Ryan
Mr R. J. Clough	Mr Johnstone	Mr Sheahan
Mr Cox	Mr Jones	Mr Stewart
Mr Crabtree	Mr Keane	Mr Wade
Mr Day	Mr Kearns	Mr F. J. Walker
Mr Degen	Mr L. B. Kelly	Mr Whelan
Mr Durick	Mr McGowan	Mr Wilde
Mr Einfeld	Mr Maher	
Mr Ferguson	Mr Mallam	<i>Tellers,</i>
Mr Flaherty	Mr Mulock	Mr Face
Mr Gordon	Mr Neilly	Mr Rogan

Question so resolved in the negative.

Amendment negatived.

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Mr DOWD (Lane Cove) [9.50]: I move:

That at page 4, after line 21, there be inserted the words

(9) **This** section shall have effect in relation to any question, dispute or difficulty of the nature referred to in paragraphs (a), (b) and (c) of subsection 1 of section 25 which arose on or after 1 January, 1976.

(10) For the purposes of subsection (4) and (6) hereof, those persons affected by any question, dispute or difficulty referred to in subsection (9) which arose prior to the coming into effect of the Industrial Arbitration (Reinstatement Awards) Amendment Act 1978 shall be deemed to have occurred one month from such coming into effect.

The amendment seeks to insert two new subclauses ahead of the final clause of the bill. I think that is the appropriate place for it. The proposed new subclauses relate to retrospectivity which, if the Premier meant what he said in this House, he will support. In October last year the Premier said:

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

Either he intended to mislead the House or he does not know what is going on in his administration. Less than a week ago the Minister for Local Government said that legislation would be introduced to cover all local government employees. That is not the position. It was difficult to establish the length of retrospectivity that should be given. There was an overwhelming feeling to make it 1st May, 1976, as a fairly inauspicious date in industrial relations, but I thought that was a little too precious and therefore suggested 1st January, 1976. The second part of the amendment is to postpone the operative effect of the dismissal, for the purposes of the election, of a person who has already elected to make an inquiry under the Local Government Act. He may have his election preserved for a period of thirty days after proclamation, which is a proper time for him to acquaint himself with the provisions of the Act.

Mr HILLS (Phillip), Minister for Industrial Relations, Minister for Mines and Minister for Energy [9.53]: The amendment proposes retrospectivity to 1st January, 1976. It is extraordinary that the Opposition should propose such an amendment.

Question—That the words be inserted—put.

The Committee divided.

Ayes, 45

Mr Arblaster	Mr Jackett	Mr Rofe
Mr Barraclough	Mr Leitch	Mr Rozzoli
Mr Boyd	Mr Lewis	Mr Schipp
Mr Bruxner	Mr McDonald	Mr Singleton
Mr Cameron	Mr Mackie	Mr Taylor
Mr Catterson	Mr Maddison	Mr Viney
Mr J. A. Clough	Mr Mason	Mr N. D. Walker
Mr Coleman	Mrs Meillon	Mr Webster
Mr Cowan	Mr Moore	Mr West
Mr Dowd	Mr Morris	Sir Eric Willis
Mr Duncan	Mr Murray	Mr Wotton
Mr Fischer	Mr Mutton	
Mr Fisher	Mr Osborne	
Mr Freudenstein	Mr Park	<i>Tellers,</i>
Mr Griffith	Mr Pickard	Mr Brewer
Mr Healey	Mr Punch	Mr Doyle

Noes, 49

Mr Akister	Mr Gordon	Mr O'Connell
Mr Bannon	Mr Haigh	Mr Paciullo
Mr Barnier	Mr Hatton	Mr Petersen
Mr Bedford	Mr Hills	Mr Quinn
Mr Booth	Mr Hunter	Mr Rarnsay
Mr Brereton	Mr Jackson	Mr Renshaw
Mr Cleary	Mr Jensen	Mr Rogan
Mr R. J. Clough	Mr Johnstone	Mr Ryan
Mr Cox	Mr Jones	Mr Sheahan
Mr Crabtree	Mr Keane	Mr Stewart
Mr Day	Mr Kearns	Mr F. J. Walker
Mr Degen	Mr L. B. Kelly	Mr Whelan
Mr Durick	Mr McGowan	Mr Wilde
Mr Einfeld	Mr Maher	
Mr Face	Mr Mallam	<i>Tellers,</i>
Mr Ferguson	Mr Mulock	Mr Johnson
Mr Flaherty	Mr Neilly	Mr Wade

Question so resolved in the negative.

Amendment negatived.

Amendment (by Mr Hills) agreed to:

That at page 4, line **23**, the figure "(3)" be left out and there be inserted in lieu thereof the figure "(4)".

Clause as amended agreed to.

Adoption of Report

Bill reported from Committee with amendments, and report adopted on motion by Mr Hills.

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

Suspension of Standing Orders

Motion (by leave, by Mr Bedford) agreed to:

That so much of the standing orders be suspended as would preclude the University and University Colleges (Amendment) Bill, University of New England (Amendment) Bill, Macquarie University (Amendment) Bill, University of Newcastle (Amendment) Bill, University of New South Wales (Amendment) Bill and University of Wollongong (Amendment) Bill being treated as cognate bills and (a) one question being put in regard to, respectively, the second readings, the Committee's report stage, and the third readings of the bills together, and (b) the consideration of the bills in one Committee of the Whole.

Second Readings

Mr BEDFORD (Fairfield), Minister for Education [10.3]: I move:

That these bills be now read a second time.

All honourable members are aware of the role that education plays in the lives of our citizens and of the changes that are frequently being made at all levels of education. These changes are made so that educational opportunities offered will keep abreast of current needs and will enable the greatest possible academic and intellectual development of the ever-increasing number of students passing through our schools, colleges and universities. Early in 1975 this House passed legislation that was concerned with the management of the many colleges of advanced education in this State. Provisions concerned with aspects of the management of the universities have also been under review and the series of bills now under consideration provides for amendments to the Acts of incorporation of the universities.

As I mentioned at the introductory stage, the first measure, the University and University Colleges (Amendment) Bill, deals with amendments to the Act of incorporation of the University of Sydney. This is our senior tertiary education institution, having enrolled its first students more than 125 years ago. Many amendments and additions have been made to the originating statute since that time. The amendments now proposed are relatively minor. The most significant is that which relates to the levying of fees and charges by the university. It has long been the practice of the university at the time of enrolment to collect the membership fees on behalf of the University of Sydney Union, the Student's Representative Council, the Sports Union and the Women's Sports Association. In view of recent legal challenges here and in other States to the powers of tertiary institutions in this matter, there is need to make it clear that the Senate of the University of Sydney is enabled to make by-laws relating to fees and charges, including those intended to be disbursed to student organizations and those for such other purposes as the State may determine. It is considered desirable also that the provisions of the Acts of incorporation of the six universities regarding this matter be identical.

Although a number of the provisions are common to all six of these bills, this measure has several amendments specific to the University of Sydney. One of them concerns the way the university is able to set down its standards for matriculation and entry to the university. In a number of places in the present Act there is reference to the need for a student to have passed a required examination in certain subjects. As honourable members may recall from amendments made in 1975 to the Education Act, the concept of passing or failing in a subject at a public examination has been replaced by one of expressing in a grading system the level of attainment reached by a candidate attempting the examination. The present bill makes the necessary revisions to the Act and provides for the university to make by-laws relating to the matriculation, admission and enrolment of students. This will provide flexibility in dealing with situations as they may change in the future.

Another amendment specific to the University of Sydney concerns the election of fellows to the university senate. Full-time staff members of the university have the right to elect ~~from~~ among themselves eight fellows of the senate. The University has conferred academic titles, such as professor, senior lecturer, lecturer, et cetera, on a number of employees of the Commonwealth Department of Health who work within the School of Public Health and Tropical Medicine, and the Institute of Child Health. A provision within the bill will enable these persons and any others in a similar situation to be candidates and electors in any election for members of the governing body by the staff. Other amendments will be dealt with as I mention the features of the bill, clause by clause.

The short title is given in clause 1. Clause 2 specifies the time of commencement of each provision. Amendments to the principal Act are dealt with in a series of schedules to the bill. Clause 3 lists these schedules and outlines the function of each. By means of clause 4 the provisions included in the schedules amend the principal Act.

One of the changes being introduced provides that responsibility for the appointment of fellows to the senate be transferred from the Governor to the Minister. This is in line with the policy of reducing references of matters to the Governor-in-Council. Under present arrangements these appointments are made by the Governor-in-Council on the recommendation of the Minister. In the case of Macquarie University the appointment of members of the governing body directly by the Minister has been the practice since 1964. Provision is made in clause 5 of the bill for each fellow of the senate appointed by the Governor to continue in office for the residue of the term for which he was appointed by **the** Governor.

Clause 6 validates any fees and charges levied by the university prior to the date of commencement of the provisions relating to these matters included in schedule 3. As I mentioned earlier, this provision has been included in the proposed legislation as a formality in case there is any doubt about the legality of action taken in recent years by the senate.

Schedule 1 provides for an amendment to the principal Act which is consequential upon amendments included in other schedules. Part II of the principal Act which includes provisions relating to the senate of the university, is amended in terms of the provisions of Schedule 2. By item (1) the responsibility to approve alienation of land is transferred from the Governor to the Minister. At present the Governor's approval to such alienation is sought on the recommendation of the Minister. The power to appoint fellows of the senate is transferred from the Governor to the Minister by means of item (2) (a). The right of each member of the full-time staff to be a candidate for election to the senate and to vote at an election is extended by item (2) (b) to those persons I mentioned earlier on whom the senate has conferred certain academic titles. Item (3) is an amendment consequential upon the amendment in item (2) (a).

The purpose of item 4 (a) is to remove certain inconsistencies in the Act. At the present time a person residing in another State can be elected to the Senate of the university; but, under section 9 (b), a member of the senate who transfers his place of permanent residence from New South Wales to another State shall be deemed to have vacated his office. Furthermore, section 9 (b) makes reference to "another State" but not to a Territory, for example, the Australian Capital Territory. The amendment in item (4) (b) is consequential upon the amendment in item (2) (a). The amendment in item (4) (c) is consequential upon the amendment in item (2) (b). For consistency with the appointment provision in item (2) (a) the Minister is empowered by item (5) to fill a casual vacancy on the senate when a fellow appointed by him vacates office.

The purpose of the deletion of section 14 (1) of the Act, under item (6), is to remove any doubt that the senate of the university has wider powers with respect to professors and other employees of the University than merely the powers to appoint and dismiss him. The wider powers of the senate in this respect are implicit in section 14 (2) of the Act, which provides:

The Senate shall have the entire management of and superintendence over the affairs, concerns, and property of the University, and in all cases unprovided for by this Act the Senate may act in such manner as appears to them to be best calculated to promote the purposes of the University.

Mr *Bedford*]

Apart from item (7) (a), which gives greater flexibility to the senate to deal with entry standards for students following the introduction of the new grading concept in the senior secondary school examination, the provisions of item (7) are either amendments consequential upon other amendments or simply statute law revisions.

Schedule 3 makes it clear that the university has power to make by-laws for or with respect to fees and charges, including those to be paid in respect of the provision of amenities and services, whether or not of an academic nature, and in respect of an organization of students or of students and other persons. It also provides that the senate may make by-laws regarding exemption from or deferment of payment. Under this provision the senate is also empowered to specify any conditions under which exemption from or deferment of payment of fees and charges will be granted; it may, for example, require that a student who is exempted from payment of membership fees to the student organization is to pay an equivalent sum into a special fund or trust account specified by the senate.

Schedule 4 makes minor amendments to part V of the principal Act. Items (1) and (3) are associated with the amendment, mentioned earlier, to allow the senate to stipulate standards of attainment for incoming students. Item (2) revises and updates an existing provision. Part VII of the Act of incorporation provides for the establishment of colleges of the university outside the metropolitan area. The two items (1) and (2) in schedule 5 provide that the Minister has the power to approve of the establishment of a college and appoint members of its advisory council on the nomination of the senate.

Schedule 6 inserts in the legislation a new part VIII dealing with the acquisition of land. By the first of the two new sections, the Minister may recommend the resumption of land under the Public Works Act, 1912. He is required to satisfy himself, before doing so, that adequate provision has been made for the payment of compensation. The second new section enables the Minister to convey or transfer land vested in him as constructing authority to the university. No stamp duty or registration fees are payable on any required transfer document. This provision continues in another form the legislative power which has existed for many years whereby land may be resumed on behalf of the university. That summarizes the provisions of the bill.

The second measure, the University of New England (Amendment) Bill, deals with amendments to the University of New England Act, 1953. This bill contains the same provisions relating to imposition of fees and acquisition of land as the previous bills. In addition, the University of New England wishes to replace its professorial board with an academic board, a trend in tertiary institutions today generally viewed favourably. Before a suitable by-law may be made, a minor change in a section of the existing legislation is required. The bill also includes provisions under which a graduate or a student of the university may apply to the council for exemption from membership of the body corporate or of convocation on grounds of conscience. A similar provision for colleges of advanced education was included in legislation passed in 1975. The amendment does not define or specify grounds of conscience; it would be difficult to do this in a suitable or flexible manner in the legislation; furthermore it is considered more appropriate that the governing body of the university determine such grounds.

The majority of tertiary institutions in New South Wales make provision for members of their non-academic staff to be elected to the institution's governing body. The bill currently before members increases the number of members of the university council by one in order to allow for representation of the non-academic staff on the council. Other minor amendments are proposed. I shall now deal with the bill, giving

details of the clauses and accompanying schedules. These are similar in purpose to those for the previous bill. Clause 1 gives the short title. The commencement of the various provisions is dealt with in clause 2. A list of schedules is contained in clause 3.

Clause 4 provides for the principal Act to be amended as set out in the schedules. Existing legislation enables the Governor to appoint certain members of the council. Clause 5 ensures that members so appointed will continue in office for their full term and will be unaffected by the transfer to the Minister of the power to appoint certain members. Schedule 1 sets out proposed amendments and additions to the principal Act, and I shall deal with it item by item.

Item (1) (a) redefines the membership of the body corporate of the university in order to remove ambiguities caused by the use of the term undergraduate members; under the present provision of the University of New England Act there is some doubt whether graduates of other universities who are proceeding to higher degrees or diplomas at the University of New England are omitted from membership of the corporate body.

Accordingly the term undergraduate members is to be replaced by the expression students enrolled as candidates proceeding to a degree or diploma at the university. Item (1) (b) empowers the council to grant exemptions from membership of the corporate body on grounds of conscience.

I turn now to provisions relating to the composition of the council. Item (2) (a) enables the chairman of the new academic board to replace the chairman of the professorial board on the council. Items (2) (b), (2) (d) and (2) (e) are amendments consequential upon other amendments. Items (2) (c) and (2) (f) are concerned with the election of a member of the non-academic staff to the university council. Items (2) (g), (3) and (5) provide for the Minister to make appointments to the council and to give certain approvals. These were previously the statutory functions of the Governor.

The council is empowered by item (4) to exempt conscientious objectors from membership of convocation. The purposes of the amendments in item (6) are to make it clear that the council has the power to make by-laws relating to fees and charges including those payable in respect of university and student organizations, and relating to exemption from payment of such fees and charges. In the same form as the provisions of schedule 6 of the University of Sydney legislation, provisions for the acquisition and transfer of land are dealt with in item (7). Amendments to update the existing legislation by way of statute law revision have been included in schedule 2.

The third measure, the Macquarie University (Amendment) Bill, provides for amendments to the Macquarie University Act, 1964. Provisions suggested for inclusion in the legislation, and to which I have already referred when outlining the provisions of the bills to amend the University and University Colleges Act and the University of New England Act, are concerned with the powers of the university council to levy fees and charges, to exempt conscientious objectors from membership of the body corporate and convocation, representation of the non-teaching staff on the university council and the acquisition of land.

I shall deal with the other amendments as I discuss the clauses and schedules in the bill. The short title is included in clause 1 and the commencement provisions are dealt with in clause 2. The schedules of amendments proposed are listed in clause 3. Under clause 4 the amendments are effected. Schedule 1 contains amendments which are similar to those included in the bills I have already outlined. Statute law revision of the Act is proposed in schedule 2.

Mr Bedford]

The fourth measure is the University of Newcastle (Amendment) Bill, which deals with amendments to the University of Newcastle Act, 1964. These are similar in most respects to the earlier provisions discussed, and it is my intention to draw the attention of honourable members only briefly to each item as I deal with the clauses and schedules. Clauses 1 to 5 have the same functional purposes as clauses 1 to 5 in the University of New England (Amendment) Bill. Amendments in schedule 1 introduce provisions relating to student members of the university, the granting to conscientious objectors of exemption from membership of the body corporate and of convocation, the transfer of power from the Governor to the Minister to appoint certain members to the council and to approve the alienation of land, the power of the council to make by-laws with respect to fees and charges, and the introduction of measures relating to the acquisition and transfer of land. Schedule 2 amendments serve only to update existing provisions and introduce no changes in principles or policy.

The fifth measure, the University of New South Wales (Amendment) Bill, deals with amendments to the University of New South Wales Act, 1968. The provisions of the bill are similar to those of the previous bills. Clauses 1 to 5 are similar to those in the previous bills and all the substantial amendments included in schedules 1 to 5 have been explained in relation to the previous bills.

The sixth and final measure is the University of Wollongong (Amendment) Bill, which is concerned with amendments to the University of Wollongong Act, 1972. Clauses 1 to 5 of the bill are similar in purpose to clauses 1 to 5 in the previous bills. No new material is introduced by the amendments included in schedules 1 and 2. Honourable members are therefore aware of the general contents of the bill. I commend the six bills to honourable members.

Debate adjourned on motion by Mr Pickard.

ALLOCATION OF TIME FOR DISCUSSION

Mr F. J. WALKER: On behalf of the Premier I give notice of business to be dealt with under Standing Order 175B: University and University Colleges (Amendment) Bill, University of New England (Amendment) Bill, University of Wollongong (Amendment) Bill, University of New South Wales (Amendment) Bill, Macquarie University (Amendment) Bill and University of Newcastle (Amendment) Bill, second reading, Committee and report stages and adoption of report by 10.30 a.m., Friday, 10th March, 1978; Sancta Sophia College Incorporation (Amendment) Bill and Local Government (University of New South Wales) Amendment Bill, second reading, Committee and report stages and adoption of report by 12 noon, Friday, 10th March, 1978.

ADJOURNMENT

Motor Vehicle Purchase by Mr J. H. Edwards, Wangi

Mr F. J. WALKER (Georges River), Attorney-General [10.19]: 1 move:
That this House do now adjourn.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Waratah.

Mr Leitch: On a point of order. I should like to ask the Minister **whether**—

Mr SPEAKER: Order! The question is, That this House do now adjourn. I have given the call to the honourable member for Waratah.

Mr JONES (Waratah) [10.20]: I wish to raise a matter concerning a man who lived in my electorate when he first came to see me. His name is James Henry Edwards, formerly of 8/105 Georgetown Road, Waratah, and now residing at 182 Watman's Road, Wangi. Circumstances prevented me from bringing the matter to the notice of the House before now, even though the matter was urgent and required public ventilation because what has happened to Mr Edwards could happen to other young people who wish to go into the road transport business. I understand that losses incurred by interstate hauliers through breakdowns and for other reasons, particularly those operating from New South Wales, result in this sort of business being one of the largest causes of bankruptcy.

In December, 1975, Mr Edwards went into business for himself as a truck driver. On 5th December, 1975, he purchased a Dodge Fuso prime mover for \$39,000 from Mac's Motors at End Street, Deniliquin. The vehicle was new at the time and is subject to a hire-purchase agreement from Esanda. The vehicle had numerous mechanical breakdowns which caused Mr Edwards substantial economic loss and embarrassment. Let me give a brief summary of the breakdowns. On 19th April, 1976, the motor blew up completely and the vehicle was off the road for about six weeks while it was being repaired by Dodge Chrysler at Mermaid Beach. On 31st May, 1976, the gearbox overheated and the vehicle was off the road for ten days. On 28th June, 1976, the motor blew up again and the vehicle was off the road for another six to seven weeks. In July, 1976, the gearbox was overheating and the vehicle was off the road for a week. On 5th August, 1976, further gearbox trouble put the vehicle off the road for six weeks. On 19th September, 1976, the gearbox was overheating and the vehicle was off the road for about ten days. The vehicle broke down also during October and December, 1976. Each time it broke down it was repaired under warranty at the nearest Chrysler depot.

The Dodge Fuso prime mover is produced in Japan by the Chrysler organization and is sold in Australia as a vehicle suitable for highway transport purposes. The warranty on Mr Edwards' vehicle has expired and Chrysler (Australia) Pty Limited has refused to carry out any further work on it. I believe that Mr Edwards was not given his complete entitlement under the warranty provisions. I ask the Minister for Consumer Affairs and Minister for Co-operative Societies to examine the case with a view to seeing what can be done to help Mr Edwards and his wife recover some of the money they have lost. During the periods that the vehicle was undergoing repairs Mr Edwards attempted to obtain other employment to mitigate his loss, but was unsuccessful for two reasons. First, he found it difficult to obtain other employment and, second, he was never sure for how long his vehicle would be off the road and therefore could not commit himself to long-term employment.

He has suffered substantial economic loss well in excess of \$20,000 gross as a result of the failure of the vehicle. He was a subcontractor to **Templo** Freezer Freight, and a letter was obtained from that firm showing his minimum loss of gross income up to 28th September, 1976. The vehicle was repossessed as a result of Mr Edwards' economic loss, and a trailer worth about \$8,000 has been seized under a writ of execution for non-payment of other bills. In addition, he has been unable to pay road tax and understands that a warrant may soon be issued against him for such non-payment.

Letters have been written to Chrysler (Australia) Pty Limited. Correspondence on the matter has gone backwards and forwards but up to the present time no settlement has been made. The last time I was in contact with Chrysler (Australia) Pty Limited, some time last year, it was willing to offer only about \$4,000 to settle

the matter. That amount is nowhere near the loss incurred. Mr Edwards was unable to earn money to pay off his loan to Esanda and has been left in an indvidous position. It seems that he is to go to the wall because everything is being repossessed. That will put Mr Edwards on the scrapheap instead of having the opportunity to build a prosperous business life for himself and his family. This sort of thing often happens when young people enter the transport industry. The Government should do something to make certain that vehicles sold are roadworthy and able to do the job for which they are built. I ask the Minister to take up the matter with the truck manufacturers and to see what can be done to help Mr Edwards and his family to clear the debts he has incurred.

Mr EINFELD (Waverley), Minister for Consumer Affairs and Minister for Co-operative Societies [10.27]: The diligence of the honourable member for Waratah never ceases to amaze me. He always seems to have the time to handle every problem that comes his way. It sounds as though this is a serious one. I commend the honourable member for his interest in people and his anxiety to bring justice to those who have been treated unfairly. The Motor Dealers Act does not cover commercial vehicles, so one finds it difficult to be of assistance in such a case. I shall ask the commissioner personally tomorrow to try to mediate. The case shows the desirability of the amending bill that was passed both in this House and in the other place a couple of days ago to widen the definition of consumer. It now includes small businessmen as well as farmers, and, in particular, those who buy a motor vehicle over an estimated limit of \$15,000. They can now be accommodated by my department.

In normal circumstances, had this matter occurred after the bill had been passed by the Legislative Council and gazetted, legal aid could have been afforded to Mr and Mrs Edwards and their family to help them achieve some justice and to avoid the terrible disaster that appears to be facing them. Nevertheless, the honourable member for Waratah may rest assured that my department will do everything possible to assist these people. When the commissioner mediates tomorrow with Chrysler (Australia) Pty Limited, which is a reputable organization, I am hopeful that the need will be seen to help people who find themselves in this difficulty. The honourable member for Waratah has given a detailed explanation of the case and you, Mr Speaker, doubtless have become used to his splendid presentations over the years. I know how much he has impressed you with the details he provides in matters of this sort. The honourable member may rest assured that the Department of Consumer Affairs and the commissioner will make efforts to assist Mr and Mrs Edwards, in the hope that relief can be given to them and that they will be able to live a happy, healthy and prosperous life in the future.

Motion agreed to.

House adjourned at 10.30 p.m., until Friday, 10th March, 1978, at 10.30 a.m.

QUESTIONS UPON NOTICE

The following questions upon notice and answers were circulated in *Questions and Answers* this day.

PARKING LIGHTS

Mr BARRACLOUGH asked the Minister for Transport and Minister for Highways—

How many road accidents in urban and rural areas, respectively, in 1974, 1975, 1976 and 1977 were attributable to vehicles being parked without lights?

Answer—

The information requested is not available. The police do not normally record whether or not crashed vehicle parking lights were lit, and in any event it is not possible to reliably attribute most crashes to single or main causes.

As a guide to the possible extent of the problem of vehicles crashing into parked vehicles at night, there were, in the twelve months ended 30th September, 1977, 2 563 night-time crashes recorded where the first impact involved collision with parked vehicles. All but 52 of these were in areas where the speed limit was known to be 80 km/h or less. These 2 563 crashes represent 10.1 per cent of the 25 291 night-time crashes recorded during the twelve month period.

NOTE: Recorded crashes are those which have been reported to the police as having involved death, injury, or vehicle tow-away.

TAB AGENCIES

Mr McGOWAN asked the Minister for Sport and Recreation and Minister for Tourism—

- (1) Is the New South Wales Totalizator Agency Board considering setting-up an agency on the Yattalunga–Saratoga–Davistown peninsula?
- (2) What factors are considered in assessing the economic viability of an agency?
- (3) Are there any non-economic barriers, legislative or otherwise, to the establishment of an agency in the area and, if so, what are they?

Answer—

- (1) This area was surveyed early in 1977 when the question of establishment of a Totalizator Agency Board office was deferred. The matter is currently under review.
- (2)
 - (a) Distance from other Totalizator Agency Board outlets.
 - (b) Population to be served.
 - (c) Accessibility of potential site to the public.
 - (d) The strength of the retail centre in which the outlet could be located when compared to other centres in the area.
 - (e) The likely amount of additional turnover to be obtained.
 - (f) The costs of operation of the outlet.

(3) The Board's officers previously considered this area suitable for the establishment of a sub-agency. This is not possible as it is located within 64 kilometres radial distance of the G.P.O., Sydney. Section 17 (1A) of the Totalizator (Off-Course Betting) Act permits the establishment of sub-agencies only beyond this radius where no other barriers are known to exist.

BRONTE HOUSE

Mr SCHIPP asked the Minister for Services and Minister Assisting the Premier—

- (1) What action has been taken by the Government to ensure that Bronte House is preserved as an item of the environmental heritage?
- (2) If no action has been taken, will he immediately place the building and its curtilage under an interim conservation order?

Answer—

The Government is fully aware of the importance of Bronte House. This historic building was acquired by Waverley Municipal Council in 1948 with a condition of sale that the house be maintained by the Council. At present, the building is in need of restoration and the grounds require extensive rehabilitation. Officers of the New South Wales Planning and Environment Commission have recently held discussions with officers of the Council concerning the condition of the building and proposals for its restoration and future use.

Unfortunately, such maintenance has not been to a satisfactory standard and at present with the proclamation of the Heritage Legislation the Government is now in a position to take action to ensure the preservation of the building effectively.

With regard to the request to place an Interim Conservation Order over Bronte House, it is advised that the Minister for Planning and Environment has indicated that he will request the Heritage Council to consider the placing of a Conservation Order over Bronte House and its curtilage as soon as that Council has been convened.

BOUNDARY ROAD, ROSEVILLE

Mr MOORE asked the Minister for Transport and Minister for Highways—

- (1) What advice did he receive from the Urban Transport Advisory Committee **concerning** future plans for a westward extension of Boundary Road across the Pacific Highway into the Lane Cove Valley?
- (2) What decision, if any, has the Government made on the future of this project?
- (3) If no decision has been made, when can residents expect some indication of the Government's intention?

Answer—

(1) The County Road (Blue Gum Creek Route) in question is one of a number of County Road corridors retained for future construction in the recently released recommendations of the Government's Urban Transport Advisory Committee which I announced on 13th October, **1977**.

(2) The decision to retain the corridors was made only after careful and detailed consideration by the Committee and the Government. The Committee is now considering transport policies and programmes generally to indicate the priority to be given to these works.

Because of the Commonwealth cut-back on funds for Urban Arterial Roads only limited new road development is possible. Accordingly, no indication can be given as to when work on this route will be commenced.

(3) The design for the County Road **has** not yet reached a stage where the precise effect is known on properties along the proposed route.

