

## Legislative Assembly

*Tuesday, 28 November, 1978*

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Bill Returned--State Superannuation Board—Petitions—Questions without Notice—Education (Amendment) **Bill (Int.)—Cognate** Dental Technicians Bills (**Int.**) --Gaming and Betting (Greyhound Racing Control Board) Further Amendment Bill (**Int.**)—**Prisons** (Amendment) **Bill (Int.)—Statutory** and Other Offices Remuneration (Corrective **Services**) Amendment Bill (**Int.**)—**Health** Commission (Amendment) Bill (second **reading**)—**Motor** Dealers (Amendment) **Bill** (second reading)—**Irrigation** (Amendment) Bill (second reading)—**Bills** Returned—Water (Amendment) Bill (second reading)—Allocation of Time for Discussion—Adjournment (Contract Cleaners).

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

### BILL RETURNED

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

General Loan Account Appropriation Bill (No. 2)

### STATE SUPERANNUATION BOARD

Mr Speaker laid upon the table the report of the State **Superannuation** Board for the year ended 30th June, 1978.

Ordered to be printed.

### PETITIONS

The Clerk announced that the following petitions had been lodged for presentation:

#### Education Commission

The Petition of **concerned** citizens, including parents of children attending schools in New **South** Wales, **respectfully** sheweth:

That there is criticism, confusion, and great concern in the community and especially amongst parents about all levels of the present systems, methods and aims of education.

That the majority of the community and especially parents are not aware of the formation of an Education **Commission**.

That the methods of informing the **community** and parents have not been satisfactory and the majority is therefore unaware that such a Commission is to be formed.

That there has been insufficient time allowed for the majority to become informed fully of the pros and cons of an Education Commission.

That there should be more information made available to the community and parents on all issues to do with education or the formation of an Education Commission.

Your Petitioners therefore humbly pray that your honourable House:

- (1) Not allow under any circumstances the formation of an Education Commission at this time.
- (2) Take steps to fully **inform** the public of what an Education Commission is all about and the effects it will or will not have on our children.
- (3) Hold a full open inquiry into education in New South Wales schools, **taking** steps to fully inform the community and inviting them to make written submissions to the inquiry, as a matter of urgency.
- (4) By holding a full open inquiry eliminate the existing criticism, confusion and concern, and produce a standard of education acceptable to the majority of the community.

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

Petition, lodged by Mr Caterson, received.

#### Education Inquiry

The Petition of parents of children attending New South Wales schools and other concerned citizens of New South Wales respectfully sheweth:

That because of today's modern education we find criticism, confusion and illiteracy, and we feel very concerned as parents, employers and citizens about education in both primary and secondary schools.

That because of this kind of education with emphasis on children being asked to question and evaluate for themselves social and moral issues we find many problems arising in the home, the work force, and society and we feel perhaps the schools have infringed too far on the parents' role in educating their children on these matters and forming their children's attitudes, ethics and morals.

Your Petitioners therefore humbly pray that your honourable House:

- (1) Take steps to hold a full independent open inquiry into education in New South Wales.
- (2) Invite the public to **make** oral and written submissions to such inquiry.

(3) Satisfactorily and fully inform the public on such inquiry.

or

- (1) Bring in a definite syllabus with emphasis on the three R's for primary schools.
- (2) Remove innovative programmes and courses and Social Studies until they are evaluated.
- (3) Replace Social Studies with History and Geography.
- (4) Have any school operating as a "progressive school" brought into line with other schools or allow parents freedom of choice on such a school.
- (5) Ensure that primary and secondary schools have a good syllabus, uniform in all schools, so that parents will be satisfied and teachers will not find their jobs so difficult or demanding and will not have too much responsibility placed on them individually.
- (6) Have school reports from primary and secondary schools made more easily understood by parents, with marks out of 100 in all subjects and position in class.
- (7) Put more emphasis on the core of a definite syllabus in all subjects for secondary schools with spelling, grammar, reading and literate speech included in English.
- (8) Abolish gradings in secondary schools as they are neither understood nor accepted by the majority of people.
- (9) Reintroduce a full external examination in all subjects in secondary schools for school certificate and higher school certificate, with marks in percentages or A, B, C, et cetera, position in year and position in State shown on certificate.
- (10) Place less emphasis on social and moral issues and encourage teachers to reinforce, not seek to destroy, standards and values already taught to most children by their parents in regard to respect for others, democracy, law, traditional values and morals.
- (11) Satisfy the taxpayer that his money is being spent on an acceptable education.
- (12) Bring the education of the children of New South Wales back to what is understood and accepted by the majority of today's society, not prepare them for some possible future society at present unknown.
- (13) Endeavour to maintain any future system with the above outline for a reasonable period so that it can be fully evaluated before it is modified or changed in any way.

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

Petition, lodged by Mr Caterson, received.

#### Child Pornography

The humble petition of the undersigned citizens of Australia, New South Wales, respectfully sheweth:

That we the undersigned, having great concern at the way in which children are now being used in the production of pornography call upon the Government to introduce immediate legislation:

- (1) To prevent the sexual exploitation of children by way of photography for commercial purposes;

- (2) To penalize parents/guardians who knowingly allow their children to be used in the production of such pornographic or obscene material depicting children;
- (3) To make specifically illegal the publication and distribution and sale of such pornographic child-abuse material in any form whatsoever such as magazines, novels, papers, or films;
- (4) To take immediate police action to confiscate and destroy all child pornography in Australia and urgent appropriate legal action against all those involved or profiting from this sordid exploitation of children.

Your Petitioners therefore humbly pray that your honourable House will protect all children and immediately prohibit pornographic child-abuse materials, publications or films.

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

Petition, lodged by Mr Park, received.

#### Electric Omnibuses

The humble petition of the undersigned citizens of New South Wales, **respectfully** sheweth that we, the undersigned, believe:

- (1) That the Townobile electric bus, developed in New South Wales, constitutes a unique local solution to the problems of inner city public transportation.
- (2) That the Townobile electric bus has demonstrated significant advantages over diesel-powered buses on grounds of economy, environment and efficiency, and has attracted world-wide acclaim.
- (3) That local production and use of Townobile electric buses would generate employment for New South Welshmen both in their manufacture and in the coal industry, and would reduce our dependence upon increasingly scarce imported petroleum products.
- (4) That use of noiseless, pollution-free Townobile electric buses would contribute substantially to the betterment of life within the City of Sydney.

We accordingly urge the Government to act quickly to ensure that the opportunity for local rather ~~than~~ overseas production of Townobile electric buses is not lost, by placing forthwith an order for production of a trial batch of 10 Townobiles.

Your Petitioners therefore humbly pray that your honourable House will add its voice to the growing support for Townobile electric buses and will encourage the placing of an order for a trial batch of such buses.

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

Petition, lodged by Mr Cameron, received.

#### Barrenjoey High School

The Petition of Electors of sub-Division of Barrenjoey, Electorate of Pittwater, respectfully sheweth:

That **Barrenjoey High School** badly needs an Assembly Hall.

Your Petitioners therefore humbly pray that your honourable House include in the Government's Capital Works programme provision for the above amenity.

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

Petition, lodged by Mr Smith, received.

#### Open-cut Coalmining at Lake Macquarie

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

That we are totally opposed to the use of open-cut or strip mining to extract coal from this area for the following reasons:

- (1) It sets a precedent for the future use of such mining in this rural and scenic setting.
- (2) It creates unnecessary air pollution.
- (3) It creates unnecessary noise pollution.
- (4) There is a vast reserve of deeper coal which can be recovered by underground mining in the area.
- (5) Underground mining provides more employment.
- (6) Lake Macquarie already receives the discharge from several power stations and settling ponds will not prevent waste from an open-cut mine from entering the lake during flood times.

Your Petitioners therefore humbly pray that your honourable House will prevent open-cut or strip coalmining in the Municipality of Lake Macquarie.

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

Petition, lodged by Mr Hunter, received.

#### *[Tabling of Papers.]*

Mr Barraclough: I thought that the Minister for Lands and Minister for Services was going to table the lire brigades report.

Mr Crabtree: The other day I told you what I would do to you as far as tabling was concerned.

Mr Barraclough: Thanks, Bill.

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

## QUESTIONS WITHOUT NOTICE

### YOUTH UNEMPLOYMENT

Mr MASON: My question without notice is directed to the Minister for Industrial Relations, Minister for Technology and Minister for Energy. Of the \$33 million allocated for youth unemployment in the 1977-78 Budget was \$10 million reserved for a youth unemployment scheme? In fact was only \$21,655 paid out to employers in payroll tax rebates for school-leavers? In spite of its failure last year

is the scheme still in existence? If so, what is the present state of the reserve fund and why is the Government not promoting the scheme to create jobs for young people? Has the Government any other specific plans for the 55 000 New South Wales school-leavers who will enter the labour force in the near future?

Mr HILLS: Funds were reserved but the scheme was not as successful as the Government had hoped it would be. I assure the Leader of the Opposition that the Government has in mind means by which those funds will be expended for the purpose of assisting unemployed youth. The Government has specific plans to deal with unemployment as best it may with the funds available to it. At the meeting of Ministers that was chaired by the Hon. A. A. Street in Canberra last Friday I intimated quite clearly what assistance had been given to unemployed people in the State over the past two years. For example, I was able to indicate that despite the fact that there was a shortfall in capital funds over a period of two years, this Government has been able to provide approximately \$1 million from various resources for the purpose of overcoming unemployment in New South Wales.

At this meeting I pointed out that unemployment in this State had increased by approximately 2 per cent in the past twelve months whereas in some other States it had increased by 45 per cent in the same period. I am sure that within the next few days the Premier will be making announcements as to how the Government proposes to assist unemployed youth. Unfortunately, approximately only one half of the 80 000 leaving school at the end of this year will be in employment by about the end of January. However, having regard to the matters I put before the meeting last Friday, the Government hopes to alleviate the position as far as possible.

#### COLO RIVER DROWNINGS

Mr BRERETON: My question without notice is directed to the Minister for Local Government and Minister for Roads. Is it a fact that the warning sign situated at the Mandalay picnic park, the scene of last weekend's tragic drownings, is erected at ground level and does not stress adequately the extreme danger to swimmers in this most treacherous section of the Colo River? Have there been reports that the warning sign is often covered by swimmers' towels? Is it a fact, also, that a number of fatalities at this location have involved children of ethnic origin? Will the Minister confer with the Colo shire council with a view to having adequate signposts constructed at this picnic park? Further, will he give consideration to amending the local government ordinances to provide for all such warning signs to be printed in several languages so that the widest possible warning may be given to people who use dangerous picnic areas on river banks?

Mr JENSEN: I am sure all honourable members feel the deepest sympathy for the bereaved of those who lost their lives as a consequence of the misadventure in the Colo River to which the honourable member for Heffron has referred. I agree that it is desirable for adequate signs to be so placed that they can be clearly observed by people using these areas. The honourable member has made a good suggestion that these signs be erected at a sufficient height to make it difficult for the message they carry to be concealed by towels and other objects that may be hung upon them. It is difficult for me to anticipate how the question of how to frame an ordinance to require councils to use multilingual signs would be answered. I certainly think that it would be desirable. Perhaps a symbol of the sort used on traffic advisory signs could be devised and this may eliminate the necessity for these signs to be printed in several languages. The intent of the honourable member's question is highly laudable. The Department of Local Government will certainly examine methods that may be suitable to achieve some of the honourable member's objectives.

## ROADS ADMINISTRATION

Mr PUNCH: I direct my question without notice to the Premier. Why was it felt necessary to split the responsibility for administration of the State's roads between two Ministers? Has not the delineation of responsibilities between the two Ministers, as set out in a letter from the Minister for Transport, caused duplication, overlapping of functions, and great confusion? In view of the importance of roads—both city and country—to this State and the problems that duplication will obviously cause to councils, will the Premier consider consolidating roads administration within one Ministry?

Mr WRAN: The Government will not consider consolidating the responsibility referred to in the honourable member's question. The very reason for splitting the responsibility is that which has obviously escaped the Leader of the Country Party, namely, to rid the administration and construction of roads of the existing duplication, overlapping of functions and confusion. Those matters have now been removed. The Government will not revert to a situation that was created some years ago. The Government persevered with it in its first term of office—unfortunately not in the best interests either of people generally or country road users.

## HOUSING COMMISSION SITE AT VILLAWOOD

Mr FLAHERTY: My question without notice is directed to the Minister for Coasumer Affairs, Minister for Housing and Minister for Co-operative Societies. Has the Housing Commission completed plans for the redevelopment of an area designated as Housing Commission site No. 9003, bounded by Normandy, Hercules, Tangerine and Mitchell streets, Villawood? Has the Fairfield council considered these plans, and can the Minister inform the House of the current position?

Mr EINFELD: I am indebted to the honourable member for Granville, as are the residents of the area, for this question. The honourable member shows a special interest in this matter. I know he will be delighted to learn that the plan for the construction of houses on site No. 9003 is complete. It provides for the redevelopment of that land by constructing on it 260 modern dwellings. Fairfield council, which has considered the Housing Commission's redevelopment proposal, has indicated its support for the necessary suspension of its planning scheme as it applies to this land. Indeed, the suspension has recently been approved. I have been informed that working drawings are being prepared with a view to inviting tenders for the first contracts in March 1979. It is expected that by the end of June next year a substantial start will have been made and the entire project involving 260 new dwellings will be completed during 1979–80.

## FIRE BRIGADES

Mr ARBLASTER: I address a question without notice to the Minister for Lands and Minister for Services. Has the Minister agreed to make available to the Fire Brigades Employees Union by 3 o'clock this afternoon copies of the 114 recommendations of the recent inquiry into fire brigade services? If this is so does the Minister intend to provide members of this House with copies of the recommendations before they are made available to the union or does the Minister propose to treat Parliament with contempt and still refuse to table the document?

Mr CRABTREE: I am rather surprised that the honourable member for Bligh did not have enough courage to ask this question.

*[Interruption]*

Mr SPEAKER: Order!

Mr CRABTREE: The actions of the honourable member for Bligh in relation to this dispute are as dastardly as any I have seen. The honourable member feeds on industrial disputation. I know that fire brigade employees are unhappy. They met this morning——

Mr Barraclough: I had to take Mr Bryce to lunch.

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

Mr Barraclough: I took him into the——

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

Mr CRABTREE: Mr Bryce would be most disturbed if he had to depend on the patronage of the honourable member for Bligh. In fact, within ten minutes of my leaving Cabicet this morning I intimated to the union that I would meet its representatives. At about 12.30 I met fifteen representatives from that union. They had been elected at the meeting called earlier today by the Fire Brigades Employees Union. They put to me quite frankly that they wanted me to table the report of the inquiry. I said no, but that——

*[Interruption]*

Mr SPEAKER: Order!

Mr CRABTREE: I know that honourable members opposite cannot understand what I am doing. They feed on abuse of parliamentary privilege in this House.

Mr Pickard: The Minister wants to take away——

*[Interruption]*

Mr Maddison: That is nonsense.

Mr SPEAKER: Order!

Mr CRABTREE: The honourable member for Ku-ring-gai knows all about that abuse. He tried to destroy the right of members in this House by abusing it under the privilege of Parliament.

Mr Punch: The same as your mate Nifty, who abuses it all the time.

Mr SPEAKER: Order!

Mr CRABTREE: The Premier is a great friend of the Leader of the Country Party who always smiles when the Premier compliments him. Despite what the honourable member for Bligh has said, he did not arrange any deputation to me today. My staff spoke to representatives of the Fire Brigades Employees Union and subsequently I saw them. I told them I would not table the report of the inquiry. After a sensible discussion with them, lasting for more than an hour, I agreed that a copy of the recommendations would be supplied to them at 5 o'clock this evening at the same time as I released copies to the media.

Mr Pickard: But not in this House.

Mr CRABTREE: If any member of Parliament wants a copy of these findings he should see me in my room and I shall be happy to supply it.



### RECREATION AREAS FOR DOONSIDE

Mr JOHNSON: I direct a question without notice to the Minister for Consumer Affairs, Minister for Co-operative Societies and Minister for Housing in his capacity as Minister for Housing. Is the Minister aware that owing to a lack of parks and recreation areas on the northern side of the railway line at Doonside, children living in Housing Commission dwellings are compelled to play on the streets? Will the Minister inform me and the House what areas have been set aside by the Housing Commission for recreation? Have such areas already been dedicated to Blacktown municipal council?

Mr EINFELD: The honourable member for Mount Druitt is assiduous in his desire to attend to the needs of his constituents, in particular to the needs of children who are unfortunate enough to have no recreation areas in which to play and, for the moment at any rate, are compelled to play on the streets. The question of the Housing Commission helping towards the upkeep of recreation areas at Doonside is a complicated one. The facts are that for many years, and under governments of all political complexions, the Housing Commission has never pursued a policy of contributing to the cost to local government of recreation areas. This is true also of companies acting as agents for the commission, which is the case with the Doonside development. The honourable member for Mount Druitt has discussed this matter with me on a number of occasions. He knows that I think this policy could well be looked at closely. The great difficulty in the way is the severe shortage of funds available to the commission under the present Commonwealth-State housing agreement—the most iniquitous agreement that the States have ever been made to sign. In cash terms the sum of \$103.7 million allocated by the federal Government this year under that agreement is 19 per cent less than the \$128 million allocated last year. Taking inflation into account, one would have to say that the reduction was more likely 25 per cent.

Only last week I attended a meeting of Commonwealth and State housing ministers in Adelaide. The State minister were insulted by the federal Minister for Housing who did not listen to the complaints of State ministers, irrespective of political affiliation. He went away and released a statement that he had prepared before the meeting began, taking no cognizance of the fact that each State minister was able to put forward reasoned arguments about the need for the Commonwealth to increase its allocation of funds for housing. So the 28 000 people on the Housing Commission's waiting list are in urgent need of homes, but the Housing Commission has only \$31.1 million available this financial year for new house construction and improvements, after taking care of current commitments. Nevertheless, the honourable member's suggestion is worth while and, if it could be implemented, would be of great benefit to the constituents of Mount Druitt, especially to the children of that area. I am sure he will be pleased to know that I have already asked officers of the commission to examine ways in which the commission might be able to help local government provide recreation facilities for commission tenants. I assure the honourable gentleman that the matter will be given urgent attention.

### TECHNICAL EDUCATION STAFF

Mr DUNCAN: I ask the Minister for Education whether the Government has decided to eliminate ninety-four positions in the Department of Technical and Further Education. Do those positions include student counselling staff, librarians and administrative and clerical staff? Do such reductions run counter to the Government's

claim that greater emphasis is being placed on technical education and training? If these are facts, will the Minister immediately review the decision with a view to maintaining adequate staff to give the thousands of school-leavers and unemployed persons who wish to undertake technical training a proper standard of advice and counselling?

Mr BEDFORD: It is not true to say that the department has eliminated 94 positions. Because of the greater intake, a number of new colleges will be opened and extra positions will be created at existing colleges. Therefore there is a need within the staff ceilings set by the Government to reallocate people working in support positions, such as counsellors and librarians and others involved in support services for the teaching staff. Because of the need to place staff in new colleges or in expanding colleges, it has been necessary for principals at all colleges to review the support staff situation with a view to supplying the necessary complement of staff to build into the teaching infrastructure at the new or expanding colleges. The result has been that principals have been able to reduce the support personnel in the library and counselling areas rather than in facilities such as tool rooms where personnel care for tools and machinery at the colleges.

The matter is under constant review. I assure the honourable member for Lismore and other honourable members who have raised this question with me that the matter has been taken up at government level to see whether or not the resources are available to ensure that these services are maintained. It is a matter for the Government to determine within its priorities and the financial resources available to it.

#### ALCOHOL CONTENT OF BEER

Mr RYAN: My question is directed to the Minister for Health. Has the Victorian Government recently requested a federal senate standing committee to investigate a proposal to lower the alcohol content of Victorian beer? Will the Minister take action to consider the Victorian findings in relation to the alcohol content of New South Wales beer?

Mr K. J. STEWART: The Chief Secretary of the Victorian Government made a suggestion to a standing committee of the federal Government that consideration be given to lowering the alcohol content of beer. A survey taken in Victoria has shown that it was believed that lowering the alcohol content of beer would improve the health of the people and also reduce the road toll. The New South Wales Pure Food Act contains a stipulation that beer will contain a minimum of 4.17 per cent alcohol by volume, and most beers in New South Wales have a content ranging between 4.17 per cent and 5 per cent alcohol by volume. However, in Victoria the minimum alcohol content of beer stipulated by regulation is 1.15 per cent alcohol by volume and the average alcohol content in Victorian beer ranges between 4 per cent and 5 per cent.

I understand a suggestion was made by the Victorian Minister for Health that a lower alcohol content of beer might not only be beneficial to the health of the public but would reduce the price of beer. I am informed that the tax on alcoholic beverages is not related to the alcohol content, but that the excise collected by the federal Government is related to the quantity of beer or whisky manufactured. It may be that the lowering of the alcohol content of beer would require the introduction of a differential excise related to the alcohol content by volume, but I doubt whether the present federal Government would feel inclined to reduce its tax revenue in an area where it is receiving hundreds of millions of dollars.

The lowering of the alcohol content would not of itself necessarily lead to a reduction in consumption or a lowering of the incidence of drunkenness. For instance, in Sweden a beer with a very low alcohol content was marketed outside of the normal

liquor sales outlets. It was found that this led to an increase in drinking by juveniles. The New South Wales Government recognizes that the consumption of alcohol does cause problems for many of the State's citizens. Several substantial programmes have been implemented to reduce the level of alcohol abuse. This has led to the establishment of the New South Wales Drug and Alcohol Authority, which this year will disburse \$2 million in grants to voluntary bodies for the treatment of people suffering from drug and alcohol dependence.

In addition, Dr Jim Rankin, a world authority on drug and alcohol abuse, has recently been appointed director of the newly created division of drug and alcohol services in the New South Wales Health Commission. I hope that Dr Rankin will prepare and co-ordinate programmes that, when implemented, will help to reduce the incidence of drug and alcohol abuse in our society.

### BUILDERS LICENSING BOARD INSPECTIONS

Mr MOORE: My question without notice is directed to the Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies. Does the November 1978 edition of *Choice*, the journal of the Australian Consumers Association criticize the conditions under which prepurchase property inspections are available by inspectors of the New South Wales Builders Licensing Board? Referring to an exclusion clause in the purchaser's application for inspection, does the Australian Consumers Association say, "It is quite unacceptable that no reference to this condition is made in the explanatory guide"? Is this contrary to the spirit of consumer protection, which is inherent in the property inspection scheme? What steps is the Minister taking to prevent the board from being a party to a possible rip-off of what is usually the greatest single expenditure in a consumer's life?

Mr EINFELD: I have not read the November issue of *Choice*, though I am one of its original subscribers. I am so busy looking at matters of consumer protection that come before me—in particular those sent to me by members of the Opposition—that I have not yet had an opportunity of reading *Choice* this month. The Builders Licensing Board's method of prepurchase building inspections is one of the finest pieces of consumer protection introduced so far in New South Wales and is unique in Australia. I am not aware whether it has a counterpart in any other part of the world. It is something that the Government should be proud of and the Deputy Premier, Minister for Public Works and Minister for Ports who introduced it deserves the commendation of the Government and all the people of New South Wales.

The whole operation is working extremely well. People having new homes built or alterations made to their existing homes, who have had the advantage of the ability and advice of the inspectors of the board, have been saved thousands and thousands of dollars. As a result of the advice and expertise of the inspectors, people have been prevented from incurring additional expenditure. The board's inspectors have been able to warn and bring to book many builders who were not giving the service that they promised. I am proud of the Builders Licensing Board.

I suggest to the honourable member for Gordon that he reread the article in *Choice*. I shall take the opportunity of reading it as soon as I have time. I invite him to go to the Builders Licensing Board with my approval and at my instigation and have a look at what is taking place. I am sure he will come away as proud of that operation as are the members on this side of the Parliament.

## BEER FOR NORTHERN NEW SOUTH WALES

Mr McCARTHY: My question without notice is directed to the Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies. Is the Minister aware that many clubs in northern New South Wales are facing a critical situation because they are unable to obtain the normal draught beer quotas from Tooheys Limited, Grafton? Will the Minister investigate the allegation that large quantities of draught beer are being diverted away from New South Wales consumers into Queensland? If the allegation is correct, can the Minister take action to stop the practice?

Mr EINFELD: I did not know that there was any shortage of beer in clubs in the northern part of New South Wales. I have no doubt whatever that as the weather becomes hotter the shortage will probably become greater. In view of the handicap from which the State of Queensland suffers, I am sure there are plenty of things in New South Wales that we could send to help the people of that State, not including peanuts. I shall examine the matter, although I must tell the honourable member for Armidale—and I was delighted today to hear that he is to be nominated as a member of the council of the University of New England, for I know that his educational qualifications and his general character fit him very well for that appointment—that section 92 of the Constitution provides for free trade between the States. Therefore it would be difficult to prevent beer going from New South Wales to Queensland. I am sure the drinkers on the northern rivers and in the northern part of New South Wales would be delighted to know that, while Queensland has a Premier who could not care if the people of his State starved, got thirsty or became dehydrated, their beer is going to help to quench the thirst of the people living in Queensland. I shall ascertain whether there is an apparent shortage of beer and whether the brewery in Grafton is short-supplying clubs in the northern part of New South Wales.

## AIR AMBULANCE

Mr OSBORNE: I ask the Minister for Health whether the air ambulance service, which plays a most important role in the health care of country people, operates with the advice of the Aero Medical Services Committee. Is a country doctor a member of that committee? Will the Minister inform me and the House of the full details of the membership of that body?

Mr K. J. STEWART: Some time ago a committee called the Aero Medical Services Committee was formed for the purpose of advising me and the Health Commission of New South Wales on the State's aerial medical services. Offhand I am unable to inform the honourable member of the composition of the committee. I believe it could be at least ten persons, not only from New South Wales but also some from interstate who were nominated by virtue of their aerial expertise. I undertake to ascertain the nature of the committee and to inform the honourable member and the House of it. I am aware that of late there has been agitation for the inclusion of a country doctor on the committee. It would appear from letters I have received that there is no representative of New South Wales country doctors on the committee. When I am ascertaining the composition of the committee I shall give consideration to the request inherent in the honourable member's question, that country doctors be represented on it.

## HOSPITAL PATIENTS

Mr ROBB: My question without notice is addressed to the Minister for Health. Will the Minister inform me and the House whether the Government is considering a penalty plan for patients who stay in hospital for extended periods?

Mr K. J. STEWART: Certainly the State Government is not contemplating a penalty plan for people who overstay a designated time in hospital. The matter raised by the honourable member was highlighted by the publication today of a task force report of an advisory committee on hospital productivity. Earlier this year Canberra suggested that certain times would be set for periods of hospitalization. For example, if a person had an appendicectomy he would be covered by hospital insurance for, say, five days in hospital, if that were the number of days decided upon by the federal Department of Health. If by any chance the patient stayed six, seven or eight days in hospital he would not be covered by hospital insurance for the time of the stay over the designated period.

Today I was asked whether New South Wales would co-operate with the federal Government in any scheme to reduce over-utilization or any wasteful expenditure so far as the hospital system in New South Wales is concerned. Certainly we would be most happy to co-operate with the federal Government as a large ingredient of hospital operational costs is State funds. In no circumstances would we co-operate with a system that provided for a stroke of the pen by some clerical officer in Canberra to decide the time that a patient should spend in hospital without any regard to the patient's clinical details or history. We would be happy to co-operate in a scheme where there was clinical rather than clerical adjudication and assessment. Certainly the Government would not see any penalty imposed upon a patient as no patient can admit himself to a New South Wales hospital or discharge himself from it, unless of course he gets out of bed and walks out of the hospital.

The New South Wales Government will co-operate with the federal Government in some sort of medical audit, peer review, or examination of professional accountability for the purpose of determining whether a patient's hospitalization was necessary and whether the operation that he underwent was necessary. It will not be much help to me as Minister for Health, or to any other State Minister for Health, if we have to determine after a patient's stay in hospital whether the period he spent there was proper. What we should be examining is not whether a patient who had an appendicectomy, hysterectomy or tonsilectomy spent too much time in hospital but whether the operation was necessary in the circumstances. If over-utilization of hospital services is to be curbed in New South Wales and hospital and health costs are to be contained it must be done by a proper professional auditing system. I offer this State's co-operation to the federal Government in that regard.

### CONTROLLED TENANCIES

Mr CAMERON: My question without notice is directed to the Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies. More than thirty years after the end of World War II are there still significant numbers of controlled tenancies enjoying the special wartime protections conferred in respect of rents and evictions? If so, will the Minister give the House an estimate, however approximate it may be, of how many of those tenancies remain? Is any effort being made to review the injustices that this situation imposes upon the owners of these properties?

Mr EINFELD: It is true that there are still some controlled tenancies in New South Wales. I am unable to give an estimate of how many there are, but only properties that have been tenanted by the same tenants since before 1955 are still controlled. As members will realize, they are very few. If I understand the intention of the honourable member for Northcott, he has really asked whether the New South Wales Government is willing to see that these tenants, almost all of whom are

pensioners, are evicted without delay. The Government has no intention of evicting little old ladies from that sort of tenancy. Quite a number of controlled properties are owned by people who bought them long after they were declared protected tenancies, in the hope that the tenants would die and the properties could be relet for a high rental, having been purchased at a low price. Those people are extremely disappointed because some of the old people are still living, thank God. Many of them were pioneers of Australia who made a great contribution to the Australian way of life and have lived to be worthy and proud citizens of this State.

In March this year, at the instigation of the Government and with the consent of the Premier and the Treasurer, I organized an open seminar in the Seymour Centre on landlord and tenant matters. That seminar was well attended by all types of people who were interested in the subject, including representatives of tenants, landlords, real estate agents and academics. It was a worthwhile seminar. Having received in the past few days a transcript of the discussion that took place at the seminar, I have invited varying people to take part in a committee on landlord and tenant matters which will consider, among other things, controlled tenancies. They are representatives of the Real Estate Institute, landlords, owners, tenant associations, social workers and academics. I look forward to receiving their report in the near future and I hope that as a result of their work and the investigations that my department is continually making into this matter we shall be able to house in good conditions as many people as possible.

The Housing Commission is acting with the greatest possible expedition in constructing homes, despite the greatly reduced amount of money that the Commonwealth is making available to this State, but there is also a shortage in New South Wales of rental accommodation for wage earners. The Government will be taking an aggressive attitude in that regard in the hope that by various activities that we will engage in many people who have not been able to get satisfactory premises will be able to do so.

#### WE HELP OURSELVES FELLOWSHIP

Mr KNOTT: Is the Minister for Health aware that the drug rehabilitation organization We Help Ourselves—known as W.H.O.S.—applied to the Mittagong shire council to purchase a disused convent in Mittagong and that the council has refused development consent? Is the Minister further aware that W.H.O.S. has appealed to the New South Wales Planning and Environment Commission at Wollongong against this decision? What is the current position regarding the W.H.O.S. application?

Mr K. J. STEWART: I am sure that all honourable members will recall that just prior to and during the election campaign before 7th October there was a great deal of publicity concerning the refusal of the New South Wales Health Commission, through its instrumentality, the Drug and Alcohol Authority, to fund the W.H.O.S. Fellowship in the purchase of a property in Bowral. The problem was that the asking price of the property under consideration was far in excess of the valuation placed on it by the Valuer-General. Because of the excessive price differential, the Drug and Alcohol Authority refused to fund the purchase. Allegations were made at the time that the New South Wales Government was showing favouritism to some organizations working in the drug and alcohol field to the detriment of W.H.O.S. Fellowship. The Government has not only continued to assist W.H.O.S. Fellowship but also endeavoured to locate for it a suitable property in New South Wales, as was done for Odyssey House—the James McGrath Foundation—when it was allocated the former Christian Brothers seminary at Campbelltown, with the co-operation of my colleague the former Minister of Justice and Minister for Housing, who was in charge of the Land Commission of New South Wales.

Following discussion with the Drug and Alcohol Authority, a former convent at Mittagong was selected and the money is available from the Drug and Alcohol Authority for W.H.O.S. Fellowship to purchase that property for use as a drug dependency service. Unfortunately, at one of its recent meetings the Mittagong shire council decided to decline the application by W.H.O.S. Fellowship for the use of that property. The fellowship has appealed to the Wollongong office of the Planning and Environment Commission and the Drug and Alcohol Authority has written to me. I have written to my colleague the Minister for Planning and Environment and Vice-President of the Executive Council asking him to intervene to suspend the development plan on the property so that W.H.O.S. Fellowship will be able to use the former convent as a drug dependency centre.

#### BUILDING LICENCE FEES

Mr J. H. BROWN: I address a question without notice to the Minister for Industrial Relations, Minister for Technology and Minister for Energy. Some time ago did the Minister introduce regulations under the Scaffolding and Lifts Act to increase the fee payable on buildings under construction? Do those regulations apply to dwellings even if they are only two storeys high? Will the Minister review the regulations to ensure that the fee payable on a house of a certain value may be reduced in order to keep down the cost of house-building?

Mr HILLS: It is a fact that the fees to which the honourable member refers are payable. In 1948 the Scaffolding and Lifts Act was amended to cover the construction of buildings of a certain cost. From time to time the exemption limit under that legislation has been varied. Last year the amount was increased from \$40,000 to \$50,000. The amount paid is related to the cost of construction. Because of the rising cost of building a further review is now taking place and I am hoping that before long I shall be able to make an announcement about a further variation in the exemption limit. Though the Government needs the fees to offset the salaries of inspectors who visit building sites to ensure that dangerous working conditions do not exist, nevertheless it is not anxious to increase the cost of building, particularly of small houses. Probably early in the new year the Government will be able to lift the exemption limit from \$50,000 to at least \$55,000 or perhaps \$60,000.

#### COAL BERTH FOR PORT KEMBLA

Mr RAMSAY: I address a question without notice to the Deputy Premier, Minister for Public Works and Minister for Ports. As it is the intention of the Government to spend approximately \$85 million on a new coal berth at Port Kembla, will local contractors be given an opportunity to tender for some of the construction work? Is it a fact that each of the eight sections of the project will cost in excess of \$10 million and that, according to the marketing board, the contracting elements have not been broken down sufficiently, making it difficult for a local tenderer? In view of the unemployment situation in Wollongong will the Minister give serious consideration to boosting the economy in the Illawarra region by affording to local firms an equitable opportunity to tender for the construction work?

Mr FERGUSON: Environmental impact studies prepared by the Department of Public Works are now with the State Pollution Control Commission. One cannot assume that the coal loader will be proceeded with until approval is obtained from the commission. However, I am confident that the project will be approved and, in

accordance with the Government's determination, and following on its decision not to go ahead with the coal loader at Botany Bay, an additional coal loader will be built at Port Kembla. From time to time honourable members from both sides of the House demand of me, as Minister for Public Works, that I should give special consideration to particular towns or cities in New South Wales regarding the letting of contracts. I point out that, whether we live at Merrylands, Wollongong or the Blue Mountains, we all live in New South Wales.

I am confident that industry in Wollongong will get a fair share of the work because, having in mind the capacity of the workers in the area, I **am** confident that the tenders of contractors on the South Coast of New South Wales will be competitive. The Government calls tenders so that the prices submitted will be competitive. That is in the best interests of the State. I **am** also **confident** that contractors on the South Coast and employees there will get part of the work that is done on a subcontract basis. The honourable member may be assured that I shall have another look at the content of his question and give him an additional answer.

#### AUS STUDENT TRAVEL PTY LIMITED

Mr ROZZOLI: I address a question without notice to the Minister for Sport and Recreation and Minister for Tourism. Has Stewart Moffat Travel applied to take over operating locations in New South Wales of AUS Student Travel Pty Limited? Does that mean that AUS Student Travel Pty Limited is going out of business? What steps have you taken to safeguard ongoing student travel arrangements and the repayment of the accumulated deficit?

Mr BOOTH: In June of this year AUS Student Travel Pty Limited made application to the Travel Agents Registration Board for renewal of its travel agent's licence. An inspector of the board has since objected to the granting of the application on the grounds of insufficient financial resources. The objection is listed for mention before the board on Friday, 1st December, 1978. As the matter is now *sub judice* it would not be proper to make any further comment. The Travel Agents Registration Board is an autonomous body set up under the Travel Agents Act, 1973. I have no power to direct the board how to **carry** out its duties. Honourable members may be assured that the board is conscious of its responsibilities.

#### WOMEN AND CHILDREN IN PRISON

Mr O'CONNELL: I address a question without notice to the Minister for Corrective Services. Are a number of mothers with babies and young children in prison in New South Wales? Are the facilities provided for them grossly inadequate? What action is proposed to overcome this situation and to provide appropriate accommodation and facilities for the care of the innocent children who are involved?

Mr HAIGH: There are mothers with babies within the prison system in New South Wales. At present there are three mothers with infants at the Mulawa training and detention centre for women. The babies are aged seven, four and five months respectively. The centre has a special unit for prenatal and postnatal care. Ideally, each mother is allocated a single room. However, as there are only three single rooms, there are times when mothers and babies have to be placed in the dormitory of the units.

The unit has a nursing staff on duty twenty-four hours a day. A local municipal health centre provides fortnightly or, if necessary, weekly visits by a specialist nurse. During the pregnancy period women are referred to the prenatal care centre at the



nearest hospital where they are booked for delivery. As to the question of infants remaining with their mother, a period of twelve months is used as a guideline. However, there are no rigid rules and each case is treated individually. A prison officer, who is on duty twenty-four hours a day, is there mainly for security reasons. However, most prison officers take a personal interest in the babies and assist both mothers and babies in every manner.

The women who rear their children in prison can avail themselves of the training and advice provided by the Mulawa nursing staff. When the children are not kept with the mothers in prison, members of the mother's immediate family or officers of the Department of Youth and Community Services provide alternatives. An interdepartmental committee assisted by the Department of Youth and Community Services is investigating problems associated with the presence of infants in prisons. As well, the prison officers and inmates of Mulawa have been interviewed in relation to these problems. The results of the above investigation, together with recommendations, are expected shortly.

I am quite concerned—as is the Government—that accommodation at Mulawa detention centres does not enable each inmate detained there to have her own individual accommodation. This aspect was given a great deal of attention in the report of the Nagle Royal commission. I should like to advise the House—in particular the honourable member for Peats—that already layout plans have been completed and detailed plans are now being prepared. Tenders are to be called for the construction of a building at Mulawa to provide single-unit accommodation for each person detained there. It is expected that the cost of this building will exceed \$750,000.

#### FLEMINGTON MARKETS

Mr DAY: On 22nd November the Leader of the Opposition asked me a question without notice concerning proposed variations in rents payable for warehouse space at the Sydney markets at Flemington. When replying to the honourable member I undertook to provide him and the House with supplementary information. Rent levels for warehouses at the Sydney markets have not been varied for the three years during which the markets have operated at Flemington. The present variation proposals by the Sydney Farm Produce Market Authority are not in any way associated with the increases in rent levels introduced last year for farm produce selling spaces in the general trading area of the markets. The Leader of the Opposition, in his reference to a 60 per cent increase in rates in the past twelve months, seems to be confused. Last year's variations and those under consideration relate to entirely separate areas in the markets.

Tenancies of warehouses are in almost all cases covered by lease agreements which provide for rent reviews on a three year—two year, three year—two year basis, the first review being three years from 1st September, 1975. The leases set out the method by which the review shall take place and may have regard to consumer price index variations or assessed fair market rent value. Acting on advice received from its real estate consultants on the effect of consumer price index variations and the fair market rent value, the authority proposed to tenants of the warehouses concerned that the rents should be adjusted upwards by 40 per cent, this being a level between consumer price index adjustment of 34.6 per cent and fair market rent value assessed at a 50 per cent increase.

A number of warehouse tenants have disassociated themselves from the protest and have indicated to the authority their acceptance of the 40 per cent increase. However, other warehouse tenants have apparently felt fit to have the matter raised by the Leader of the Opposition, rather than seek or continue negotiations with the landlord, the Sydney Farm Produce Market Authority.

Members should be aware that the warehouse space at the Sydney markets is used for many purposes, including storage, repacking and processing of produce, and the storage of pallets, outlets for farming equipment and supplies, and the retailing of a range of goods. The warehouse space is not generally used in the ordinary course of buying and selling of fruit and vegetables at the markets. Three years ago warehouse space was allocated by the authority to tenants at relatively low levels without payment of any premium. The original annual rents were fixed at \$2.00 a square foot for fruit and vegetable storage, and \$3.00 a square foot for retail outlets.

I understand that since that date a number of tenants have sold their tenancy rights and have received substantial premiums on the transfers. This would suggest that rents charged by the authority are most attractive and, even with a 40 per cent increase, the rent levels are considered to be less than the going rate. At a conference between authority officers and some warehouse tenants held two days before the Leader of the Opposition asked the question, the tenants present agreed that legally they had no grounds for objection nor did they have a case on relativity of rates.

If the Leader of the Opposition had read the notice issued by the authority to its tenants, he would have noted that the proposal for a 40 per cent increase was not a final determination, but was, in effect, a level suggested for negotiation. In these circumstances, it appears to me that the question is based upon a gross misunderstanding of the relevant facts and, in any event, is most premature. The Leader of the Opposition asked also whether any increase in warehouse rents will mean higher prices to consumers for fruit and vegetables or reduced returns to growers. The matter was raised twelve months ago when some of the authority's other charges were varied, but as I mentioned at the time, rents form a minor proportion of a market operator's expenses and experience has shown that reasonable variations in rents do not have any effect upon prices or returns to growers.

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## EDUCATION (AMENDMENT) BILL (No. 2)

### Introduction

Mr BEDFORD (Fairfield), Minister for Education [3.17]: I move:

That leave be given to bring in a bill for an Act to amend the Education Act, 1961, in relation to the membership and chairmanship of the Secondary Schools Board and the Board of Senior School Studies, and for certain other purposes.

Some members will be aware that this bill was introduced during the last session of Parliament. It proceeded through both readings in this Assembly, but because of the pressure of other business it did not reach the second reading stage in the Legislative Council. I now propose to reintroduce the bill. The school boards were constituted in 1962 and make recommendations to the Minister for Education on matters relating to the award of school certificates and higher school certificates respectively.

The Secondary Schools Board includes a representative of parents and citizens' associations, but there is no representative of employer or employee. It is proposed to rectify this situation by increasing membership from twenty to twenty-two to provide for such representation. The Board of Senior School Studies has no representation on it from parents and citizens associations, employers or employees and to meet this situation it is proposed to increase membership from nineteen to twenty-two to include representation by all three areas of interest.

The proposals support the Government's concept of community involvement in education, and broadening the basis of the boards in the manner I have outlined will enable participation in the boards' recommendations and determinations to the Minister for Education by those who have a vested interest in the secondary schooling of students. Additionally, the measure as proposed will take into account the changing structure of the Department of Education and the view that the Director-General of Education should have the opportunity to utilize the responsibilities, qualifications and experience of his officers to the advantage of the children of this State. Accordingly, all reference under the Act to specific officers in the Department of Education nominated for membership to the boards is removed. Thus will the Director-General of Education be able to make a greater contribution to the operation of both boards.

I trust that honourable members will endorse these measures, which are designed to provide for greater participation by the community in education and to enable the Director-General of Education to use the qualifications and experience of his officers to best advantage when making appointments to both boards. I commend the motion to the House.

Mr DUNCAN (Lismore) [3.21]: As the Minister has stated, this bill is identical with the one that passed through this Chamber in March last but was not dealt with in another place. The Opposition does not object to this bill in any way and will support its expeditious passage. The proposed amendments have two major points of importance—to extend the Secondary Schools Board from twenty to twenty-two members and **membership** of the Board of Senior School Studies from nineteen to twenty-two. The Secondary Schools Board already has a **nominee** of the Minister representing the parents and citizens **organizations**. It is proposed to appoint a representative of those organizations to the Board of Senior School Studies as well.

Also both boards will have representatives of employees and employers. The Opposition concurs in that proposal. It brings with it the concept of community involvement spoken of publicly by political parties in recent times. It is most important during this time of grave unemployment that boards of this nature should have representatives from employers and employees. I have no wish to be critical of the department or the system but we are all well aware of the public debate that has taken place in regard to school curricula and examinations. When the boards were formed in 1962 most people leaving school could find a job. Today a different situation prevails. Employer and employee organizations have been most critical of examination standards. The inclusion of representatives of employers and employees on these boards will bring a practical background to their considerations.

I understand that it is proposed to omit from the principal Act any reference to the Director-General of Education or the Director of Secondary Education, who are basically the chairman and deputy chairman respectively on **the** Secondary Schools Board and also any reference to director-general in relation to the Board of Senior School Studies. The Opposition has no qualms or queries with regard to these proposals. The same number of officers from the department will be involved and the proposed amendment will relieve the director-general of certain responsibilities. This will allow greater flexibility, and officers with expertise will become involved in these fields. The Opposition will make further comments at the second reading stage. I assure the Minister that it will expedite this measure through this House.

Motion agreed to.

Bill presented and read a first **time**.

DENTAL TECHNICIANS REGISTRATION (AMENDMENT) BILL  
DENTISTS (AMENDMENT) BILL  
WORKERS' COMPENSATION (DENTAL TECHNICIANS) AMENDMENT BILL

Suspension of Standing Orders

Suspension of so much of the standing orders as would preclude these bills being treated as cognate bills agreed to on motion (by leave) by Mr K. J. Stewart.

Introduction

Mr K. J. STEWART (Canterbury), Minister for Health [3.24]: I move:

That leave be given to bring in a bill for an Act to amend the Dental Technicians Registration Act, **1975**, so as to alter the constitution of the Dental Technicians Registration Board and to permit dental technicians holding practising certificates as dental prosthetists to carry out certain work in the practice of dental prosthetics otherwise than on the written order of a dentist; and for certain other purposes.

That leave be given to bring in a bill for an Act to amend section 2 (2) of the Dentists (Amendment) Act, 1977, to alter a reference in that Act.

That leave be given to bring in a bill for an Act to amend section 10 of the Workers' Compensation Act, **1926**, to include treatment by a dental prosthetist within the definition of "Medical treatment" for the purposes of that section.

The first bill is for an Act to amend the Dental Technicians Registration Act, **1975**, so as to alter the constitution of the Dental Technicians Registration Board and to permit dental technicians holding practising certificates as dental prosthetists to carry out certain work in the practice of dental prosthetics otherwise than on the written order of a dentist, and for certain other purposes. Those honourable members here today who were members of the former Parliament will recall that this bill was previously introduced in September of last year. They will recall also that its passage was frustrated in another place. The bill I propose to table today is in precisely the same terms as the previous bill and its principal objects remain unaltered. I shall briefly state those objects.

The first object is to detail for the purposes of the Dental Technicians Registration Act, **1975**, what is meant by the term the practice of dental prosthetics. The second object is to provide for the granting of practising certificates to dental technicians who, in the opinion of the Dental Technicians Registration Board, have satisfactorily completed a course of training approved by the board or an examination arranged by the board with respect to the practice of dental prosthetics. The third object is to define dental technicians who have been granted practising certificates as dental prosthetists. The fourth object is to authorize dental prosthetists to deal directly with the public in the practice of dental prosthetics within the meaning of the Dental Technicians Registration Act, **1975**. The fifth object is to enable a dental technician to carry out technical work involved in the practice of dental prosthetics on the written order of a dental prosthetist. The sixth object is to enable a dental prosthetist to carry out technical work involved in the practice of dental prosthetics. The next object is to increase the membership of the Dental Technicians Registration Board from eight to nine persons and to provide that the new member shall be a dental

technician nominated by the Public Service Association of New South Wales. Finally, the bill will empower the Dental Technicians Registration Board to discipline a dental prosthetist who has been guilty of misconduct with respect to the practice of dental prosthetics.

The regulation-making power in the Dental Technicians Registration Act, 1975, has also been extended to enable regulations to be made regulating advertising by dental technicians and fixing maximum fees that may be charged by dental technicians and dental prosthetists.

The second bill will amend section 2 (2) of the Dentists (Amendment) Act, 1977, to alter a certain reference in that Act. The bill is cognate with the Dental Technicians Registration (Amendment) Bill, 1978. The purpose of the bill is to alter the reference in the Dentists (Amendment) Act, 1977, to the year of enactment of the Dental Technicians Registration (Amendment) Act.

The third bill will amend section 10 of the Workers' Compensation Act, 1926, to include treatment by a dental prosthetist within the definition of medical treatment for the purposes of that section. The bill is cognate also with the Dental Technicians Registration (Amendment) Bill, 1978. The purpose of this short bill, as is indicated in the long title, is to make certain amendments to section 10 of the Workers' Compensation Act, 1926, in the context of the ambit of medical treatment within the meaning of that Act. I commend the three bills to the House and shall be pleased to give further particulars at the second reading stage.

Mr J. A. CLOUGH (Eastwood) [3.30]: The members of the Opposition agree that the Dental Technicians Registration (Amendment) Bill, the Dentists (Amendment) Bill and the Workers' Compensation (Dental Technicians) Amendment Bill should be treated as cognate measures. As the Minister said, the proposed legislation will be largely in the form of the legislation presented to the last session of Parliament. However, we on this side of the House ask the Minister to provide further detail at the second reading stage. The Minister has sought leave to bring in a bill to amend the Dental Technicians Registration Act to permit dental technicians who hold practising certificates as dental prosthetists to carry out certain work in the practice of dental prosthetics otherwise than on the written order of the dentist. I should like to know whether a dental mechanic will be empowered by that provision to do work other than on the written order of a dentist.

The proposed Dentists (Amendment) Bill and Workers' Compensation (Dental Technicians) Amendment Bill would, as the Minister has said, be consequential, though we shall look closely at them after they have been presented to the House. If, as I assume, they are consequential, there will be no objection to them provided we can agree on the terms of the principal measure, the Dental Technicians Registration (Amendment) Bill.

We do not oppose leave. We merely ask the Minister to give further detail at the second reading stage, particularly about the proposed appointment of new board members. The membership of the board is to be increased from eight to nine, and the additional member is to be a dental technician nominated by the Public Service Board. The result of that provision will be to give dental technicians an outright majority on the board. At the moment the dental technicians, if they are to succeed on any particular issue, must rely on the casting vote of a chairman who is not a dental technician.

One thing is new to me. The Minister might have dealt with it previously, but if he did I was not aware of the fact. I refer to the setting of fees for work carried out by prosthetists. I should like to have more detail about the fees that will be payable for such work.

Mr ROGAN (East Hills) [3.33]: I want to be associated with all stages of the proposed legislation because I was associated with the passage of the original measure in 1975 and with the amending bills of 1976. It seems as though we have been through this exercise several times since we have been in government. The bills were introduced during the last Parliament, were sent to another place for consideration, and were returned to the Legislative Assembly with amendments. The Government chose not to do anything about the Legislative Council's amendments at that stage, knowing that an election was in the offing and being confident that the people would endorse it and its actions. That happened, and the Labor Party now has a majority in both Houses.

Consideration of these matters has often been clouded by statements designed to frighten the Government out of allowing dental technicians to deal direct with the public. It was said that there would be a great increase in the failure to detect cancer in the mouth if dental technicians were able to deal direct with the public. It was said that the standard of dental treatment would be lowered. These were but two of many assertions made at various stages. The fact is that legislation of this type has been operating in Tasmania since 1957 and has worked quite satisfactorily. None of the fears voiced by the Australian Dental Association has come to anything like what we were led to expect in New South Wales. Victoria has had similar legislation since 1972.

The most recent correspondence directed to members of Parliament by the Australian Dental Association is taking a softer and more sensible line, in that it does not involve scare tactics and the making of irresponsible statements of the sort that have been made in the past. On 4th October, 1977, the *Sydney Morning Herald* contained an advertisement that was typical of many that were based on scare tactics. All of the statements made in such advertisements can be refuted, and were refuted. It is a pleasure to be associated with the proposed bills. The future of the legislation is more predictable on this occasion than it was previously. I support the motion.

Motions agreed to.

Bills presented and read a first time together.

## GAMING AND BETTING (GREYHOUND RACING CONTROL BOARD) FURTHER AMENDMENT BILL

### Introduction

Mr BOOTH (Wallsend), Minister for Sport and Recreation and Minister for Tourism [3.37]: I move:

That leave be given to bring in a bill for an Act to amend the Gaming and Betting Act, 1912, to enable the Greyhound Racing Control Board to control and regulate the keeping of certain greyhounds and to approve the awarding of prizes, other than money, at a greyhound trial or training race.

At present the Gaming and Betting Act does not provide for control by the Greyhound Racing Control Board over persons registered with it, other than in relation to meetings for greyhound racing activities at greyhound trial tracks. It is doubtful, therefore, whether the board is able to deal with registered persons who fail adequately to look after their greyhounds. The proposed bill will enable the Greyhound Racing Control Board to control and regulate the keeping of greyhounds. In so doing, it may disqualify and impose fines on registered persons, spend moneys and investigate and report to me on matters relevant to the proper keeping of greyhounds.

The Act, supported by the regulations, provides that no prizes shall be awarded to participants in trial or training races. The proposed bill will allow the awarding of prizes in respect of races conducted at trial tracks and **will** allow the regulations to be amended to permit licensed greyhound racing tracks to be placed on the same footing as registered trial tracks in regard to the giving of prizes for trial races. The Greyhound Racing Control Board will be required to exercise control over these prizes. I shall provide further details at the second reading stage. I commend the motion.

Mr ROZZOLI (Hawkesbury) [3.39]: The Opposition has no objection to the introduction of the bill which, so far as I can understand it, will be unlikely to involve any major argument. However, we reserve the right to make a **find** pronouncement **on** these matters when we see the bill. The keeping of greyhounds, originally by people interested in the sport, and in later years predominantly by owners registered with the Greyhound Racing Control Board, has given considerable concern to many people, not only those interested in proper construction of kennels, but also those **who** suffered, as **neighbours**, from a lack of proper accommodation for greyhounds.

The keeping of kennels for greyhounds is controlled by local government. On many occasions when I was an alderman of **Windsor** municipal council the council sought advice from the Greyhound Control Board, which could give only advice. There was no way in which the council could enforce conditions that it regarded as necessary. With the growth of the sport and the inevitable suburban sprawl of Sydney, greyhound kennels were pushed out from the inner urban areas to five-acre developments, of which there are a number in my electorate. However, despite the growing residential development in turn in those areas, it seems unreasonable to suggest that the kennels move further away from the centre of population. Therefore, controls over the keeping of kennels are of the utmost importance. Members on this side welcome any measure that will assist in that regard, and we look **forward** to seeing the bill when it is available.

Motion agreed to.

Bill presented and read a first time.

## PRISONS (AMENDMENT) BILL

### Introduction

Mr HAIGH (Maroubra), Minister for Corrective Services [3.42]: I move:

That leave be given to bring in a bill for an Act to amend the Prisons Act, 1952, for the purpose of constituting the Corrective Services Commission of New South Wales and transferring to it the powers, authorities, duties and functions formerly conferred or imposed on the Commissioner of Corrective Services; and for other purposes.

The bill will give effect to two of the principal **recommendations** contained in the report of the Royal **commission** into New South Wales prisons. They are, that a commission be established to administer the Department of Corrective **Services and** that statutory recognition be accorded to the **Corrective** Services Advisory Council. At present, under section 7 of the Prisons Act, 1952, the care, direction, control and management of all prisons in New South Wales **is**, subject to the direction of the Minister, vested in the Commissioner of Corrective Services appointed under section **6** of the Act. In his report into New South Wales prisons the Royal commissioner,

Mr Justice Nagle, expressed the view that the administration and control of the Department of Corrective Services is too great a task for any one man. His Honour recommended the establishment of a commission comprising three full-time and two part-time members to administer the department in place of the existing sole commissioner.

As I have intimated, one of the main objects of the bill is to give effect to that recommendation of the Royal commissioner. Under the bill the existing provisions of the Prisons Act relating to the appointment of a Commissioner of Corrective Services and a Deputy Commissioner of Corrective Services will be replaced by provisions constituting a corporation under the name of the Corrective Services Commission of New South Wales. Subject to the direction and control of the Minister, the commission will be responsible for the administration of the prisons system in New South Wales. In accordance with the Royal commissioner's recommendations, the commission will comprise three full-time and two part-time members who will be appointed for a term not exceeding seven years.

The Royal commissioner had also recommended that the commission should be appointed in accordance with the provisions of the Public Service Act. However, in the course of drafting the bill it was realized that to make appointments for a term of years would be inconsistent with the provisions of the Public Service Act. Consequently, it has been necessary to provide that the provisions of the Public Service Act will not apply to or in respect of the appointment of the commissioners. Because they are part-time members, the provisions of the Public Service Act will not apply to either of the part-time commissioners during his term of office. However, the officers of the Department of Corrective Services will continue to be appointed under and subject to the provisions of the Public Service Act and the bill provides that such provisions of the Public Service Act or regulations as may be specified in the instrument of his appointment, not being inconsistent with the Prisons Act, shall apply to any full-time member of the commission during his term of office. This will ensure that, so far as is possible, the umbrella of the Public Service Act in the administration of the Department of Corrective Services is retained, as recommended by the Royal commissioner.

The bill provides that one of the full-time commissioners shall be the chairman of the commission and another the deputy chairman. In order to facilitate the day-to-day operations of the commission the bill contains a provision that the chairman shall be the chief executive officer of the commission and shall be responsible for the day-to-day management of the Department of Corrective Services in accordance with the directions of the commission and subject to any limitations or restrictions specified in the regulations. Appropriate provision for the delegation of the commission's powers and the chairman's powers to any full-time commissioner and to departmental officers has also been included.

Another important recommendation of the Royal commission to which the bill will give effect is that the Corrective Services Advisory Council be established on a statutory basis. The advisory council was established administratively in 1971, its prime object being to provide expert advice to the Minister on matters of policy affecting the Department of Corrective Services. Unlike the situation that applied under the previous administration when the council was frustrated in the exercise of its functions, the council has, since the present Government came to office in 1976, been allowed and encouraged to carry out its functions and, certainly during my period of office as the Minister responsible for corrective services, it has provided valuable advice on matters relating to the administration of prisons.

*Mr Haigh]*



The bill provides that the council shall consist of not more than fifteen members appointed by the Minister, of whom one shall be a judge of the Supreme Court or the District Court, who shall be chairman. The remaining fourteen members will be persons who have had experience in at least one of the following disciplines or activities, namely, criminology, law, religion, sociology, behavioural science, social work, medicine, psychiatry, psychology, public administration, education, representation of employees or representation of employers, or in any similar or related discipline or activity. Members of the advisory council will be appointed for a period of three years but will be eligible for reappointment. The bill provides that the council—

- (a) shall investigate and report to the Minister on such policies, practices and programmes of the Commission and other matters relating to the powers, authorities, duties and functions of the Commission as are referred to it by the Minister for investigation and report; and
- (b) may, with the approval of the Minister, investigate and report to the Minister on any policies, practices or programmes of the Commission or other matters relating to the powers, authorities, duties and functions of the Commission.

For the purposes of carrying out their functions, members of the council will have access to prisons and will also be empowered to examine the files and records of the Department of Corrective Services other than personal files of departmental officers. In addition to the two main matters to which I have referred, the bill also contains a number of minor and machinery amendments to the Prisons Act by way of statute law revision. There are also certain consequential amendments to other Acts made necessary by the constitution of the Corrective Services Commission. I shall explain these and also elaborate on the main objects of the bill at the second reading stage. For the present I commend the motion.

Mr BARRACLOUGH (Bligh) [3.49]: At last this legislation has been introduced, after two postponements. It is certainly good to hear the Minister speak of things positive. His verbal escapes from this House rival escapes from gaols under his control. Indeed, it is good to hear the Minister speak at all. I know that his colleagues on the Government side refer to him as Havachat.

Mr SPEAKER: Order! The motion before the House is that leave be given to bring in a bill. There is no question of the Minister's conduct or his activities in the Chamber. I ask the honourable member to come back as soon as possible to the motion before the House.

Mr Barracrough: On the point of order, Mr Speaker——

Mr SPEAKER: There is no point of order. I interrupted the honourable member for Bligh to draw his attention to the nature of the motion before the House.

Mr BARRACLOUGH: The Opposition is delighted that at last the bill has reached the Chamber. From the moment that this House sat, notice was given that this legislation was to be brought in on the first available occasion. However, the Minister withdrew it, and informed me that he would tell me when it was to come before the Chamber. Despite this, it was not until a moment ago that I was handed a copy of the introductory speech. Members of the Opposition hold grave fears for the prison system of New South Wales, and we, like the people of New South Wales, are angry about its state. After the recent elections the Premier, in announcing his new Cabinet, left only the administration of corrective services with the Minister and took away all his other responsibilities. However, despite the fact that since 7th October the Minister has had only corrective services to look after, things have not been running well. I have expressed concern. I know it has been a tough time for the Minister.

After what I told the Minister following my investigations, he found that the **gaols** are hopelessly overcrowded. I brought to his attention that Parramatta gaol has some 500 inmates and that the Opposition is concerned because only about 90 prison officers are guarding them. That is a serious situation, and it could lead to a breakout from that prison. We have had no statement from the Minister about the fact that prison officers at Parramatta, Long Bay and **Grafton** gaols will not accept inmates from other gaols. This is a very serious matter.

I must speak up on behalf of the **Parklea** residents who, prior to the elections on 7th October, were given definite indications by the Premier and the Minister that due consideration would be given to their objections to the building of a gaol at **Parklea**. But as soon as the elections were over those objections were ignored, and the residents of the area have been told—to use a **Whitlam** expression—"You are going to get that gaol at **Parklea** whether you like it or not." There was no need whatever to close Katingal which the Government could easily have kept open, and built a new corrective centre at Silverwater, as we suggested. These are matters that concern the people of New South Wales. In the grievance debate last Thursday afternoon when I raised the alarming increase in armed robberies in this State, I got a knock-away, smart answer from the Attorney-General. But the fact is that armed robberies are taking place in New South Wales, and many of them are being carried out by prisoners who have broken out from the gaols since this Government took office in May 1976. Breakouts are becoming almost a daily occurrence.

I do not wish to be unkind to the Minister, but members of Her Majesty's Opposition have to speak up on behalf of the people of New South Wales who are gravely concerned about the matter. A Labor member in another place, who lives in the Long Bay area, has expressed to me his fear and concern for his wife and family every day he comes into Parliament House. He fears there may be a breakout. The honourable member for Cronulla says, "**Ah!**" in a lighthearted way. I know he is new to the Chamber. I am referring to a member of the Labor Party in another place; the Minister knows to whom I refer, but I shall not mention his name. He has expressed concern to me, on behalf of his family, at the breakouts that are taking place from Long Bay.

Mr **Rozzoli**: Let the Minister build the gaol at Cronulla instead of **Parklea**.

Mr **SPEAKER**: Older!

Mr **BARRACLOUGH**: Members of the Opposition will carefully consider this motion. At this stage we cannot declare whether we will support the bill or vote against it. As I said, the Minister told me when I spoke to him outside the Chamber that he would let me know when the legislation was being introduced. For some reason he did not do that. His secretary handed me a copy of the introductory speech just as the Minister rose to deliver it. We shall consider the bill seriously, if for no other reason than the wisdom behind the old adage that two heads are better than one. In this case at least the five heads of the proposed commission must surely be better than the one head of the **Commissioner** of Corrective Services.

Mr **ROZZOLI** (Hawkesbury) [3.56]: I rise briefly at the introductory stage to indicate my great interest in this measure. Some time ago the action of the Government in selecting **Parklea** as the site for a new maximum security prison brought the whole matter of corrective services administration to my attention. As a consequence I have studied the **Nagle** report at great length. Two recommendations in the **Nagle** report seem to be the **basis** of this legislation.

Mr Face: On a point of order. I do not wish to stop debate on this matter but we were very tolerant when the honourable member for Bligh deviated from the bill. Many forms of the House are available to the honourable member for Hawkesbury **if** he wishes to bring up the matter of the gaol at **Parklea**. It could be done by way of grievance, as well as many other ways. He has spoken about **Parklea** and whether the gaol should be situated there. I suggest that he should be brought back to the motion, which is that leave be given to introduce the bill.

Mr Barraclough: On the point of order, at the introductory stage surely any member can speak about a matter concerning the bill it is sought to introduce. The bill relates to the prison system and the appointing of a new commission. The honourable member for Hawkesbury is using the opportunity to speak up on behalf of his constituents who live in the area where this gaol will be built. I ask that he be allowed to continue.

Mr Face: Further on the point of order. The honourable member for Bligh meandered all over the place when he spoke during this debate, and it is about time the forms of the House were observed. Members of the Opposition want to speak about bashings, assaults and all sorts of things. Everyone should be concerned about those things but at the introductory stage a member cannot enter into a wide-ranging debate. The House was extremely tolerant with the honourable member for Bligh, but I suggest that the honourable member for Hawkesbury be brought back to the motion.

Mr Rozzoli: On the point of order. I made reference to **Parklea** merely to indicate my interest in this measure. In his opening remarks the Minister dealt with the point that the bill arose out of the Nagle report. That was the matter to which I was directing my remarks.

Mr SPEAKER: Order! I do not want to erode the time of the honourable member, which is only ten minutes at the introductory stage. There seems to be some misapprehension in the minds of some honourable members about what they can discuss when debating the motion that leave be given to bring in a bill. There is no bill before the House, and the only thing to which honourable members can address themselves is the motion and the speech delivered by the Minister. They may possibly refer briefly to the principal Act. The Minister made no reference to gaols in New South Wales, to **Parklea**, or any other similar matter. It is quite clear that this measure proposes to transfer certain authority and powers to certain people. I ask the honourable member for Hawkesbury to address himself to the remarks made by the Minister. It is in order for him to make passing remarks about a matter but to dwell on it at any length would be totally out of order.

Mr ROZZOLI: I have no intention of dwelling on this matter at any length. The Minister said that the bill stemmed from two recommendations in the Nagle report. He told the House the substance of the recommendations, one of which was the establishment of a commission. This would bring about benefits as opposed to the single commissioner who at present administers corrective services. The appointment of a **commission** made up of a number of people is no panacea for problems. In other government departments single commissioners maintain and administer exceedingly well large areas of administration. The House may be able to learn more about the proposal from the bill and the Minister's second reading speech. Suffice it to say at this stage that the essence of the commission's success will be the manner in which it is allowed to operate.

As some actions of the present administration have been contrary to public interest, the manner in which the proposed commission operates will be of great interest to the Opposition. I shall speak further on the matter at the second **reading**

stage. The Opposition welcomes the introduction of the bill, which is a fresh look at the style of administration of **corrective** services in New South Wales. I sound the warning that changes in administrative structure alone do not solve problems.

Motion agreed to.

Bill presented and read a first time.

## STATUTORY AND OTHER OFFICES REMUNERATION (CORRECTIVE SERVICES) AMENDMENT BILL

### Introduction

Mr HAIGH (Maroubra), Minister for Corrective Services [4.2]: I move:

That leave be given to bring in a bill for an Act to amend the Statutory and Other Offices Remuneration Act, 1975, consequentially upon the constitution of the Corrective Services Commission of New South Wales.

This bill is cognate with the Prisons (Amendment) Bill which has just been introduced. The object of the bill is to include in the schedule of public offices in the Statutory and Other Offices Remuneration Act, 1975, the offices of chairman, the deputy chairman and the other full-time commissioner of the proposed Corrective Services Commission. I commend the motion to the House.

Mr BARRACLOUGH (Bligh) [4.3]: As a member of this Parliament and as a citizen, I have always had a high regard for our security forces. Throughout Australia insufficient salaries are paid to those security forces, which include police, prison and ambulance officers and, although they do not come under State jurisdiction, members of the armed forces. Any legislation that deals with the remuneration of those people will always receive the full support of the Opposition, which looks forward to the Minister's second reading speech. The Opposition fully supports the motion.

Motion agreed to.

Bill presented and read a first time.

## HEALTH COMMISSION (AMENDMENT) BILL

### Second Reading

Mr K. J. STEWART (Canterbury), Minister for Health [4.4]: I move:

That this bill be now read a second time.

Honourable members will have noted that this is a short bill and that its primary object is to remove the requirement contained in the Health Commission Act, 1972, to which I adverted in my introductory speech, that certain members of the Health Commission of New South Wales be appointed to offices designated respectively as Commissioner for Personal Health Services, Commissioner for Environmental and Special Health Services, Commissioner for Manpower and Management Services and Commissioner for Finance and Physical Resources. The reason for the change has been brought about by the trend to regionalize health services and to make regional directors, of whom there are thirteen in New South Wales—four in the metropolitan area and nine in the remainder of the State—more directly responsible for the rationalization of health services. Conversely there is a need for members of the Health Commission to fulfil a more flexible role rather than to have a designated area of responsibility as a commissioner in respect of a specified office.

It is not intended that the amending legislation shall affect the office of chairman or that there shall cease to be a deputy chairman. Indeed, item (2) of schedule 1 of the bill specifically provides for the appointment of a chairman and deputy chairman and item (3) of schedule 3 affirms the appointment of the present chairman and deputy chairman. It is not intended to alter the requirement that at least two of the members of the Health Commission shall be medical practitioners. Item (1) of schedule 2 restates this membership proviso. Other provisions of the bill amend the principal Act by way of statute law revision. The bill contains also consequential and savings provisions.

I turn now to the provisions of the bill. Clauses 1 and 2 cite the short title and make provision with respect to commencement dates. Clause 3 refers to the Health Commission Act, 1972, as the principal Act. Clause 4 specifies the three schedules to the bill. Clause 5 amends the principal Act as set forth in the schedules. Clause 6 effects savings and transitional provisions.

Schedule 1 contains amendments to the principal Act relating to the membership of the Health Commission. Item (1) specifies that the commission shall consist of five commissioners and provides that a reference in any enactment to a member of the commission shall be construed as a reference to a commissioner. Item (1) further provides that at least two members of the commission shall be medical practitioners. Item (2) repeals the requirement that four members of the commission be appointed to designated offices and re-enacts provisions relating to the appointment of a chairman and deputy chairman. Item (3) is a consequential amendment. Schedule 2 details amendments to the principal Act by way of statute law revision. Schedule 3 details necessary savings and transitional provisions and, in particular, provides that the tenure of office of present members of the Health Commission shall be unaltered by the amending legislation. I commend the bill to the House.

Mr J. A. CLOUGH (Eastwood) [4.7]: The measure is largely in conformity with the views expressed by the Minister when a member of the Opposition. When the Health Commission Bill was before the House in 1972 the Minister, then a member of the Opposition, intimated his objection to the appointment of the commission's personnel. The Government proposes now to vary particular offices and office-bearers. On behalf of the Opposition, I have no particular objection to that. It may well be that the time has come for a revision. In 1972 a former Minister for Health, the Hon. A. H. Jago, introduced into this House a measure that has obviously been a good Act. Opposition members at that time did not agree with certain of its provisions and now that they are members of the Government they seek to include in the Act those matters that they thought should be inserted, including a change in the designation of offices and appointments to those offices.

The Minister has given reasons why the Government wishes to make these changes and I shall not debate those reasons at length. If the Opposition had remained in government it might have done the same thing. In 1972 the new legislation brought under the one umbrella the former Hospitals Commission and Department of Health. Then followed a testing and trial period. The commission has been an undoubted success. Perhaps it is time for a rearrangement of its functions and particularly its personnel.

I hope that in appointing this personnel the Government will select the best that are offering and will not simply appoint someone because he is a member of a trade union. Employees' representatives should be appointed because of their capacity and administrative ability. That is the type of person the Health Commission needs at all times. It is a big organization that employs thousands of people and spends hundreds

of millions of dollars a year. At **Westmead** hospital we see the result of this type of expenditure. When one **considers** that it will cost about \$80 million a year in maintenance, one appreciates the Health **Commission's** need for the best possible management services it can obtain.

As the Minister has pointed out, the bill contains some consequential amendments. Consequential amendments must flow, and that is acceptable. Here and there one or two words have been added or omitted and an odd comma has been added or removed. These matters **become** necessary. The Opposition understands that and has no objection to it. I note, for example, that section **14** of the principal Act, which deals with the **staff** establishment, is to be amended to do away with the need for the Governor to appoint and employ certain employees in given circumstances. That power will reside in the Public Service Board. That is not an unreasonable amendment. We accept it as being necessary. Section **17** of the principal Act provides that unexpended funds appropriated to the Minister for Health will be available to the commission. That is to be omitted. It is roughly six years since the original bill was enacted. One would expect that any funds in the possession of the commission or the Department of Health would have been expended by now. These are tidying up provisions and could not be objected to. The Opposition does not object to them.

Section 26 provides that proof of certain matters is not required. There is to be a change of words to designate better the requirements under section 26 (c). The same applies to section 28, from which will be omitted certain references to officers and employees. Suitable words will be substituted. **All** in all, we do not object to the measure. Section **33** (2) (a) relates to the Noxious Trades (Amendment) Act. That is to be deleted for obvious reasons. It is not considered to be necessary or applicable to the proposed legislation.

In **1972**, when the Opposition was in government, we held certain views about the type of personnel that should constitute the commission and the functions they should engage in. The present Government has other views. I see nothing in what is proposed that will cause any diminution in the efficiency of administration. Time will tell. The Opposition will be watching closely to ensure that the proposed measure effects the efficiency that it is hoped it will bring. I hope the Government also will watch the position closely to ensure that its new proposals are in the best interests of hospital and medical services in New South Wales and, most of all, beneficial to the people of this State.

Mr K. J. STEWART (Canterbury), Minister for Health [4.15], in reply: I thank the honourable member for **Eastwood** for his thoughtful contribution. I assure him that the abolition of the titles of the four commissioners who assist the chairman of the commission was brought about following an assessment by the former Minister for Health, the honourable member for Davidson, as well as by me. Latterly, the former Minister may have come to a different opinion about what the final composition of the commission should be. Having read the documents that had already been prepared, I know that all Ministers would have come to an agreement that the bureau structure of the Health Commission was unnecessarily unwieldy and that it brought about divided loyalties and an inflexible situation that could no longer be tolerated. The commissioners are pleased to have an overruling authority rather than designated areas of specific authority.

I thank the honourable member for **Eastwood** for the compliment he paid to the Health Commission of New South Wales. It was formed as recently as **1973** and since that time it has undertaken the administration of health and hospital services in this State. As honourable members are aware, prior to the formation of the Health Commission in **1973** there was the Hospitals Commission and the Department of Public

Health. These two departments were brought together so that curative and preventive health could be oversighted by the same body, and more attention would not be paid to the curative side than the preventive side. I should like to think that in two and a half years I have corrected the imbalance, but I am sure that the previous Minister for Health would like to feel that he had cured the imbalance that occurred during the time of the initiation of the new Health Commission Act. It will take a long time. The amalgamation of the Hospitals Commission with the Department of Public Health has been achieved and the most autonomous, regionalized instrumentality in the New South Wales public service has been established.

Thirteen health regions are responsible for effecting the **fifty-fifty** cost-sharing agreement between the State and federal governments, as well as assisting in the introduction of Medibank in **1975**, with the two amendments that occurred in **1976** and on 1st November, **1978**. The Health Commission of New South Wales also had the responsibility of preparing the machinery for the Health Commission Act and inaugurating the community health programme. All honourable members applaud the services provided to the people of New South Wales through the community health programme. In **1973** New South Wales was fortunate to be heading in the direction of community health. It had already made a plan and done groundwork which enabled it to take up almost immediately the grants that were made available by the **Whitlam** Labor Government in that year and the following year. Now there are approximately **450** community health centres or services in the **metropolitan** areas and country districts of the State. They give a splendid service. This has been organized by the Health Commission of New South Wales since the fifty-fifty cost-sharing agreement came into operation.

It is important to note that in nine months of the year **1975-76**, the first year of operation of the cost-sharing agreement, this State received **\$441** million from the federal Government. In the next year that figure was increased to **\$462** million. In **1977-78** it was **\$703** million and in **1978-79** the expected net operating costs of public hospitals in New South Wales will be **\$791** million. The federal Government will bear half of that cost.

I thank the honourable member for **Eastwood** for the compliment he paid to the Health Commission of New South Wales. I personally place on record my compliments to Dr **McEwin**, the chairman; Mr **Boylan**, deputy chairman; Dr **Andrews**, Dr **Harley** and Mr **Eagleton** who at the moment are commissioners. It would be rude of me if I did not mention the work done by Dr **David Storey**, who was appointed by a former Minister for Health, the Hon. **A. H. Jago**; Dr **William Barclay** and George **Slough**, who were also appointed to the original commission in **1973**; and Dr **Krister**. The last four officers have now retired.

I assure the honourable member for **Eastwood** that, as Minister for Health, I am much aware of the need for the support that I receive from the Health Commission of New South Wales in order to carry out my duties. I assure him also that all persons appointed to the Health Commission of New South Wales will be of the highest calibre in order that the reputation that has been built up by the commission will be maintained indefinitely.

Motion agreed to.

Bill read a second time.

### Third Reading

By leave, bill read a third time, on motion by Mr **K. J. Stewart**.

## MOTOR DEALERS (AMENDMENT) BILL

## Second Reading

Mr EINFELD (Waverley), Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies [4.21]: I move:

That this bill be now read a second time.

As I have mentioned previously, the purposes of the bill are to rationalize and expand the warranty provisions of the Act, remove various anomalies which have existed since its inception, provide increased protection to consumers with respect to certain vehicle transactions and for certain other purposes.

The Motor Dealers Act was proclaimed in **1974**. From the start of operations of the Act and whenever it has been discussed with the motor trade and others, the Government has made it clear at all times that it would be improved if this were necessary. The Government decided that it would give the Act about two years of operation to discover whether or not changes or improvements were required. This bill is the result of that 2-year review. It is further evidence of the Government's firm intention that there should be a fair balance between the interests of consumers and business in its consumer protection initiatives. All those with an interest in the Motor Dealers Act should bear this in mind: the Act is, first and foremost, a method of protecting consumers. Their need for protection is a matter of concern to them and to the Government.

The annual report of the Commissioner for Consumer Affairs, recently tabled in this House, shows that consumers are turning to the department in increasing numbers for help with complaints of one kind or another about motor vehicles. The report singles out motor vehicles and equipment as constituting the greatest cause of consumer complaint by far, not only in New South Wales but also in every State and territory of Australia. Moreover, the recent annual report of the Commissioner for Motor Transport points out that **47** per cent of cars in used car yards that were tested last financial year were unroadworthy. The fact that more consumers are complaining does not necessarily mean that more traders are misbehaving. It is the Government's experience that most traders are decent and fair. But there is no evading the fact that problems with motor vehicles provide the overwhelming proportion of the heavy workload of my department. The thrust of the Motor Dealers Act, therefore, is prevention of these problems rather than their cure. The bill has been designed to strengthen the preventive capacity of the Act. For this reason, it brings motor cycles within the ambit of the Act, regulates the operations of car market operators and clarifies the regulatory provisions of the Act.

The core of the Motor Dealers Act and this bill are the various provisions relating to warranty. The warranty provisions of the Act are unique in Australia and, as far as I know, in the world. They are a reflection of the dissatisfaction felt by many consumers at the quality of both new and used cars and the somewhat cavalier disrespect by some dealers for their after-sales service obligations. As I have said, the Commissioner for Consumer Affairs has issued a report for **1977-1978** that contains ample evidence of this. So the more important provisions in this bill concern warranty and related matters.

The change in that context that has aroused most comment **concerns** the present level of warranty. At present, dealers must warrant all motor vehicles sold by them at a cash price of **\$500** or more. This figure is unrealistically low in the light of present economic circumstances. The Government has decided, therefore, that dealers will now have to warrant motor vehicles sold at a cash price **exceeding \$1,500** and motor cycles sold for more than **\$500**. Dealers will also be required to supply a current certificate



of roadworthiness for vehicles sold by them for less than \$1,500 and motor cycles for less than \$500. For vehicles, other than motor cycles, sold for between \$1,500 and \$3,000, the warranty will be 3 000 kilometres or two months from the time of sale whichever first occurs. Where the cash price of a vehicle is more than \$3,000, the warranty will be either 5 000 kilometres or three months after sale whichever first occurs. New car warranties remain the same. The level of warranty on motor cycles will depend on whether a machine is new or used and whether or not it complies with the Australian Design Rules.

As well as these changes, the bill brings within the warranty provisions of the Act certain kinds of four-wheel drive, off-road vehicles formerly exclusively for commercial use but now increasingly promoted and bought for private recreation. These inadvertently fall within the definition of commercial vehicles and are therefore not warranted. Now that so many of these vehicles are bought and used for private recreation, they should get the protection of warranty. The bill therefore provides that they be exempt by regulation from the definition of commercial vehicle, thereby attracting warranty protection.

The next main point about the warranty provisions of the bill concerns demonstrator vehicles. Dealers invariably provide new car warranty with demonstrator vehicles. But the demonstrator vehicle is really a secondhand vehicle. This means that a new car which is driven for a week by a dealer to demonstrate its features is legally entitled to the secondhand car warranty. This is one of the confusing anomalies in the Act that this bill is meant to clear up. The warranty for demonstrator vehicles, basically, will equate the unexpired portion of the new car warranty. The bill also defines a demonstrator in simple terms as a vehicle which has not been sold previously to a customer.

Another problem about warranty in the Act is that there is constant and wide conjecture about whether or not certain parts of motor vehicles are accessories and, if so, whether or not they form ~~part~~ of the vehicle, thereby attracting warranty protection. This is especially so of sound reproduction and air conditioning units. The bill specifies that the range of accessories include these units as well as spare wheels and that these accessories form part of a vehicle. The effect of these amendments is that the units will be covered by warranty.

Before I leave the question of warranty, I am bound to say that the attitude of some dealers to their warranty obligations leaves a lot to be desired. Unintentional or excusable delay in performing warranty repairs can cause hardship to consumers, especially when a car cannot be used until repairs are done to it. The consumers' position is worse when repairs are delayed deliberately or by unreasonable prevarication. Consumers now have to seek an order by the commissioner that repairs be done by a third party and that a dealer must bear the cost of these repairs. This can be a long and cumbersome process. The bill therefore provides that, once an obligation for repairs is established against a dealer, the commissioner will be able to order him to pay the fair cost of the repairs, even though these repairs are done by somebody else. Needless to say, this fair cost need not be the same amount as that paid by the consumer.

Another matter of concern in the context of repairs is the extent of consumers' access to the Compensation Fund. The fund should be able to help consumers who cannot recover the fair cost of repairs from dealers who have failed to respect their obligations. But consumers must at present have exhausted all legal remedies against dealers before the commissioner can certify their loss and grant them access to the fund. This is an unfair burden on private citizens and often a cause of unreasonable

delay, especially when a dealer has gone into liquidation or stopped trading and the chance of **legal** redress is obviously remote. The bill will drop the need of consumers to exhaust all legal remedy and enable the **commissioner** to grant access to the fund at his discretion.

One of the frustrating inefficiencies of the Act that the past two and a half years period has discovered concerns the damage done to vehicles in the period between their leaving the manufacturer and arriving at the dealer. Sometimes they are damaged while they are in the manufacturers' yards awaiting delivery. Sometimes they are damaged at dealers' premises. Whatever the reason for the damage and wherever it was done, the buyer has the right to know about it. If damage to a vehicle was known to a prospective buyer, his or her decision to buy—or buy at the asking price—could obviously be affected. The **bill** provides that dealers must give an intending buyer of a damaged vehicle a notice specifying the damage, at or before the time of sale. This notice must reveal the damage of which dealers are aware or ought to be aware on reasonable examination.

A number of proposed amendments in the bill concern what might be called the regulatory or policing provisions of the Act. The question of amendment has arisen in some cases because parts of the Act have proved in practice to be confusing and capable of contradictory interpretation. In other cases, they are needed the more effectively to police the Act and to deal with practices designed to evade obligations laid down by the Act.

The commissioner's powers to revoke dealers' licences are specified in the Act, for example, but they do not recognize cases when a dealer has gone into liquidation or simply stopped trading. This is a problem that has grown, unfortunately, as the economy has deteriorated. There have been cases in the past two and a half years when dealers, being licensed, have continued to trade to the detriment of their customers though it was obvious that their **financial** standing was substantially diminished. The commissioner will be empowered to revoke a dealer's licence when he has gone into liquidation or receivership, entered into compromise arrangements with creditors or ceased to trade for more than one month. The **commissioner** must give a dealer the precise grounds on which revocation is contemplated. The dealer will naturally have the right to appeal against the commissioner's decision.

One of the problems with policing the Act, I regret to say, is that some dealers have obviously falsified entries in their registers, which is a serious matter considering that the police sometimes have to resort to these records in tracing stolen vehicles. On some occasions registers have gone missing between the date of inspection by the department and the start of court proceedings relating to omissions in them. Though the system of keeping these records is more or less the same as that laid down twenty-two years ago in the Second Hand Motor Dealers Act, random inspections by the department continually reveal cases of inaccurate and incomplete records, or both. These and similar problems call for some **tightening** up in the system of **record-keeping**. The bill provides for a maximum fine of \$1,000 in cases of **falsified** records. Also it empowers inspectors and other authorized officers to impound registers in an effort to help dealers from losing them between inspection and any court proceedings. If his register is impounded, a dealer will be given a blank duplicate so that he **can** carry on his business.

One provision in the Act dealing with notices on vehicles offered or displayed for sale has been giving continual trouble over the past two and a half years. There have been varying judicial interpretations, for example, of when a vehicle is actually offered or displayed for sale. The department has had cases in which dealers have placed cars prominently in their yards ostensibly for sale but with none of the prescribed notices

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on them except for a small note that they were not for sale. Interested potential buyers, of course, would not have been aware of the particulars of defects that the prescribed notices are meant to show. This practice may be strictly legal so long as the Act allows it but it is totally against the spirit of the Act. This is that citizens deserve full protection and full information about a product that will almost certainly be at least the second most expensive they will ever consider buying. This bill provides that vehicles on licensed premises will be deemed to be offered or displayed for sale unless they have prescribed "not for sale" signs attached to them and there are no other markings which would suggest that they were for sale.

Another provision of the Act which has proved difficult to interpret relates to rescission of sale. The major problem here is in defining what is meant when it is alleged that a vehicle is substantially different from the description given it by a dealer. The bill proposes that the meaning of the words substantially different relates to the actual condition of the vehicle. It will be substantially different when its body or mechanical equipment at the time of sale is such that it was not practicable to repair it so as to place it in a reasonable condition having regard to its age.

This bill deals with questions raised by two new kinds of motor vehicle business which have grown since the Act was drawn up. These are the motor vehicle consultant and the car market operator. Motor vehicle consultants act merely as intermediaries between buyer and seller. This activity will be regulated. The position of car market operators is more significant to the industry at large. They have set up markets at which private buyers are supposed to meet private sellers. The industry has made two kinds of complaint about this practice. One is that the car market has encouraged private transactions and thereby bypassed and disadvantaged licensed dealers. The second is that some people are using car markets in such a way as to avoid obligations required by the Act. The Government's reaction to the first complaint is that it is not a government's business to discourage or prevent private sales. If it were, the same sort of official intervention would have to be made in respect of classified advertisements in the newspapers. Buyers should be aware that when they go into the private marketplace they are in large measure responsible for the results.

As to the second complaint, the Government has found no active conclusive evidence that, by and large, dealers—licensed or unlicensed—are using car markets to evade the Act. What it has found, on the other hand, are other practices that act against the consumer interest. Car market operators often advertise that title to vehicles sold from the premises is guaranteed. Boiled down to essentials, this guarantee amounts to no more than a statutory declaration that their vehicles are unencumbered. It is also fair to say that, in their present unregulated state, car markets are proving a haven for the distribution of defective and sometimes stolen cars. This bill therefore introduces requirements on car markets similar to those in effect in New Zealand. Car market operators will have to be licensed. They will be required to keep certain records of all vehicles offered or displayed for sale on their premises. If a vehicle is sold at a car market, the seller will have the duty to inform the operator of the sale. Operators will have to guarantee title to vehicles sold from their premises unless a notice disclaiming liability is attached to the vehicle at all material times. All vehicles sold from car markets must have a certificate of roadworthiness. If a car market operator who guarantees title passes encumbered title, the buyer will have access to the compensation fund if he cannot recover his loss from the operator.

Finally, this bill extends the composition of the disputes committee to include a representative of the New South Wales branch of the Vehicle Builders Employees Federation, the federal and State chambers of automotive industries, when disputes involve new vehicles, and the motor cycle dealers section of the Motor Traders

Association, when they involve motor cycles. There is a proposal that this **bill** does not **contain**, though there has **been** strong pressure from some dealers in favour of it. I refer to the proposal that auctions provide warranties where somebody other than a dealer buys a vehicle from them. This is a vexed and complex question that the Government has considered with care. This consideration was not helped, I might say, by confused attitudes in the industry itself. Some new vehicle franchise operators and many used car dealers saw the auction as a ready means of disposing of unwanted stock. Other traders insisted that warranty should be provided on **all cars** sold at auction. Auctioneers protested that, in many circumstances, they did not own and sometimes had not previously seen vehicles offered for sale at auction. A threat by auctioneers that they would close down their car sales businesses to all but licensed dealers was a cause for concern.

The industry has now appeared to close ranks behind the proposition that not only auctions but **also** any persons or businesses selling vehicles should provide warranty. The Government, after evaluating all the argument, has decided that auctioneers should not be expected to warrant all cars sold by them when they do not have any contact with at least some of the vehicles. Another is that auctions are occasions when the private citizen has traditionally had the right and accepted the responsibility of private transaction. As I said before, so long as the private citizen accepts the fact that he or she is not protected in private transaction, it is not the Government's business to interfere. Protection exists if citizens want it. If they do not, it is not the Government's function to stuff it down their necks. I might add that I am still deeply concerned at the issue of cars sold at auction. The Government's mind is not closed on the point and, in fact, my department is still carrying out investigation and research into it.

I have dealt with the more significant amendments proposed in **this** bill as examples of the anomalies and **sometimes inefficiencies** that have been discovered by consumers, dealers and the Government in the two and a half years that the Motor Dealers **Act** has been in operation. I turn now to the detailed provisions of the **bill**. Schedule 1 contains a number of amendments of a machinery, wnsquential or drafting nature. Item (2) (a) specifies the range of vehicle accessories to attract warranty. Item (2) (c) dispels any doubt that such an accessory forms part of the vehicle. Item (2) (b) introduces a definition of car market operator. Item (2) (d) amends the definition of commercial vehicle. Item (2) (e) defines a demonstrator vehicle. Item (2) (h) defines motor vehicle consultant. Item (3) (a) recognizes the formal establishment of the Department of Consumer Affairs and as such all references to the Consumer Affairs Bureau are deleted.

I **turn** now to schedule 3 to the bill. This schedule contains a number **of** amendments of a wnsquential, machinery or drafting nature. Items (1) to (3) introduce licensing requirements for car market operators, motor vehicle consultants, parts reconstructors and wholesalers which are identical to the existing provisions for motor dealers. Item (4) introduces two new subsections to section 13, which specifies the grounds upon which the commissioner shall not issue a licence. The new subsection (2A) of section 13 of the Act makes an applicant's financial viability a further prerequisite to the granting of a licence. New subsection (2B) caters for the situation where the applicant proposes to carry on business jointly with another licensee. Item (5) of schedule 3 introduces the new system for licence renewal.

Item (6) provides that a person may not carry on the business of a car market operator and dealer at the same time. Item (7) (c) enables the commissioner to revoke licences in situations when the dealer has gone into liquidation, et cetera. Dealers' appeal rights in this situation are extended by items (7) (g) and (7) (h) to the extent that they will be now made to the District Court and not the chief industrial magistrates court.

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Schedule 4 substitutes an entirely new part III which relates to dealers' and other records. This is primarily to facilitate drafting of substantial amendments and a number of the sections in this part are merely reproductions of existing provisions. This part also contains amendments of a consequential or machinery nature. Proposed new sections 21, 22 and 22A, 22B, 22C and 22D require the holders of all classes of licences to maintain registers containing prescribed particulars of both the acquisition and disposal of vehicles or parts thereof. New section 22H reflects the seriousness with which the falsification of entries in registers is regarded with the maximum penalty of \$1,000 for offences in respect thereof. New section 23 is expanded to empower the impounding of registers by inspectors or authorized officers. I now turn to schedule 5 which again makes a complete substitution of a part in the Motor Dealers Act. Part IV has been expanded considerably to cater for the improved and expanded warranties. Proposed new section 24 makes a number of requirements relating to notices which must be attached to vehicles offered or displayed for sale. Subsection (4) is the answer to the problem of mixed judicial interpretation of when a vehicle is actually offered or displayed for sale. Subsection (5) requires a dealer to give the buyer of a motor cycle a prescribed notice at or before the time of sale. Subsection (6) makes a similar requirement for demonstrator vehicles. Subsection (7) requires a dealer to give an intending purchaser of a damaged vehicle a notice specifying the damage occasioned, at or before the time of sale.

Proposed new section 25 recognizes the demonstrator motor vehicle and substantially accords with existing provisions. It provides for the notices which must be completed and delivered in the course of intertrade dealings. As mentioned earlier, the warranty provisions of the Act are substantially amended. Warranties on a sliding scale are introduced into the Act in schedule 9. Subject to the introduction of this sliding scale, section 27 remains substantially unaltered. Proposed new section 28 consolidates the existing exceptions to the warranty provisions. At present exceptions are found in both the Act and the regulations. Subsection (5) enables the dealer to escape liability to warrant vehicles in certain circumstances. Subsection (6) makes similar provisions in relation to motor cycles. Section 29 reproduces existing provisions relating to a dealer's ability to exclude liability for certain defects and extends similar provisions to the sale of demonstrator vehicles and secondhand motor cycles. Sections 29A and 29B regulate the activities of car market operators.

Schedule 6 of the bill contains a number of drafting, machinery and consequential amendments. Primarily, however, it contains various amendments aimed at improving provisions relating to motor vehicle disputes and sale rescissions. Item (1) provides that an obligation remains with a dealer notwithstanding that the repairs have been carried out by some other person. Item (2) (b) extends the membership of the disputes committee. Item 2 (d) enables the Minister to determine from time to time the fees and allowances payable to members of this committee. Item (4) extends the existing section 36 (1) by enabling the commissioner to order a dealer to pay the fair cost of repairs where an obligation clearly exists on the dealer and the repairs have been carried out by some other person. Item (4) (c) provides for enforcement of this order. Item (5) gives effect to the commissioner's powers in relation to rescission of sale. Item (5) (e) repeals the right to appeal against decisions of magistrates to the Industrial Commission. All other legislation within my administration is enforceable through courts of petty sessions. It is proposed to bring this Act into line with that legislation, so that appeals will lie to the District Court and not the Industrial Commission.

Schedule 7 of the bill, in addition to a number of consequential amendments, amends the compensation fund provisions. Item (1) cures an existing anomaly by providing that only dealers and car market operators are required to contribute to

the compensation fund. Item (2) (b) enables the commissioner to certify loss by persons acquiring encumbered title from a vendor at a car market operator's place of business. Schedule 8 contains amendments of a machinery, drafting and consequential nature. Item (2) (b) requires a dealer to provide a certificate of inspection with motor cycles sold for less than \$500 and other motor vehicles sold for less than \$1,500. Item (5) removes existing difficulty in interpretation of section 49 (1). A dealer, in advertising vehicles for sale, must show in the advertisement his name or business name, his licence number and any telephone number at his place of business. Item (8) (a) enables proceedings under the Act to be instituted with the approval of a prescribed officer. This will be in addition to ministerial authorizations. Item (8) (b) effects the change in jurisdiction for proceedings under the Act. Schedule 9 introduces the sliding warranty scale in the form of a schedule. Schedule 10 contains a number of savings and transitional provisions.

These are substantial changes to a very substantial Act. They have been carefully designed after examination of the Act in operation over the past two and a half years. This examination has been carried out in consultation with the Motor Traders Association and the federal and State chambers of automotive industries. This does not mean, of course, that these bodies agree with every detail of the bill. However, at each stage of this examination I have taken care to explain to the industry exactly what the Government was doing. The honourable member for Lane Cove described this as bleating. I hope that any further thought he may have on consumer legislation is a little more constructive and a little less juvenile than that. What has happened is that the Government has constantly consulted and informed the industry about complicated changes to a complicated Act that vitally affects the livelihood of its practitioners. I should like to thank the industry for the help and co-operation it has given the Government in this overhaul of the Motor Dealers Act. As I said when I introduced the bill, the vast majority of the industry shares with the Government and consumers the desire that consumers be protected and that the market be conducted in an orderly and fair manner. I have one minor amendment to make to the bill in Committee. I commend the bill to the House.

Mr DOWD (Lane Cove) [4.48]: At the introductory stage it was not lightly that I described the Minister's actions as bleating. That was intended not to reflect on him personally but to indicate that the Minister is wont to make statements suggesting that he is in consultation with this or that group. That simply means that he talks or listens to them. There is no variation in the legislation as a result of those discussions. He tells them that he will administer the Act fairly and will not be difficult, but that is of no use to the industry when the House has to consider the sort of discretions contained in the proposed amendments. I was disappointed that the Minister was unable to provide me with a copy of his second reading speech until three or four minutes before he rose to introduce the bill. I appreciate his difficulties in administering his department and this Act, but as the Minister has been talking, and indeed bleating, about the industry for some time I should have thought that honourable members on this side would have received more notice of his speech on such an important measure. The Minister has been talking at great length about the changes that he proposes to make in the Act, but some of the provisions that he has heralded have proved to be rather damp squids. He has failed to grasp the nettle in regard to the problems of this troubled and troublesome industry.

I turn first to the major failure of the bill. The Minister knows only too well that a large section of the secondhand car market is operating outside the provisions of the Act. This creates two major and serious problems. The first is the Minister's failure to deal with the expanding private sector either in the car markets or backyard operators and people posing as backyard operators. In his bill he has failed to grasp the problems implicit in the existing Act. Obviously the Minister has had consultations

with the Motor Traders Association which is no doubt delighted that the **value** limit of **\$500** is to **be** raised to \$1,500, but it amounts to a cost-of-living adjustment and in two years' time the **\$1,500** limit will **be**, in effect, exactly what it was in 1974.

Notwithstanding that the Minister has been responsible for the legislation for two and a half years and has not changed it during that time, it is a welcome relief to motor **dealers** to have the sum raised before the warranty provisions apply to **\$1,500**, and a consequential change from the present **\$1,500** to **\$3,000**. This will enable a lot of motor vehicles to be traded and sold by secondhand car dealers who previously had to cast **them** aside. The federal Government is curing the nation's inflation problems. Those problems are not of the same magnitude as they were under the Whitlam Government when inflation was rampant and the **\$500** limit became absurd over but a few years. With inflation coming down to **5** per cent there will not be the need to amend the Act **so** often. Following the Minister's delaying making amendments for two and a half years, the trade may be so pleased to have the **\$500** limit raised that it will not object to some of the other provisions in the bill.

The primary problem is the massive increase in power granted to the Minister, the **Commissioner** for Consumer Affairs and his **department** to exercise discretions, allow exemptions and to prescribe by regulation. There is no reason why the trade should not be told the nature of those regulations. The Minister has given some indications to some sections of the industry. If he has already formulated the regulations, this Parliament and the trade should be made aware of them. If the regulations are ready to prescribe, why are they not available now? If the Minister does not have them ready, that means that honourable members are debating a bill that the Minister has not yet thought through.

I give notice that at the conclusion of my remarks I shall move an amendment to delay the debate for two months to allow the motor industry sufficient time to consider just what the Minister is all about. If some of the things that he proposes in the bill come into effect they will have a catastrophic effect—and I use the word advisedly—on the industry. The Minister should allow proper time to consider the effect that this fairly complicated measure will have and to enable the industry time to bring forward suggestions for legislation that will balance the interests of both the consumers and the industry. It is easy to trade off the unpopularity of second-hand car dealers. Would anyone buy a used car from the Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies?

Mr Einfeld: The honourable member is the one who presents a challenge. Who would buy a used **car** from him?

Mr DOWD: I have not had the personal experience that the Minister has had in dealing with the industry. It is easy to attack a trade such as the motor trade without appreciating the large section of the community that is involved. Often the Government bleats about unemployment. One hopes that General Motors-Holden's new Commodore **model** is so successful that another assembly line is established in New South Wales and stimulates more employment. One cannot ignore the fact that thousands of people are directly employed and many more indirectly in the motor industry. The Minister must bear the responsibility if disruption is caused to the industry by his legislation.

The industry has heard for a considerable **time** the Minister saying what he will do about warranties and so on. In his second reading speech he ducked that difficult question by offering some apologetic expressions about the Government still looking at the matter. It should have spent some time over the past two and a half years facing the problem rather than ducking it. The Minister has failed to deal with the important question of backyard operators. **He** has totally abdicated his responsibility

towards genuine backyard operators; those who are not dealers but persons who operate through front men, or persons who do up a couple of cars and sell them to supplement their income. We are dealing with a most complicated industry. The Minister should have grasped the nettle.

As the Government continues to restrict motor dealers, that is, people who are worth suing and seeking recovery from, it creates more problems for the community. A large section of the community is buying through the markets, with which the Minister dealt in part, and more people will turn away from dealers or those worth suing. This will result in more problems for consumers. But what is most important is that a greater number of dangerous cars will be on the roads. One aim of the legislation is to ensure that unroadworthy vehicles are removed from our roads. When the Liberal and Country parties were in government they introduced legislation that got rid of a large section of unscrupulous operators within the industry. Quite properly many of them ceased to operate as a result of the legislation. The Minister is well aware that an enormous section of the public is buying vehicles that are less than roadworthy and create great hazards on the roads. There is no point in the Government's talking about road accident statistics, part of which are the result of unsatisfactory vehicles, if it is not willing to deal with the section of the industry to which I have referred.

The big failure of the present bill is the increase in consumer cost. The reason the consumer movement has had to be supported over the past two decades is the failure of the Legislature to deal with the inadequacies of legislation such as the Sale of Goods Act. That Act and the power to exclude implied warranties were the two fields in which to give the public greater protection than it has now. That failure and the failure of the legal system to provide a remedy brought about the need for the sort of measure that the House is now debating. The Legislature failed in the past two decades to grapple with the problems of the sale of goods and hence there was the growth of consumerism. It must be remembered that notwithstanding how laudible, important and necessary it may be, every measure to protect the consumer is at the consumer's expense.

The Minister's own figures about the additional cost to the purchaser underline the fact that a whole range of vehicles is now being purchased outside the protection of the warranty provided by the Act. I point out to the Minister a serious and fundamental error that he makes in the amendment to the Act. I refer to the provisions relating to the certificate of inspection to be provided by the market operator or the dealer in certain circumstances. A certificate of inspection under the Motor Traffic Act was designed for a specific purpose when that Act was conceived. It was intended that it should give protection to an owner registering his own car. It is clear, as a matter of law, that in certain circumstances there is a liability attaching to the person issuing that certificate.

A person who has a faulty vehicle might get a certificate of inspection despite a fault of which he is well aware. He might then sue for negligence the person who issued the certificate of inspection. In those circumstances, the person issuing the certificate would have certain defences available to him, but he carries the onus of proving that the owner ought to have been aware of the defect. Obviously defects of which the owner has no knowledge will be picked up under the stringent rules for the issue of certificates of inspection provided under the Motor Traffic Act.

Service station proprietors, the association, and those issuing certificates who now take legal advice are correctly advised that they are in a minefield when they issue certificates. The certificate for which they receive a fee of \$6, \$10 or \$20 brings them into a situation where they may be liable for the consequences of negligence in failing to pick up a defect. If that is the case a person may be injured as a result

*Mr Dowd*



of a failure of some part of the car and the person issuing the certificate becomes legally responsible in damages. The fee he receives for the issue of the certificate of inspection is negligible compared with the potential risk, as the damages may be astronomical. From the point of view of money, people may be reluctant to issue certificates of inspection. Some do not issue them. That is the position under the existing law.

Is the Minister opening a new Pandora's box by the proposed bill? We are not dealing with an owner who should know the defects in his vehicle, or a person issuing the certificate who can say to the owner that he knew the brakes were faulty because he had driven the car for so long. This is not a case of the service station proprietor who says that the owner knew that the tyres were bad but that he let it go this time even though the owner had said there was not as much tread on the tyres as there ought to be. That is not what we are dealing with here. By the legislation the Minister is creating the situation whereby somebody will rely on a certificate of inspection under the Motor Traffic Act when he buys the vehicle, not having had the opportunity himself to test the validity and efficacy of the certificate.

The pink slips issued under the Motor Traffic Act, which are not in any way being changed by the bill, will become the greatest instrument of liability for people issuing certificates of inspection under the developing law as to negligence. By issuing a certificate one is becoming the underwriter, the insurer of damage arising to the vehicle. That is, assuming that the same vehicle, with all the same parts, is still being driven in a month's time. I shall deal with that aspect shortly.

I do not think the Minister realizes that once a service station proprietor, or a person who issues certificates of inspection, is asked to issue them knowing that they will be relied on by a new purchaser, there is no way, in safety and for the fee he gets, that he can undertake that responsibility. It is my view that within a short space of time and when proper advice is given the Service Station Association of N.S.W. will inform the Minister for Transport that its members can no longer issue certificates of inspection to be relied on for the purposes of the Motor Dealers Act. Once that happens the legislation will collapse completely. The Motor Traffic Act will collapse as will the provisions for the issuing of certificates upon which registration is based. When that happens a section of the industry will collapse.

In dealing with the Motor Dealers Act, the Minister is building on to the Motor Traffic Act certificate of inspection something that it was not designed to bear. It is too weak a reed to hide behind. The Minister's failure to deal with the whole question of warranty and the sale of goods problem, which really is the basis for so many claims and complaints under the Act, will result in what I have predicted. I say again to the Minister that he should go away and receive proper advice about what he is doing with the Motor Dealers Act, in obliging people to issue certificates of inspection for the purposes of another Act entirely and which create a legal liability on the part of the person who issues the certificate. Doubtless in many cases those people will refuse to give the certificates because they are not paid enough.

The Minister has indicated that he would not mind a slight increase in the amount of the fee involved. If one could double, treble or multiply the fee one hundredfold, it would not be sufficient if those issuing the certificates were sued. The House is dealing with legislation that has in it a fundamental error of logic by placing so much emphasis on the certificate of inspection. Every honourable member, however disinterested he or she may be in the legislation, particularly Labor Party members, has a duty to every motor dealer constituent and every person who relies on a certificate of inspection, to find out exactly what the Minister is doing. Few Labor Party members have bothered to read the legislation. Had they done so they would have come into the House and asked the Minister what it was about. They would have had motor vehicle dealers coming to them to ask what the legislation was about.

In response to those who say that they cannot get a certificate of inspection, because the service station proprietor refuses to issue one, the Minister will doubtless say that those people will be compelled to issue the little pink inspection certificate. Is that the sort of approach there is to be? Is it to be one of compulsion? People will not become authorized inspectors because they will not be receiving enough **money** to reward them for the time they spend issuing a certificate of inspection. The trifling fee paid now does not warrant the time spent. Most service station proprietors who are sensible businessmen issue the certificate only to keep their customers—unless they have a deal going. If they have any sense they will opt out of this field altogether and tell their customers to get the certificate somewhere else. Is it safe to assume that the car is in perfect working order or reasonable **working** order and that the car being sold still has on it the parts that were inspected earlier?

The Minister, in hiding behind a certificate of inspection, is forgetting that it has nothing to do with identifying the tyres, accessories or any other part of a vehicle. A certificate of inspection does not identify whether the wheels, jack, axles, differential, gearbox or whatever are identical to those on the vehicle at the time of inspection.

Mr Einfeld: If the honourable member for Lane Cove were to argue a case in court in this manner it is a wonder that he is ever successful. He is arguing a case on complete misinformation. There is something wrong with him. Nobody would brief him to argue a case in court.

Mr DOWD: Obviously the Minister will in some way justify his action in requiring the issue of certificates of inspection. He commits a serious error if he thinks he can gloss that over with the sort of comments he has just made. It would appear that the Minister does not realize what he is doing. If he does know what he is doing he is doing a great disservice to the trade and its effect upon the people of this State. The certificate as envisaged under amended section 46 is the wrong instrument to use. Certificates will be of no use to the public if they cannot get them. If there is any interference with the parts of a vehicle after the certificate is issued, there is no way in the world that the customer can rely on the fact that a certificate has been issued. That is elementary. There is to be no stamping of tyres or other parts. There will be no identification at all of parts and accessories.

The Minister has demonstrated a total misunderstanding of the **use** of the provision. Of course, that leaves aside the whole question of dishonesty and fraud that goes on in the issue of certificates. Every member of this House has had some experience in this field; indeed, few people who drive motor vehicles have not had some experience of how easy it is to obtain a certificate of inspection. In fact, a frightening number of certificates are issued without any inspection of the vehicle. That is serious, but it does happen and we are all aware of it. Some of it happens out of good intentions. There is an attitude of, "The car looks all right so it will be all right and I will issue a certificate." That is negligence, but it happens. The Minister is well aware that many people gloss over defects in motor vehicles and that many certificates of inspection are not properly issued. Motor transport inspectors are good at disciplining people who falsify certificates. That can be done only when the people involved are found out, and usually it takes quite a while to track them down after a pattern has been established. Motor transport inspectors are human beings and, though most are honest, some have been known to turn a blind eye. If the Minister suggests otherwise he is even more naive than I thought—though whatever else I might say about him, he does not seem to be naive.

The regulation-making power in this bill is couched in the widest of **terms**. Probably the best way to illustrate this is the provision giving the commissioner power to decide whether to issue a licence. In no way do I cast any aspersion upon the

competence or integrity of the commissioner when I criticize this legislation and the way it will work. The commissioner is a person of the utmost integrity. I have the utmost regard for him. I am talking about a measure that deals not with personalities but with future holders of this office. The commissioner's staff will not control the issue of licences. That would not be possible. This is the sort of thing that we must look at in the bill, which proposes to insert a new subsection (2A) in section 13 in these terms:

The Commissioner shall not grant a dealer's licence unless he is satisfied—

- (a) in the case of an application by an individual or a corporation, that the individual or corporation, as the case may be, has sufficient material and financial resources to comply with the requirements of this Act . . . . .

What an extraordinary provision to include in legislation. On many occasions a motor vehicle dealer will get his brother or some other relative or a friend to set up a car market operation or some sort of dealership under this Act. The discretion allowed as to whether that person is suitable is absolute and will lead to corruption. If a man of straw applies for a licence and shows he has substantial assets, six months later he may have lost that status and have no assets. It is anathema to Parliament to couch legislation in these terms. It is not capable of intelligent understanding. It underlines the problems that the public and the motor trade will face. They will be required to deal with a pig in a poke. There are far too many powers and discretions in this measure.

Mr Whelan: A pig in a poke, you say?

Mr DOWD: I notice that several Government supporters take umbrage, ostensibly on the Minister's behalf, at my use of that expression. In no way was I applying that to the Minister. It is regrettable that his colleagues should do so.

Mr Einfeld: They were talking about my diet.

Mr DOWD: It is regrettable that the honourable member for Ashfield and the honourable member for Parramatta—who is attempting to interject—should be so disparaging of their ministerial colleague. On the Minister's behalf I take umbrage that they should do so. Perhaps I should excuse the honourable member for Ashfield as he would not understand much about pork. I shall not go into what the honourable member for Parramatta understands, as that is yet to be demonstrated to the House. We are dealing with far too many discretions and powers allotted to those whom I might classify as minor public servants. That is totally unsatisfactory to the Opposition, and it ought to be to the Government.

When the Motor Dealers Bill was debated in this House in 1974 many so-called wonderful amendments were put forward by the Labor Opposition. It is interesting to note that many of them have fallen by the wayside and are not included in this bulky amending bill. The honourable member for Drummoyne moved some fundamental, and what he termed important, amendments, though he is strangely silent on this occasion. The people of New South Wales should **not** be subject to legislation that offers so **many** powers to so many people in so many fundamental areas. The Minister ought to allow time for the trade and the public to evaluate exactly what is **proposed** in the bill. We ask him either to produce the proposed regulations or, if they are not available, to explain why.

The trade is given no protection for the future because it does not know **how** individual Ministers will exercise their discretion. Section 44 of the **Act**, which **deals** with the waiver of rights, has been under this Minister applied in the strictest of terms to a person waiving rights conferred under the Act. I know of a particular case in **which** the purchaser, clearly understanding his rights in waiving the provisions, applied for exemption but it was not granted. I do not know if it was dealt **with by the Minister** or at another level. However, the problem with granting discretion is that there is no certainty and people investing money in the trade are **uncertain**. The Minister has failed to deal with the problem, and has introduced a whole series of other discretions. The Minister has made many noises about backyard operators, but has done absolutely nothing in this legislation to stop them.

Mr **Einfeld**: Well, what do you suggest?

Mr **DOWD**: I thank the Minister for at least seeing fit to consult somebody on the bill.

Mr **Einfeld**: I admit I **am** asking someone very weak, but what do you suggest?

Mr **DOWD**: It underlines that the Minister ought to have consulted many more people before he brought this bill into this Chamber. He admits his failure to deal with backyard operators, about whom he has been talking for two years. I would have been pleased if the Minister had invited me earlier to sit down with him to try and work out some intelligent amendments to this legislation. I am not surprised by the Minister's total failure, but I am surprised that he took so long to realize that this problem is a little harder than the headline hunting that he indulged in when grappling with the sale of goods area. This area of backyard operators and implied and express warranties present many difficulties. That is where the problem lies, not in the sort of promises made by the Minister about including warranties under this Act. The Minister is further regulating dealers, and will turn a large section of the industry into the hands of the backyard operators.

I am concerned about what the Minister intends to do about licensing and regulating car market operators. It is interesting that the real beneficiaries of this legislation are the auction operators. The Minister either intends seriously to limit the market operators or to destroy their activity altogether, or he does not know what he is doing. I have not known the Minister long enough to form a view on **which** of those alternatives is the more probable. If he proposes to destroy the car market operators altogether, he **should** have had the honesty and frankness to tell them what he was doing. Under the new provisions in the bill there **will** be an extraordinary provision attaching to the car market operator. I cannot imagine that the Minister does not understand what he is bringing in, but after reading what he **says** in the press, one never knows. If any person incurs a loss in connection with a sale, the market operator has to pick up the bill. He is the man who lets out a **space** for a relatively small fee.

It is a good business, obviously going very well, but suddenly Mr Bloggs puts his car on the sales lot. If he can be found, Bloggs is responsible for any breach of warranty given or implied, unless it has been excluded. However, if he is not available to be sued, the car market operator could be responsible. The small fee charged by the car market operator bears no relationship to the amount of money needed to give him sufficient **funds** to cover the potential risk involved. The car market operator becomes the underwriter or insurer of every sale that takes place in the market.

Under these circumstances, the whole car market operation will collapse. That will not please the consumers about whom the Minister is talking. Indeed, it will cause a section of an integral industry to collapse, or it will so severely limit the operation of the car markets that there will be a return to the backyard operators. If the Minister knows what he is doing, he should know that the definition of a car market operator is very wide. I do not think he realizes how wide it is. A car market operator is defined as a person who carries on the business of providing a site for a market for the sale by other persons of secondhand motor vehicles. If the Anglican Church or the Jewish Board of Deputies let out land they owned for any purpose at all and it was then taken up by a car market operator, the owner of the land may come within the definition.

Mr Einfeld: You are quite wrong. You had better consult a lawyer.

Mr DOWD: The Minister tells me that my suggestion is wrong. He says that if in fact I have a site on which there is a car market operation, I am not the person who carries on the business of providing the site. I wish the Minister would find out exactly as a matter of law what happens. If I own a site and rent it to somebody else to operate a car market, it comes squarely within that definition. The Minister, before he starts criticizing me about being wrong, ought to make sure that he reads the bill.

The whole area of car market operation and its future is very much in doubt. As the Minister well knows—or ought to know—every section of this industry is affected by what happens in every other section. There is no other industry that is so dependent and interrelated. The number of secondhand cars is related to new cars, and the extent of warranty provisions is related all the way through, from the top-of-the-range operator to the person selling very cheap cars, which is a dangerous and expensive end of the market so far as warranty is concerned. If the Minister is aiming at destroying the car market operator, he is well on the way to doing it, first, because of the draconian provisions that he puts on the operator, second, because of the use of the certificate of inspection, which is a weak reed on which to base this legislation and, third, because the regulation-making provisions will bring a great change in this area of the industry. I hope the Minister will take the time to look at what he is doing in this field.

Before dealing with accessories I shall mention certain matters in the Minister's second reading speech relating to important improvements that he is introducing. The Minister complains when I criticize him. It is a pity he cannot listen when I say things in his favour. Also, the honourable member for Ashfield needs a lot of advice if he is going to speak on the bill. The Minister very wisely is bringing the provisions of the Act under the jurisdiction of the District Court. That is a wise amendment—and my comment involves no criticism of the industrial court system. However, the District Court judges have shown themselves to be eminently suited for dealing with matters of this kind. This is a sensible amendment.

The inclusion of demonstrator vehicles is an important and necessary provision to close a gap in the existing legislation. The attempt to bring in motor vehicle consultants is also an important advance, for which I commend the Minister, as it is an important link in the whole chain. Too many people are operating outside the Act and they should be subject to the same conditions as those that have to be met by dealers. Accessories for high priced motor vehicles do not represent a major problem in the industry. The smart operator fulfils his obligations in regard to the sale of expensive accessories. The problem is with cars at the lower end of the market. Under the provisions of the bill dealers who sell cars to the average citizen are in a real

dilemma because the Minister is casting the net too wide in the obligations to be imposed on dealers to warrant a part for a car. Before the dealer can tell whether or not some accessories are any good he has to go through the expensive operation of removing the part from the vehicle to inspect it. Jacks and spare tyres are **important** accessories and should be brought in under the Act, but it would be cheaper for a dealer to remove an expensive radio and install in its place a cheap new one that might last for a month or more. It could be sold either separately or with the vehicle. This would not operate to the benefit of the consumer.

I have indicated the Opposition's approval of the provision to increase the car value limits for warranty from \$500 to \$1,500 and, in turn, from \$1,500 to \$3,000. However, the Minister has not used the correct machinery to provide for the giving of a current certificate of roadworthiness. That provision will not **succeed**. Honourable members on this side agree that it is necessary to correct the anomaly that existed in relation to off-the-road vehicles by redefining commercial vehicles. They also applaud the provisions relating to demonstrator vehicle accessories, but this area has created serious problems for motor dealer operators. Often a dealer will take out many useful accessories rather than bear a potentially large responsibility. Some accessories are expensive and do not warrant the risk involved. **Although** the terms of the provision are far too wide, the Opposition applauds the **measure** to prevent consumers having to exhaust all available remedies before the commissioner is able to certify the loss and give access to the fund. That is a necessary amendment to the Act, although I should have preferred that it had not been drafted in such wide discretionary terms.

I was concerned that the Minister dealt with part 4 of the Act in such glowing terms without really understanding or, if he did understand, glossing over the provisions of proposed new section 24. The bill is intended to apply to expensive new motor vehicles, most of which have some damage when brought into Australia, and the dealer in new motor vehicles is placed in the position of not knowing what is prescribed. The Government professes to be an open government, but the Minister has failed to fulfil **that** promise. The House has before it the extraordinary provision that the dealer is imputed to be aware of some damage that would have been discovered on reasonable inspection. What is a reasonable inspection of a new car? A hairline crack in the chassis caused, perhaps by a vehicle being dropped, could not possibly be seen as readily as other damage. The dealer has to determine what is a reasonable inspection, but the cost of this will be passed on to the consumer. It could cost much more for a dealer to carry out a proper inspection, even if he is not able to locate damage that has been done to the vehicle. A ripple can occur in the roof of a high-priced vehicle when it is accidentally dropped in loading or unloading, or even in the factory. **That** cannot easily be detected visually, but it can be detected by the use of special machinery.

How does the new car dealer have the slightest idea whether or not he has carried out a reasonable inspection? Labour costs in motor vehicle repairs are so expensive. That provision is too wide and the House should consider redrafting the provision in regard to the discretion that the Minister has over prescribed vehicles as to what constitutes reasonable inspection. It is interesting to note that the Minister, having begun his speech by talking about rationalizing the industry, then came down to the real crux of it and referred to policing and regulating the industry.

Mr Einfeld: You have put in a great plea for dealers all afternoon. Why not think about the consumers?

Mr DOWD: The Minister by his interjection emphasizes what I say. It sounded good when the Minister used the term rationalizing, but he finally lapsed into the use of the real words with which he is concerned—policing and controlling the

industry. His catchwords are regulation and control exercised by the Government through the Minister. There are many other provisions in the legislation, such as the prescribed "not for sale" sign to prevent operators from using a small sign when a vehicle is really for sale but has been marked as not for sale. The Minister should give attention to this matter and prevent the use of false notices, but why not let the trade into the secret of the size of the notice that should be displayed? When referring to car markets and backyard operators the Minister said:

The Government's reaction to the first complaint is that it is not a government's business to discourage or prevent private sales. If it were, the same sort of official intervention would have to be made in respect of classified advertisements in the newspapers. Buyers should be aware that, when they go into the private market place, they are in large measure responsible for the results.

This is the Minister who is concerned for the consumer—*caveat emptor*. The Minister is regulating the dealers, but I am concerned about the purchasers, to see that by the provisions of this Act they are given something that is worth having. That is what is wrong with the measure. The Minister knows well that under the present costly court proceedings it is difficult to find and catch unscrupulous vendors. Having instituted actions against them, having obtained judgments against them, one still has to recover the money. It is virtually impossible, with the provisions for payment by instalments, to get one's money back if the person is a man of straw.

I do not complain about the registration and other procedures that motor dealers have to carry out; it is proper that they should keep records. By further regulating the industry and the people from whom the public can recover, the Minister will at some time in the future become aware that he has created an enormous market of people dealing away from motor dealers. I am not concerned so much with the dealers as with those whom they employ and with the other effects on the community. The Minister said that the Government has found no active conclusive evidence that by and large dealers, licensed or unlicensed, are using car markets to avoid the Act. That is absolute and utter nonsense. I find it impossible to accept that the Minister believes that statement. He knows as well as every other honourable member that those people who are so beautifully protected by him under this Act are attending the auctions and buying secondhand vehicles at wholesale prices, doing a little bit of repair work on them, and then selling them as private sales after loading an enormous amount on to the purchase price.

The public is being conned by the Minister's saying that he will deal with something and then totally abdicating his responsibility. He said that it was up to the public and not his responsibility. Although he is the Minister responsible to the electors for consumer affairs, he has totally abdicated his responsibility. He runs away from auctioneers' warranting sales to the general public as against sales to people in the trade. For all his trumpeting about protecting consumers, the Minister through this measure is abdicating his responsibility to those people. He even has the gall to say that the Government is looking at this question. He said that it is not the Government's function to stuff protection down the public's neck if they do not want it. That is great stuff. The Government regards it as its function to stuff down the necks of the people of New South Wales more legislation than is enacted in any other State of the Commonwealth. The Minister has decided that the poor suffering auctioneers do not have to provide warranties. He contends that those auctions are an occasion on which the private citizen has traditionally had the right to accept responsibility for a private transaction. That is a lot of codswallop for the Minister to put forward at a time when he is regulating the trade itself.

I have stated that the Opposition is disappointed that the Minister has introduced this measure after the Service Station Association saw the Minister for Transport and, directly or indirectly, understood that it would not come on this year. That association wished to discuss the provision relating to certificates of inspection. The Minister has tried to con the people into thinking that he is affording them some sort of protection, when he well knows that the whole provision is suspect and that, as a matter of law, that provision will collapse.

The car market operators have not been told that the Minister will bring about the destruction or severe limitation of the markets. As a result, prospective purchasers of cars will go back to the backyard operators. As I said previously, the Opposition applauds the increase to \$1,500 in the amount below which the warranty provisions do not apply. There are also other areas in which the Minister has correctly sought to amend the Act that was pioneered in 1974 with the capable assistance of the officers of the Department of Consumer Affairs. The Minister has failed to grasp the nettle and to deal with these provisions that he has talked about but failed to bring into being. The Minister does not appear to be interested in what I am saying.

Mr Einfeld: Much of what the honourable member says is uninteresting.

Mr DOWD: When we have a Minister for Consumer Affairs who likes only to hear himself speak it is impossible for Opposition members to interest him. Schedule 9 of the bill has a rather extraordinary provision dealing with the obligation of a dealer to repair defects. The schedule provides that the period of the warranty is twelve months less one month for each 2 000 kilometres a vehicle has been driven before it is sold by the dealer. If a car is hardly driven at all, a greater obligation is created for, say, a vehicle that has been used as a demonstrator, than in relation to secondhand motor vehicles. The Minister should ask himself whether that is what he intended.

I do not suggest for a moment that there is any easy way to deal with the question of warranties with backyard operators and private sales. I do not suggest that the Minister has failed by not coming up with a solution. All I am suggesting is his failure to be honest with the public and the Parliament when he said that he would do something. The Minister should have read a little bit more about the legislation and learnt a little more about the trade before he opened his mouth to grab a few headlines. He has failed totally. I should have thought he could have done something about the compensation fund if he were really concerned to help employment. According to the consumer affairs report, as at 30th June last the fund had a credit of **\$288,663**. The commissioner ordered compensation to be paid amounting to some \$7,300. Even allowing for pending claims, the industry is entitled to some relief.

The Minister has failed to understand that the whole measure is designed to afford a remedy to the person buying a motor vehicle. In the performance of a contract the person receiving the money rarely has a problem—it is the person buying the vehicle. It is detrimental to a consumer purchaser to deprive him of a remedy. If the Minister thinks that by making it more difficult for dealers he is assisting consumers, and that by my speaking about those outside the protection of the Act I am in favour of the dealer, then he has a lot less understanding of his portfolio than I had previously realized. The Minister should understand that the former Government brought in this Act to make sure the consumer was protected. The Opposition seeks a two-month delay in the passage of the bill so that the trade may understand what is happening, the Minister may be afforded an opportunity to explain to the public what he is doing, and the Opposition may look at the proposed regulations. Therefore, **I mwe:**



That the question be amended by leaving out the word "now" with a view to inserting the words "this day two months".

**Mr WHELAN** (Ashfield) [5.50]: I am grateful for the opportunity to **speak** for a few minutes about this important legislation, the Motor Dealers (Amendment) Bill. For the last hour or so I listened to the diatribe of the honourable member for Lane Cove. If anyone has a non-understanding or misunderstanding of the measure, he has. He talked about police regulation and supervisory control of the Department of Consumer Affairs. I remind him of the type of dealings to which consumers in New South Wales have been subjected in the past twelve months. I shall quote from the annual report of the Department of Consumer Affairs for 1977–78. I found in it an interesting case history. I am sure honourable members will agree with me that the Minister should be commended for bringing in this legislation, just **as** he has introduced other valuable measures. The report to which I have referred reads:

It is perhaps appropriate in this Report to reveal some of the more significant prosecutions undertaken during the year. Larry James Earle was convicted in respect of breaches of the Motor Dealers Act and the Consumer Protection Act following a complaint made by a licensed motor dealer. **Mr** Earle had purchased a Peugeot motor vehicle from a licensed motor dealer at a price of \$5,995, the vehicle then having an odometer reading of 98,226 kms. Approximately one month later **Mr** Earle traded the same vehicle to another licensed motor dealer for \$7,950, but on this occasion the reading on the same odometer was 27,351 kms. For the offence of winding back his odometer **Mr** Earle was convicted under Section 47 of the Motor Dealers Act, and fined the maximum penalty of \$500. For completing a false trade-in declaration he was convicted of an offence of false advertising under the Consumer Protection Act and fined \$1,000.

In one instance **Mr** Earle made a profit of \$2,000. In the second instance, notwithstanding that he had fraudulently altered the odometer he made a profit of \$500. The report speaks for itself. Unfortunately, when the people who now occupy the Opposition benches were in government under their legislation crime was allowed to pay. A great need exists for this amending bill. It is quite clear that the bill is a five-point plan to improve the lot of consumers and car dealers alike. It will rationalize the supervisory or consultative role of the Minister and the Director of Consumer Affairs. Clearly, the measure is part of the Government's continuing process to improve the position of the consumer and the dealer in the market place, without prejudice to either of them.

**Mr Schipp**: He has been brainwashed.

**Mr WHELAN**: The Minister has not been brainwashed. When the original legislation was introduced in 1974 the honourable member for **Maitland** was the Minister responsible for it. In his second reading speech on the bill the honourable member for **Maitland** said that the measure was part of the continuing process of consumerism to improve the lot of consumers as well as dealers. As the Minister has rightly pointed out, this proposition will not affect dealers adversely. In fact, it will enhance the position they hold in the market place. The dissatisfaction of consumers is the result of unethical practices by the unscrupulous few in the motor industry. The bill is necessary because of a breakdown in the law. Regrettably, there has been an unwillingness to protect purchasers and to provide strict limitations on the principle of *caveat emptor*.

It may be that the answer to this problem lies in legislative definitions of conditions and warranties in contracts. Whatever be the answer, I am sure the Minister will find a remedy for the difficulties. I am a little concerned about a few propositions in the measure but I am sure that the Minister will be able to allay my fears. I am

worried about the certificates of roadworthiness that might be supplied. The fee of \$6 will not provide adequate protection of future purchasers. I am concerned that large organizations will employ their own mechanics with some sort of implied pressure on the mechanics not to complete the report, or if they do, instead of writing "good" they may put a tick in a square. If a fault is present it might be shown as only a **marginal** fault. The bill will overcome the problem of protecting a prospective purchaser who will be able to rely on that in a future court case.

Mr Dowd: Come on now.

Mr **WHELAN**: The honourable member for Lane Cove has had his go. He drove everybody mad while he was speaking. He mentioned sheep and pigs. I thought for a moment that I was at the zoo but when I looked at the Opposition benches I realized that I must have been at a circus. The Minister came up with constructive solutions to problems. Honourable members opposite did not suggest that the National Roads and Motorists Association should issue certificates of roadworthiness, nor did they mention the possibility of weekend inspection services at which young people could be trained in matters appertaining to motor vehicles. This is the age of the computer. Might it not be possible to have defects of cars listed in computer banks. The Opposition is supposed to have all the constructive members in the Parliament.

The reports of the Commissioner for Motor Transport for the years ended 30th June, 1976, and 30th June, 1977, highlight difficulties associated with the inspection of motor vehicles. For the year ended 30th June, 1976, only 47.5 per cent of 5 000 vehicles inspected were found to be in a satisfactory condition. Similar figures are shown in the report for the year ended 30th June, 1977. Quite clearly, the problem of consumerism is a problem of education. Some of the old cars on our roads should be given to the schools for the purpose of educating young people and potential car buyers in car marketing. The educational value of that would be unlimited. It would help young people to drive cars better and also to understand how they operate. They would understand what they could expect in a car, either new or old.

As honourable members know, the electorate of **Ashfield** has many car yards and many motor dealers, all of whom are extremely honourable. I have had the opportunity to discuss the bill with them. The Opposition has been misinformed when it claims that people in the motor trading world have not been consulted. The journal of the National Roads and Motorists Association, *Open Road*, mooted the legislation in its November 1977 issue. There is no doubt that full and adequate consultation has been held with motor traders throughout New South Wales. They are quite happy with the bill. The only suggestion I can give to the Minister is that in reference to actions going before the commercial causes list of the Supreme Court of New South Wales he might consult with the Attorney-General with a view to expanding the provisions of the District Court Act to provide for a minor type of commercial cause for people who wish to follow up complaints.

*[Mr Speaker left the chair at 5.59 p.m. The House resumed at 7.30 p.m.]*

Mr **McDONALD** (Kirribilli), Deputy Leader of the Opposition [7.30]: I support the amendment moved by my colleague, the honourable member for Lane Cove. The bill before the House does not help the consumer. It does not offer protection where it is most needed, namely, in illegal backyard dealings. It makes the likelihood of the consumer getting a rust bucket when purchasing a vehicle at a price under the warranty ceiling of \$1,500 even more real than it is today. It will increase costs to dealers of new and used cars. Consumer legislation involves increased **cost**. The Minister himself has acknowledged that, though he haggles about the extent of it.

The bill introduces totally new categories. One is the car market operator, a category sandwiched between all sorts of contradictions. It ignores completely questions fundamental to the industry. It provides incentives to dealers to soften the blow by not referring to matters vital to them. Its concessions to the motor vehicle business are made the expense of the consumer. It introduces expansive and unhealthy ministerial discretion which, in most instances, involves the suppression of much needed information and the avoidance of proper definition. The bill is clearly inadequate. It is a document confused in its intention and confusing in its content.

I want to talk in detail about some questions raised in this measure. Particularly do I want to address myself to the ministerial discretion. The explanatory note does anything but explain. At the outset it states that for the purpose of the Act a motor vehicle encompasses specified accessories. That is to be found in proposed section 4 (1). What this **entails** ought to be obvious. Proposed section 27 (1) specifies the onus on a dealer to repair or make good a defect so that the vehicle is in a reasonable condition having regard to its age, and so on. What do those words mean? Do they mean the same to the Minister as they do to a dealer? How does a dealer make good a two-year-old wireless in a ten-year old car? How does the dealer know the age of the wireless? What is a reasonable condition for a five-year-old air-conditioning unit. Who decides? Where are the guidelines? There is none.

This kind of legislation is good for lawyers but certainly not good for the public. It invites disputes and litigation. It retards the progress of the industry as a result of its indecisiveness. The bill is full of it. This kind of ministerial discretion invalidates the bill. We are told that consumer protection does not extend to commercial vehicles or to vehicles the cash price of which exceeds **\$20,000** or such greater amount as may be prescribed. What has induced that arbitrariness? Why has not a small businessman the same need for protection in the purchase of his commercial vehicle as he gets for his motor vehicle? What rationale brings about such a decision? Again there is proof that the rules are for some but not for others. The Motor Traders Association has said that such a situation is just not good enough. No fair-minded person would disagree.

Paragraph (c) of the explanatory note is quite fascinating. Decisions will be made by ministerial fiat. I have said the bill is full of ministerial discretions. Some might say this power could be used as the tool of the tyrant. Proposed section 22 (d) refers to a motor vehicle consultant's register. Subsection (1) provides:

The holder of a motor vehicle consultant's licence shall, if the regulations so provide, keep a motor vehicle consultant's register, in the prescribed form, at the place of business in respect of which the licence is granted.

What is meant by the term, if the regulations so provide? Why are we not told that? Proposed subsection (3) says that certain requirements must be complied with in relation to a prescribed transaction at the prescribed time. Why **does** the **Minister** need such explicit discretionary powers which do not allow dealers or the public to know where they stand? This is already borne out by the Act which in section 7 allows further prescriptive powers for the Minister. Some such powers are necessary, though legislation deceives rather than informs should it be carried to the extent it is in this bill.

Subsections (2) and (5) and (7) of **proposed section 24** continue along this line. They refer to the notice in a prescribed form which is in different contexts a register, a disposal notice, the dealer notice for attaching to a secondhand motor vehicle, and so on. Details of such notices were clearly prescribed at page 28 and page 32 of the old Act. They are omitted in the new bill. Can this mean that the Minister will make more detailed **impositions** upon dealers about this information? **Why cannot**

dealers have this information now? Why cannot the Parliament have those details? The bill is inadequate without them. One wonders what hidden motives inspire their omission. Only the Minister knows. The Parliament should be told. One of the real weaknesses of the bill is that it moves into previously uncharted waters in relation to car market operators. Nowhere in the bill is the term car market defined. Yet, in one fell swoop this same person is **defined** as:

A person who carries on the business of providing a site for a market for the sale by other persons of secondhand motor vehicles, **whether** or not that site is used for any other purpose.

How many such people exist? What happens if, say, the Church of England, the Jewish Board of Deputies, the Sydney Markets Board, or some landed resident, is leasing land to someone specifically for the **sale** of secondhand motor vehicles? The bill explains the new liability of such persons. Proposed section **22c** subsection (2) specifically provides that such a car market operator shall keep a car market operator's register at the place of business. That is, after he has become licensed, which is central to this bill. No longer may the person providing the site be a detached third party and merely collect lease payments. By proposed section **22c** he must keep a register. That same section, in subsection (5), specifies that a person who sells a motor vehicle at a place at which a **car** market operator is carrying on business **shall** immediately notify the **car** marketing operator of the sale. What is the intent of that proposed subsection? Nowhere does it specify that the operator's agent or employee may act in his stead. What is more, **by** this bill no person may hold a dealer's licence and a car market operator's licence. I do not know, but are there people in the **industry** now who perform both functions? Maybe there are. Perhaps the Minister will explain. It may be that **the** dealer **can** lease one function to a third party.

Proposed section **2a** in paragraph (a) gives more extensive arbitrary **powers** to the commissioner to determine in respect of the dealer applicant whether he has sufficient material and financial resources. How can this be defined? What **does** it mean? What prerogative is to be passed on to the **commissioner**? What provision is there, if the protection of the consumer is uppermost, for such determination to be an on-going thing? It is not **good** enough. The confusion in this legislation goes even further. There is to be a new category known as car market operator. As I said before, the term car market is not defined. We are told also that no person can be a **dealer** and a car market operator. Yet, the car market operator, the person who **merely** owns the site for selling the cars, will have extensive liability.

Proposed section **29a** specifies **that** the operator and not the vendor is liable for any loss incurred by the purchaser in **relation** to an encumbered sale. **So**, presumably, the car market operator has to hang on every movement of the dealer so that he might be sure of the detail and nature of the sale. What is the purpose of this? What is its intention? The Minister is quizzical. **I should** be delighted if he **would** explain this. One can only presume—and legislation cannot be based on presumption—that proposed section **29b** will reduce the car market operator in relation to title to the **same** role **as** the auction.

What provision is there in the bill for the most difficult question of title? The **Minister** must be aware of this problem, yet he ignores it. Because he cannot solve it, he passes the problem not to the dealer but to the car market operator, who obviously cannot guarantee title; nothing at law **enables** him to determine title except the obligation on the seller to tell the truth. So to avoid the liability, he will put the

*Mr McDonald]*

required section **29B** notice on the car and, though it represents an implied warranty, namely, that he can guarantee all else but cannot exactly say the vehicle is unencumbered, it will have the effect of frightening off the buyer. He will be in the same role as if he went to an auction.

There is **not** a word **about** auctions in the bill, except in proposed section 28 (7), which provides that the warranty provisions do not apply "to the sale of motor vehicle by bona fide auction". So in one simple sentence the Government itself has conveniently opted out of the terms of the Act. What divinity enables the Government to be governed by separate rules from those applicable to the orthodox dealer? The Government disposes of its cars mainly at auctions. What is **an** auction? What is a bona fide auction, as referred to in the bill? We know they are excluded from the warranty provisions. Auctions are not defined, and well may dealers, the public and fair-minded people ask why there is all this bureaucratic strangling of the licensed dealer when life is made **so** easy for others. It defies explanation.

What is more, proposed new section **29B** (b) suggests the imbalance of the bill and the principal Act. I assumed that the purpose of the legislation was to guarantee warranty to the purchaser. Yet this subsection indicates, by inference, that vehicles can be sold without that warranty. If this be the case why then cannot section **44** be allowed to operate freely? Why does the **commissioner's** authority have to be obtained? In fact, in the controversial area of section **44**, it is time the Minister incorporated within the bill and the Act the principles that guide the commissioner to make decisions as to whether or not his approval is given to applications for exemption from warranty. Furthermore, there is no provision in the Act for having the commissioner's decision reviewed. I concur with many representations that I am sure the Minister has already received that these matters must be redressed and indeed should be here in the bill. I know from my **own** inquiries on this score that the potential to waive warranty, as provided by clause **44** of the Act, is rarely exercised by the commissioner, if indeed at all.

Why is this principle violated in relation to title? Simply because the Government and the Minister are too tired **to** structure the bill to guarantee title and warranty for the buyer. This is done in other parts of the world and in Victoria. The Minister has had representations about it. He **must** realize that it is a vital issue that registration **of** encumbrance be determined and indicated along with the year of first registration. But perhaps this is one of the details to come in the notice in a prescribed form. If it is, we welcome it, but the bill should not come before the House until these vital questions are resolved. As it is, the spirit, if not the intent, of proposed new section **29B** is at great variance with section **44** of the Act.

The car market operator wmes in for another serve in proposed new section 46 (**2A**), under which he is obligated to provide the certificate. But who is to provide such certificate to **him**? The liability that pertains to such provider is nowhere specified. How will the service station proprietors react? The honourable member for Lane Cove, who led so ably for the Opposition, referred to this further indication of the lack of validity and forethought in the bill. The whole question of warranty has been a vexing one for the industry since the inception of the Act, and the bill demonstrates that the Minister has failed to **come** to grips with the problem. But it is a problem of his own making, for he set out to clean up the industry. Although the Minister has been playing around with this matter for two and a half years, the bill contains no manifestation of what he intends. Indeed, even though the honourable member for **Ashfield** said that the provisions of the bill satisfy the wishes of the NRMA, I submit that the failure of the legislation to do so is obvious, and its provisions do not take up in any way the **totality** of the promises to the NRMA, to the Motor Traders Association and to the **consumers** at large.

The bill fails in almost every regard but one to tackle problems that have been **affecting** the industry **for** years. It fails because of its **provisions** for illegal backyard operators, warranty at auctions and fairs, title of motor vehicles, roadworthiness certificates, and government sale of motor vehicles. None of these contentious issues is mentioned satisfactorily in the bill. On the one question of warranty there is some relief for the dealer, but I am of the opinion that this is but a sop to the dealer, who is so befuddled and distressed by everything else that the Minister has done, that the Minister may reap some respite from the increase in the warranty ceiling from \$500 to \$1,500. However, as that is merely in some instances the inflated value of 1976 levels anyway; there is implied relief if not real relief.

Two things emerge from this. Cars below \$1,500 will be cheaper. The Minister has acknowledged that and, in so doing, defined the tremendous wst to the buyer of his legislation, yet he ignored that in his second reading speech. If this cost is to be outweighed by the lack of warranty, are we to look forward to an increase in the number of unroadworthy cars on the road? Is it to be warranty or safety? If this is the case, it is a bad thing, and one which I would regard within the province of the Minister to prevent. So, in that sense, the concession to the dealer is not one for the community. The same applies to the raising of the ceiling, which it is suggested is going to make things easier for the consumer. It means, in effect, that on a \$1,000 car a buyer formerly got a 5 000 km warranty or three months. Now he will get nothing. Someone buying a car between \$500 and \$1,000 formerly got 3 000 km or two months, but now he will get nothing. Someone buying a car now for \$2,000 formerly got 5 000 km warranty or three months; now he gets a 3 000 km warranty or two months.

This is a breathing space for the dealer, and it is a further cost to the consumer. The bill continues to force warranty on dealers but, if title cannot be guaranteed, it does not require warranty. In this connection I draw the Minister's attention to **proposed** new sections **29A** and **29B**. This is a contradiction born of a failure to attempt to solve the title difficulty. In relation to title the bill allows an opting out of warranty, yet there is no change to section 44 nor, presumably, to incorporating waiving of warranty in return for purchase at a lower price.

In short, there is no consistent philosophic principle in the bill and I am at a loss to explain what the measure is really meant to do for the consumer or the dealer, or if, indeed, such bureaucratic cost can be justified, given that it ignores the main nerve centre of the motor trade industry. The relief for the dealer is illusory. The relief for the consumer is chimerical.

Illegal backyard operators are the nub of the problem, and most observers thought the bill would if not attack then at least offer some solutions. Does the Minister believe everything he says? On 14th July, 1976, he said: "I am proud . . . that New South Wales leads the field with the **most** comprehensive motor vehicle protection plan in the world. I have told them (the Department of Consumer Affairs) to act against anyone deliberately attempting to evade his responsibility under the law." He went on on that same day: "The Act gets rid of shady unregistered dealers who are in for nothing more than a quick killing. The new law has removed unscrupulous dealers, leaving only the established reputable dealers."

Those words from the Minister are **simply** not true. Or does he still believe them **to** be so? I remind the Minister and the House that the Minister had a deputation from the Motor Traders Association in August. The association recommended in writing to him that there should be warranty on all direct sales to consumers. It referred to the ailment in the industry as being severe but the cure simple. In fact, the submission to the Minister says:

*Mr McDonald]*

The licensed dealers of this State are not seeking special concessions, but rather the justifiable right to carry on the business of selling used cars in competition with **others** bound by the same rules.

That was a legitimate request, and a straightforward way of expressing what the Minister tries to bluff about and ignore in the fifty-six pages of the bill. The Minister has no answer to this. He ignores it, and continues a public presence which is expressly designed to create the opposite impression. The spirit and the content of the bill and the whole structure of the Act do nothing to improve the lot of the consumer against the shady dealers. The bill is just a piece of bureaucratic dealer encirclement which, in terms of what it ought to be doing, is redundant. The second page of the submission to the Minister in August attached a computer print-out covering classified advertisements for the sale of motor vehicles in the *Sydney Morning Herald*, the *Daily Telegraph* and the *Trading Post* for the period 13th May, 1978, to 1st July, 1978. I do not seek leave to have the computer print-out incorporated in *Hansard*, for it is far too long, but it is available for any member who wishes to see it.

The submission says that a total of **48,000** used car advertisements were recorded where the dealer's licence number or firm's name did not appear. From the advertisements the Motor Traders Association extrapolated 1 680 telephone numbers covering 4 480 vehicles. One hundred and fifty persons were contacted from among these; sixty of them said their cars had been sold, so that it was impossible to get names and addresses from them; the remaining 90, it is believed, are operating illegally. It also points out that one person had advertised thirty-three vehicles for sale and that of the ninety persons identified a total of six hundred and twelve vehicles were involved.

It is impossible to take any proper line on the bill without realizing how far short it falls in doing anything worthwhile to counter this blight on the industry, which has called for legislative action. However, the Minister has fobbed it off by promising action. The much vaunted amendment bill does nothing. Indeed, it does not even mention the issue. All issues of difficulty, such as illegal backyard operators, the question of title, the extent of bureaucratic form-filling, and the cost of all of this to the car buyer and the dealer are ignored.

My colleague the honourable member for Lane Cove has already mentioned new vehicles, but the dealer selling new vehicles has a further tightening of the ministerial noose. The bill explicitly makes such dealer liable for a period after the sale. In proposed new section 24 (7) again there appears this loose and **unspecific** lawyer talk—"in a reasonable inspection of the vehicle would have been aware". Who decides? **Does** this enable a purchaser to return two weeks after the sale, highlight some minor damage, and maintain that the dealer on reasonable inspection should have been aware? The relevant section merely specifies that "he shall not sell unless . . .". What is the position if he sells in good faith? Can he subsequently be proved not to have made reasonable inspection and therefore be liable? Who decides whether the defect did or did not exist at the time of sale? The bill is a continuing saga of confusion and obfuscation.

In the field of motor vehicle wreckers, no single item in the bill more demonstrates the extent of the stupidity it contains and the confusion it **promotes** than proposed new section 22 (3) (a). The bill specifies that the motor vehicle wrecker must keep a register of "every motor vehicle and every part and accessory of a motor vehicle bought or received, in, or for the purpose of, carrying on the business of a vehicle-wrecker". Poor man. He will be going till the end of time. I can see the

scene now; there will be lists as long as your arm on nuts and bolts, and washers, coils and so on. Where does all this regulation end? An approach was made to the department and it was said that was not what was meant and that it would not be enforced. Not much, it would not. We must pity the poor motor vehicle wreckers. Is the Minister serious? If his defence is that this is not what the bill means, that is no defence. If that is not what is meant, how can we be sure what is meant elsewhere?

It is for these reasons that we have moved the amendment. If the Minister were sincere, he would see that the bill raises more questions than it solves; that it confuses more than it clarifies. The bill is but a gesture towards offering a tangible solution to the car industry's problems. Wherever warranty is considered and provisions are changed, it is at the expense of the consumer and to the detriment of the community and proper road safety. Where regulation has been increased, it happens to those against whom the citizen already has redress and provisions for recovery. For those who rank as threats to the public through their shady practices there is nothing—not a skerrick—in the bill to deter current practices. In fact, the amended principle at the bottom of proposed section 57 (2) (a) strikes at the core of the problem—that is this bill regulates those already regulated and ignores those who are not. The bill tightens the rules on some and in so doing widens the latitude to those already unencompassed by the Act.

In too many areas the bill lacks definition and clarification to the extent that it cannot be clear to any part of the community affected by it. We can but protest our concern at the shabbiness with which it is presented, including the delays in the Minister's presentation of the bill at the second reading stage. Finally, I refer to two points of absolute stupidity relating to motor cycles. Proposed schedule 1 for insertion in the Act makes provision for warranties on motor cycles to extend for 5 000 kilometres or three months. But it states that it is for a "motor cycle (not being a second-hand motor cycle) that is of such design as to be incapable of being registered in New South Wales". I urge the Minister to support the amendment proposed by the honourable member for Lane Cove, and meet again representatives of all parties concerned, so that he can strike a better balance between the consumer, business and the general public interest.

Mr FACE (Charlestown) [7.59]: No one could help but be amazed at the contributions made by the honourable member for Kirribilli in this debate. He cannot be held responsible for what has happened in the past because he was not a member when the principal Act was passed. He has had a meteoric rise in the Opposition ranks, but if he wished to know more about what had happened he should have referred to what happened back in 1974. He spoke of the Government rushing legislation through this Chamber in an effort to bring in a bill that is supposed to be so bad. I refer him back to what was said in 1974 when this House saw the despicable situation of a bill being introduced at 1.23 a.m., after which the House proceeding to debate it until the early hours of the morning, when the gag applied. So much for the so-called free debate of the past about which we hear so much from the Opposition. We told the Opposition parties when they were in government that it was sloppy legislation.

In the early hours of the morning of 2nd April, 1974, when no honourable member would be in a fit condition to concentrate, a measure of some magnitude was rushed through the House. The honourable member for Kirribilli has on previous occasions had a brief from particular sectional interests. He has not made a worthwhile contribution in his own right to the debate. On this occasion I suspect that he has delivered a speech that was prepared by a dissident from the Motor Traders Association. In recent times he has received briefs, which he has put before the House, from the Real Estate Institute and similar bodies. One never hears from him a reflection



of the views of those he is supposed to represent in his electorate. **One** wonders whether he has any interest at all in his electorate. At least the Government is willing to do something about motor vehicle auctions, a matter mentioned by the honourable member for **Kirribilli**.

The Minister has intimated that most of the matters under discussion tonight stem from the need to clean up problems created by the **1974** legislation, which was supposed to solve all the problems then being experienced in the motor industry. The most recent report of the Department of Consumer Affairs discloses that 29.2 per cent of all complaints received in New South Wales derived from the motor industry. When the original legislation was introduced into this House the honourable member for Maitland, who **was** the Minister responsible at the time, said that the measure **would** transform the whole of the motor dealership industry in New South Wales. At page 19 of the report this statement appears:

The fact that the vast majority of complaints are resolved by the mediatory process reflects highly on the competence of Departmental Inspectors. In most of the cases, however, the dealer concerned acknowledged liability to effect repairs. The inescapable conclusion therefore, is that while the warranty provisions of the Motor Dealers Act have facilitated the complaint resolution process, there has been little significant impact upon consumer dissatisfaction at either the quality of vehicles offered for sale or the standard of after-sales service offered by dealers, particularly in respect of used vehicles.

It goes on to say:

Surveys conducted by the department have revealed that dealers have added amounts ranging between **\$150** and **\$900** to cover the cost of likely warranty claims.

That is the result of the so-called tremendous legislation introduced in **1974** by the geniuses who are now in **Opposition**.

Mr Dowd: The honourable member was not here then.

Mr FACE: I may not have been, but I recall being reminded for three and a half years by Sir Eric **Willis** of matters going back as far as **1965**. He asserted that a member was not able to stand on his feet or be respected until he had been here for two years. Honourable members opposite should be able to bear a little of what some new members had to tolerate in **the** past. The report of the Department of Consumer Affairs continued:

Consequently, it would be reasonable to expect that justifiable claims would be accepted without demur but as complaint patterns and trends reveal, such has not been the case.

So much for what the honourable member for **Kirribilli** said tonight. His contribution to the debate is always supported by a brief from some interested group **and** has little factual basis. Government supporters when in Opposition in **1974** said that they were committed to change. The Minister would agree that this will not be the last occasion on which the Act will **come** before the House. No doubt anomalies will be found as a result of the type of person involved in the motor vehicle industry. I remind the honourable member for Lane Cove, who is laughing, that some of his colleagues in the legal profession delight in finding in legislation **loopholes** that permit people to cheat and defraud. Although they are fortunately in a minority, the unscrupulous will

pull the Act apart soon after the amendments are enacted in an endeavour to cheat and defraud. This will necessitate the legislation being brought before the House again for amendment.

Mr Schipp: He does not like the Minister's bill.

Mr FACE: The honourable member for Wagga Wagga must suffer from verbal diarrhoea. I have been informed that recently he perjured himself when appearing on television in Wagga Wagga and referred to a select committee that until this afternoon had not come before the Parliament. A friend of mine in that city was so disgusted that he rang me on Sunday night and told me of the disgraceful incident in which the honourable member for Wagga Wagga has perjured himself. He should cease attempting to interject and allow the business of the House to proceed.

I remind the House that the greatest area of complaints from consumers relates to new or used motor vehicle sales. That position will continue. Although the honourable member for Kirribilli said that the \$500 sale price below which a warranty did not apply should be raised, he did not suggest a figure. The honourable member for Lane Cove was more sympathetic in his support of the raising of the amount to \$1,500. As a person who for many years before becoming a member of this House was involved with road safety, I express concern about motor vehicles sold for less than \$1,500. Unfortunately, some people will buy vehicles that may be described as bombs. These vehicles will be a hazard on the road. Unfortunately, no government, irrespective of its political flavour, will take on the particular section of the community who deal in vehicles that will sell for less than \$1,500.

The provision for four-wheel-drive recreational vehicles is a new idea by the Minister. I receive representations from many people who own this type of vehicle, which is at present outside the terms of the Act. They purchased the vehicles, mainly for recreational purposes. There has been a big increase in their sales over the past three years. The most recent report of the Department of Motor Transport discloses the number of registrations for this type of vehicle. Many of these vehicles, such as a Range Rover, cost over \$12,000. I know that one Opposition member derives considerable enjoyment running round the bush in such a vehicle, even though he has not been covered under the Act, which was introduced by the genuises opposite. I am concerned for the small businessman employing, perhaps, only one person, who has a utility which falls within the category of a commercial vehicle. I brought this aspect to the Minister's attention only in recent months. After further investigation by him further amendments to the Act may be necessary.

A cousin of mine in the western suburbs works as a plumber with the assistance of an apprentice and he sometimes employs casual labour. He experienced problems with a commercial vehicle. When he complained to the dealer he was virtually shown the door. The motor of the vehicle had seized and the vehicle had been beset by problems right from the outset. Because it was classified as commercial he could gain no redress and found himself in the position of being unable to work for a month while Thomson Ford at Parramatta fixed up his problem. The dealer realized that he was within his rights: one cannot blame him. The law at present does not allow for that aspect. I do not blame the Minister for covering that situation by the bill. Only in the past two or three months has the Department of Consumer Affairs realized that recreation vehicles have confronted purchasers with serious problems. Dealers are using the present law to their own advantage. Doubtless the Minister will hold office for some considerable time and will bring in further amendments to deal with that matter.

The Minister should be congratulated for the provision covering demonstrator vehicles. As with every industry, a small number of operators will not do the right thing. A small section in the business world always wants to do the wrong thing. The large proportion of people who sold demonstrator vehicles allowed the remainder of the warranty related to distance or time to run, but a minority of dealers realized that if a vehicle had been **used** by a company prior to its being sold, legally it was a secondhand vehicle. The bill will go a long way towards remedying this anomaly. The unexpired part of the warranty will now be passed on to the consumer. Doubtless from time to time every honourable member will have received letters from constituents about people who have found this loophole in the law and have failed to pass on to the purchaser the unexpired warranty conditions. Some dealers took the easy way out. Demonstrator clearances were held involving not one but dozens of vehicles. Cars were sold as demonstrators and the average uninformed person genuinely believed that such a vehicle would be covered by the new car warranty for the usual number of kilometres or the usual period.

The Minister should be congratulated on clearing up a problem relating to accessories. Sometimes accessories are added at the premises of the seller of the vehicle. I refer to air conditioners and other types of accessories. In that event, as the accessories are not factory fitted, some dealers found a loophole in the law by which they avoided responsibility. A couple of years ago I had a car with a malfunctioning air conditioner and the dealer had no hesitation in remedying the defect. I know of **cases** in which the same unit that would have been fitted in a factory was fitted by the dealer and the dealer refused to accept responsibility for **fixing** defects.

I refer now to damaged vehicles. Over the years honourable members have seen badly smashed vehicles being transported interstate by train or truck. This applies to Chrysler vehicles which are all manufactured in South Australia. Some vehicles suffer damage even before they are received by distributors. People have bought vehicles believing them to be in sound factory condition. A few years ago a person came to my office with a complaint about a vehicle that had been on the road for only three or four months. The pigment in iridescent paint is different from that of ordinary enamel and it was easy to see that the vehicle had been in a smash after it left the factory and before it was passed on to the person who bought it as a new vehicle. As the distributor was not a person of great honesty he did not bother to tell the purchaser about the damage and repair to the vehicle. Under the law at that time the dealer was not obliged to tell the buyer that the car had been involved in a fairly substantial accident.

Private dealing in cars should be a matter of concern for all honourable members. The only matter on which I agree with what was said by the honourable member for Kirribilli relates to the backyard dealer in motor vehicles. I brought my views on this aspect to the notice of the Minister a few months ago and he indicated agreement with my viewpoint. As with other matters I have raised, this is a complex problem. Some purchasers of motor vehicles, both new and used, have complained about backyard dealers, about whom the present legislation has been no more successful than **was** earlier legislation. No solution to the problem is available at the moment but doubtless an answer will be forthcoming. It does not seem an easy problem to solve. Individual members of the one family may be the registered owners of a number of vehicles, so it is difficult to ascertain how many vehicles are sold by a particular member of a family during a year.

The Minister agrees that the auction system is not perfect. In the debate in 1974 I raised this very aspect. A complete embargo has been placed upon car auctions. The conditions covering normal trading will apply. Surely there is some way around this problem. Again, unfortunately, the unscrupulous few have ruined it

for everyone. The Government itself distributes vehicles through the auction system. I am not casting any aspersions because I know that the Government **motor** garage sends vehicles for auction in a fit and proper condition. It goes to some expense to do that. Other people who sell at auction include those who would be unable to trade in their vehicles or sell them on the open market. The good of the great number of people has to be weighed against the actions of that unscrupulous minority.

The honourable member for Lane Cove has cast aspersions upon the Minister and the Government. Certainly there has been consultation with the industry. I know of no used car dealers in my area who have not known for at least four or five months of the intention of the Government and likelihood of this bill being **introduced**. They have asked me questions and have written to the Minister. For the honourable member to make a broad statement that no one in the industry knew about this measure is ridiculous. It has been discussed in magazines and other publications where one might expect to see it. Yet we hear protests that motor vehicle dealers have not known anything about it. Perhaps those on the north side do not read. People in my area have known about it for some time. They have made considered submissions to the Government about matters contained in this bill and on other matters. I hope it will not be too long before the Government moves towards introducing further measures relating to motor dealers.

On 2nd March, **1974**, the former coalition Government began the second reading debate of the original measure at 1.23 a.m. That is a time of the day when one might not expect honourable members to be at their best in debating a highly complex measure. The bill was one of the most important pieces of legislation ever brought forward to regulate motor dealers. The debate continued until 3.28 a.m., when I was gagged. Honourable members opposite are not experiencing that sort of thing today. That reflects credit on this Government by contrast with the actions of the former Government. On that occasion in **1974** the new member for **Gosford** was prepared and ready to make his maiden speech but his coalition colleagues gagged the debate on the second reading and he had to be content with speaking on a couple of clauses at the Committee stage. So much for democracy under the former coalition Government. That was a most complex piece of legislation. It was a large bill which changed markedly almost all facets of the industry.

The coalition Government had little, if any, consultation with the industry before introducing that measure. At that time I had been a member of Parliament for almost two years. When the measure was introduced people came to **me howling** that they had known nothing about it. It is ridiculous for the Opposition to suggest now that the Labor Government has not consulted with the industry. Obviously honourable members opposite say such things with tongue in cheek.

There will always be persons who try to pass off shabby vehicles. I have some sympathy for dealers in this regard as I know that there are just as many people trying to sell suspect vehicles to dealers as there are dealers unloading them on buyers. Figures released recently by the Department of **Motor** Transport show that **47** per cent of vehicles inspected in used car yards in this State were unable to pass a roadworthy fitness test. That does not say much for the legislation enacted by the coalition Government. As the Premier has said on previous occasions, the former Government could not run a pie shop.

Anyone can walk into a used car sale yard and find clear examples of **unroad-worthy** vehicles. It is an indictment upon the used car industry that **47** per cent of used vehicles inspected were unroadworthy. If that figure were, say, only 10 per cent, one might suggest there were a few unscrupulous dealers, but **47** per cent may be described as a dramatic figure. Regrettably that figure has been consistent not for just

**Mr Face]**

the past twelve months but ever since the Act came into force in July 1976. In bringing forward this amending bill the Minister faced untold problems because of the way in which the former Government had gone about framing the Act. I compliment the Minister on what he has achieved. From the time of his appointment to the ministry he has shown a willingness to meet with people from industry. In fact, no sooner will this bill have passed through this House than a major dealer with whom I am acquainted will confer with the Minister about other sections of the Act of concern to him and others involved in the trade. I have no doubt that this Minister will give that dealer a fair hearing.

Whether it be Labor or the coalition parties in office there is no doubt that this is the type of legislation that will come back to the Parliament again and again for amendment. Regardless of the ability of the Parliamentary Counsel, anomalies will occur in it. While ever there exist people who will try to get around the law, anomalies will show up and need attention. I commend the Minister for what he has achieved in this bill.

Mr CAMERON (Northcott) [8.26]: The honourable member for Charlestown is correct in some respects. Once the Parliament embarks upon straitjacket type of legislation such as this, with which the relevant industry can never possibly conform and live within, it is certain that the legislation will have to come back again and again for amendment. It is the very nature of the kind of unrealistic thinking that throws up legislation such as this that the industry concerned will never be able to live with it and the community involved will never be able to accept it. The only conclusion I can come to in the light of what I put to the House as recently as last Thursday is that the Minister likes his fish not merely overcooked but grilled to an absolute cinder.

I invite the attention of the House to the remarkable advice that Lao Tszé, the mentor of Confucius, gave to parliamentarians: Govern a great state as you would cook a small fish. Don't overdo it. The Minister for Consumer Affairs is popularly known as the Minister for overgovernment. He has a compulsiveness to overdo everything. He likes his legislative controls to be made tighter and tighter. He likes to constrict more and more. In the event, people concerned cannot live with the regulatory requirements. My position is quite different. I believe in the free market. I believe in the age-old proposition of *caveat emptor*. This Minister for overgovernment believes in *caveat venditor*. For him, to govern better is to govern more. I believe that to govern better one must govern less. Earlier today when one of my colleagues was speaking in this debate the Minister, in one of his throw-away remarks, said that the honourable member for Northcott hates consumers.

In this particular area I claim to be the classic consumer, and to represent the kind of person who frequently buys secondhand motor cars for the good, simple and straightforward reason that we were never able to afford new cars. I claim to be, with good reason, a satisfied customer of the licensed motor dealers, and a customer who has been treated well over the years. I commenced buying secondhand cars as a young man as a means of personal expression and to obtain personal satisfaction. I obtained that satisfaction. I was always seeking to buy the kind of car that I could never dream of affording if it were brand new, but it was the kind of car that would give a special kind of aesthetic satisfaction, and would do what I wanted it to do. The key to it all was that I had to buy at the keenest price imaginable.

This paternalistic legislation, which the Minister insists repetitively on bringing to this House, constantly increases costs. The kind of consumer that I represent can be nothing but totally dissatisfied with this ever-mushrooming, elephantine type of paternalistic protection that this Minister insists upon foisting on the community. Elephantine, government-imposed consumer protection costs more than it is worth.

I take the Minister back to my early twenties when I bought the first secondhand car I ever owned. It was a magnificent but very old 6-cylinder 1937 Morris 14, which had a tremendously heavy and solid body; its willing motor was not quite up to the task, but it had **inbuilt** durability. It was an imposing, magnificent vehicle, which **looked** so tremendously autocratic and once you got it going nothing would stop it. **It** was a bit of a problem to start on an uphill climb, but that car gave me glorious contentment. I got what I paid for: I got value and satisfaction.

When I was a little older I became much more adventurous and bought a 1948 Mark IV Jaguar. That car gave me inordinate satisfaction. In those years when I **performed** a **staff** role connected with this Parliament, I used to bring that magnificent old vehicle and park it in the parliamentary parking area. I can remember on a number of occasions being chided by the person who later became Premier, the honourable **member** for Earlwood, for my great extravagance as a young man in having bought that particular car.

**Mr Einfeld:** You should not have used the parliamentary parking area if you were an employee. That was for members only.

**Mr CAMERON:** The honourable member for **Earlwood** was driving one of those incredibly ugly monstrous Austin Cambridges, which had no aesthetic attraction whatever. I felt strongly that my judgment, compared with his, was completely correct. I sold both of those cars that I had bought from licensed motor dealers. I sold the magnificent old Jaguar in person straight to Ron Hodgson. I met him and said, "What will you give me for it?" He offered me a sum that I was willing to accept, and I accepted it.

**Mr Einfeld:** He nearly went broke soon after that.

**Mr CAMERON:** My Jaguar did not send him broke. I bought motor cars in that way and sold them because I was trying, as an adult, to study, and to pass examinations. While I had the cars, I could not study, so whenever an exam was coming up, I sold the car, studied, passed the exam, and then bought another second-hand motor vehicle. I remember buying a Citroen Light 15 through a private backyard sale. I was very satisfied with that. I bought an old MG Y saloon through private backyard sale. I then bought a magnificent shining glorious Riley Pathfinder **by** backyard sale. Later on, when I was struggling to start at the bar I bought a Triumph 2000 from a dealer. That was when that vehicle was only relatively new on the market. In **all** of those transactions, whether private backyard sales or through licensed dealers, I was more than satisfied with the deal I got. I believe that by using my ordinary resources as a human being, not looking for the kind of paternalistic protection that this Minister insists on foisting on people, I got what I bargained for. If I had had to put up with the kind of elaborate, ever-growing enforced protection that this Minister insists upon, I would never have been able to **afford** those cars.

It is as plain as a pikestaff that as soon as governments apply enforced protection, they add hundreds of dollars to the price of the vehicle. The Minister has impliedly admitted that when he talked about raising the warranty level from **\$500** to \$1,500. He said, in **effect**, that this would make cheaper cars available to many more people. That is the truth of the matter. But the only people likely to be satisfied at the moment are those who are free of the encumbrances of this paternalistic protection scheme. Everybody who has to live under it will be thoroughly unhappy.

At the moment there are a variety of ways in which motor vehicles can be purchased. They can be purchased from licensed motor dealers, who, under this kind of legislation, are massively oppressed. If a person goes through this bill he will find that the licensed motor dealer would have to make good this and that, and

every requirement that is written into the Act adds a few hundred dollars to the price of the car. The licensed dealers, who are vital and must be considered, are a tremendously relevant and important part of the selling apparatus. They are not happy, and the only carrot that is being held before them to make them accept the legislation at all is the fact that the warranty now has risen from \$500 to \$1,500.

Then one comes to the car market operator. If he is not being **penalized**—and it is not him that I **am** worried about—it is the person who prefers to buy his vehicle through a car market operator. Heavens above, this **poor** creature—whether he is a corporation, or whether he is in Australia, in Hong Kong or somewhere **else**—is saddled with the most incredible obligations under the bill. A car market operator is simply defined as a person who carries on the business of providing a site for a market for the sale by other persons of secondhand motor vehicles, whether or not that site is used for any other purpose. That person will not be satisfied about the bill. Also, the consumers who look to that kind of operator to obtain their cars will not be happy.

The only people who will be thoroughly happy are the ones who escape the dragnet and are not caught up in the Minister for overgovernment's straitjacket. They are the Suttons of this world—the people who operate the auction system; they will be happy because they do **not** have to live with this Minister's control. One moves on from them to the simple backyard vendor, who will be happy because he does not have to live with this Minister's control.

I remind honourable members of all of the beautiful publicity and glorious rhetoric in the past about those dreadful **backyarders**. Honourable members will recall how the people were exhorted to look to this Minister for Consumer Affairs as their protector and paternalistic godfather. They were told how he would step in and be their salvation. In reality, nothing is done. I am glad, because the less control the happier I am. I remind honourable members also of what happens when the Government itself becomes a vendor. If the **Government**, say, by tender, wants to sell a large range of **LTDs** or some other type of vehicle that has been belted around by the wild driving of the Ministers in the backblocks of this country, they can be sold without any of these warranties or protection. Again that pleases me because the more people who can buy cars without having to live with these infernal restrictions the happier I am. However, it surely is **an** anomaly to suggest that a dealer must be controlled but if the Government sells as a dealer it may run free and not be subject to its own controls. Everyone else must live with the controls, but not the Government. The legislation is predictably a mess. It will get worse and worse **as** repeatedly it has to be brought back for amendment.

Question—That the word stand—put.

The House divided.

#### **Ayes, 62**

Mr **Akister**  
Mr Anderson  
Mr **Bannon**  
Mr **Barnier**  
Mr **Bedford**  
Mr Booth  
Mr Brereton  
Mr **Britt**  
Mr R. J. Brown  
Mr **Cahill**

Mr Cavalier  
Mr Cleary  
Mr R. J. Clough  
Mr Cox  
Mr **Crabtree**  
Mr Day  
Mr Degen  
Mr Egan  
Mr **Einfeld**  
Mr Face

Mr Ferguson  
Mr **Flaherty**  
Mr Gabb  
Mr Gordon  
Mr Haigh  
Mr **Hatton**  
Mr Hills  
Mr Hunter  
Mr Jackson  
Mr **Jensen**

Mr Johnson  
Mr Johnstone  
Mr Jones  
Mr **Keane**  
Mr Kearns  
Mr **Knott**  
Mr **McCarthy**  
Mr **McGowan**  
Mr **McIlwaine**  
Mr **Maher**  
Mr Mair

Mr **Mallam**  
Mr **Mulock**  
Mr **O'Connell**  
Mr **O'Neill**  
Mr Paciullo  
Mr **Ramsay**  
Mr Renshaw  
Mr Robb  
Mr Rogan  
Mr Ryan  
Mr **Sheahan**

Mr A. G. Stewart  
Mr K. J. Stewart  
Mr Wade  
Mr Walker  
Mr Webster  
Mr **Whelan**  
Mr Wilde  
Mr **Wran**  
*Tellers,*  
Mr **Durick**  
Mr **Quinn**

**Noes, 34**

Mr Arblaster  
Mr Boyd  
Mr Brewer  
Mr J. H. Brown  
Mr **Bruxner**  
Mr Cameron  
Mr **Caterson**  
Mr J. A. Clough  
Mr **Cowan**  
Mr **Dowd**  
Mr **Duncan**  
Mr **Fischer**

Mr Fisher  
Mrs Foot  
Mr Freudenstein  
Mr Healey  
Mr McDonald  
Mr Maddison  
Mr **Mason**  
Mrs **Meillon**  
Mr Morris  
Mr Murray  
Mr **Osborne**  
Mr Park

Mr Pickard  
Mr Punch  
Mr Schipp  
Mr Singleton  
Mr Smith  
Mr Taylor  
Mr West  
Mr Wotton

*Tellers,*  
Mr Moore  
Mr **Rozzoli**

Question so resolved in the affirmative.

Amendment negatived.

**Mr EINFELD** (Waverley), Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies [8.47], in reply: I did not believe that I **would** ever find a group of people more disunited than those in the motor industry. They expressed more points of view than I had heard from any other group until I heard the mutterings, whisperings and impertinences of the members of the Opposition, who **disagreed** so widely during this debate. On the one hand the honourable member **for** Lane Cove, who led for the Opposition, told the House how bad backyard operators are. Then the honourable member for Northcott told the House what great people backyard dealers are. Although he did not win the leadership, nevertheless he was one of four candidates. The honourable member for **Kirribilli** did not know whether he was for or against the backyard operator. At one stage the honourable member for Lane Cove spoke of the genuine backyard dealer. What that means I shall never know.

The bill brings up to date the Motor Dealers Act, which was introduced by the Opposition at 3.58 a.m. one day in April 1974 by the honourable member for **Maitland** who was then the Minister for Transport. Even the headlights of the Jaguar the honourable member for Northcott bought would not have penetrated the darkness that night any more than they would penetrate his arguments tonight. The bill brings up to date a Motor Dealers Act that was proclaimed in 1976, having passed through the House in 1974. It deals with new warranties and a number of other measures. Listening to the honourable member for Lane Cove and then the honourable member for **Kirribilli** and the honourable member for Northcott, one would have thought that this was the first occasion on which a bill made it necessary to obtain a certificate of **roadworthiness**. The honourable member for Lane Cove could not have read the principal Act, with all its prescriptions of illegalities, or he would not have been quite so nonsensical **as** to suggest that a certificate of **roadworthiness** would have been necessary.



Previously when a dealer sold a car under **\$500** he needed to have a notice. The honourable member for Lane Cove forgot about that. The honourable member should not have talked about the ridiculous liability which he tried to impose upon the Service Station Association. The Government, and I suppose every member of Parliament, including the honourable member for Lane Cove, probably have received more complaints from **motor** dealers about the car market operator than about any other person in the industry. Although it takes a lot to unite the industry, it has been united in its opposition to the car market operator. I acknowledge that those **operaors** were not in existence when the honourable member for **Maitland** introduced the legislation in **1974**. For the first time the Government is making it more difficult for the car market operator to be in opposition to the licensed used car dealer. One of the many dissident groups got the ear of the honourable member for Kirribilli. That is not difficult, as long as they are not too genuine. They gave **him** the computer list of the investigations they had made, which they talked to me about some **time** ago.

The suggestion by the honourable member for Kirribilli that I have not been consulted by the used car industry is a complete and utter lie. On numerous occasions I have spoken to the president and members of the Motor Traders Association. I have spoken to the presidents of the Chamber of Automotive Industries of New South Wales and of Australia, even as recently as a few days ago. In accordance with the usual practice of the Government, it consulted umbrella industries, notwithstanding that the bill is not calculated to help necessarily the trade but the consumer. The September edition of the Motor Traders Association journal states that used car dealer turnover for **1977-78** was in excess of **\$3,000** million. This is the industry on which the honorable member for Northcott said I was putting limitations. That journal stated that the figures taken from the industry survey conducted by the Motor Traders Association gave some idea of a typical dealer. These figures were: number of units sold in the year, **435**; value per unit sold, **\$2,500**; and annual turnover, **\$1,089,000**. They do not require the tears shed by the honourable member for Northcott, who suggested that dealers were in a bad way. If honourable members want to be genuine in their arguments, they should acknowledge that a **number** of motor dealers use the description demonstrator most loosely and that legislation is required to tighten up that matter. This is done well by the bill, which seeks to ensure that the consumer who purchases a demonstrator vehicle will receive what is advertised.

Honourable members opposite made reference to the question of regulations. The position is no different **from** the original bill. In **1975** no regulations were published by the former Government. Although the honourable member for Lane Cove **was** not a member of it, as he is a member of the party that was part of that Government he must accept responsibility. Although their numbers have greatly reduced, there are still a few on the Opposition benches, like the Schipp in the night sitting next to the honourable member for Lane Cove. One of the reasons that the former Government was decimated at the last election was that it did not understand **anything** about consumer protection. The honourable member for Northcott spoke about the evils of consumerism. He did not understand that people all over New South Wales are **delighted** to have consumer protection. His extraordinary brilliance prompted **him** to buy all **the** motor cars to which he referred and to receive inordinate satisfaction from them. He should establish himself as a car expert as he did not contribute to the **29.2** per cent of complaints received by the Department of Consumer Affairs that related to motor vehicles. **That** percentage was of the **30 000** formal complaints received in the year. He started with a Momo and finished up with a **Mark IV** Jaguar. **If** he had gone on he may have had a **Rolls** Royce, and after that he would have progressed to wearing a cap and uniform and driving a **Rolls** Royce for me.

The honourable member for Lane Cove suggested that the Government was not protecting the consumer from the private sector of the industry. In part he is right. I wanted badly to have a provision included in the bill that private sellers be required to give to a buyer a certificate of **roadworthiness**. The Service Station Association refused point blank to accede to that request. The Government has endeavoured to arrive at an equitable arrangement with dealers by increasing the warranty amount so that people may buy cars under \$1,500 probably cheaper than they could previously. Those who wish to buy a rough car, like the honourable member for Northcott wanted to do, will be able to buy one up to \$1,500 from a {licensedoperator or privately if they sign away the opportunity to have a warranty with dealers. They can buy vehicles offered for sale in the classified sections of the daily newspapers.

The bill will increase the amount below which a warranty is not required to \$1,500. It licenses car market operators and places heavy liabilities upon them. It provides that these operators at car markets shall place a notice on the vehicle offered for sale stating that it is encumbered or that it is not encumbered. If the operator does not want any liability, he is entitled to say that there is an encumbrance on the car. If he says that there is no encumbrance on the car, he is liable if the seller is not able to be found or does not operate properly. Also the seller has to provide a certificate of roadworthiness covering the car. Further, the Government has decided to license motor vehicle consultants, who have been the subject of complaint also by motor dealers. In these ways the Government is trying to help the industry. The Government has provided that a motor dealer's licence may be revoked, in the event of bankruptcy, liquidation, receivership or a dealer ceasing to trade.

I think it was the honourable member for Lane Cove who complained about the provision that the commissioner, when deciding who shall have a licence, will need to **be** satisfied that the material and financial resources of the dealer are sufficient to **carry** his liability. The Government **has** complaints about \$2 companies from buyers who returned to these companies to obtain those things for which their warranty provided. Unless the commissioner is satisfied as to the financial quality of the dealer, he does not have to issue a licence. If Opposition members want licences for those who have insufficient resources to back up their warranties, **then** they have come to the wrong shop as the Government **will** not do it.

**Mr Cameron:** The trouble is that a lot of people have come to the wrong shop.

**Mr EINFELD:** I do not think so. Those who went to the wrong shop voted into Parliament only eighteen Opposition Liberal Party members. Next time it will be fifteen or even twelve. Then they will change their name to the United Australia Party or the Nationalist Party. Although they are now the Liberal Party, they should be called the Illiberal Party, as that is what they really are.

Inspectors may impound a register. It may be replaced with a duplicate. When inspectors return for registers somehow they have become lost. The Government has provided for warranties on motor **cycles**. It came to an agreement with the motor cycle industry and the motor cycle section of the Motor Traders Association of **New** South Wales. Notices must be put on new vehicles **or** demonstrator vehicles if they are damaged in transit. The honourable member for **Kirribilli** did not think 'that a dealer who had to effect repairs to a new car before it was sold should **tell** the customer that the vehicle had been damaged. Many things can happen to new cars in transit. When a car has fallen off a truck the frame has **been** damaged or twisted and the vehicle has been repaired and sold as a brand new motor car. Cars of that description have gone through the **warranty** period but in three years' time when the

purchaser attempts to trade the vehicle in on a new car the dealer finds that the frame has been twisted and repaired and the amount allowed on a trade-in is much less than would otherwise be the case.

The other day a representative of a new car industry organization visited me. He said that dealers will be declared bankrupt if, having had to spend \$1,000 or \$2,000 repairing a vehicle, they have to tell the buyer that the vehicle had been repaired because it was faulty. The customer might ask for a discount. The Government thinks it is proper that the dealer should have to disclose to a customer the fact that the car was not in good order when it reached the dealer. The honourable member for Lane Cove said that a customer cannot try out a car unless it receives a certificate of roadworthiness and the customer has to take the word of the dealer on that aspect. That point is not worth discussing further. The Government has set out to limit the operations of car markets, because the industry asked for that. The Government has increased the warranty for two purposes. First, because the trade wanted it and second to keep down the cost of cars worth less than \$1,500. People who buy such vehicles need to have the opportunity to buy at a reduced cost. Doubtless when the honourable member for Northcott bought his Jaguar he did not have to spend much on it.

A licence to issue certificates of roadworthiness is covered by the Act. A mechanic cannot issue a certificate unless he is licensed under the Act. A person who works for a licensee cannot issue a certificate of roadworthiness. There is nothing new in that regard. The bill makes a real and serious contribution to the motor trade. It helps protect consumers and confirms the relationship between consumers and what they buy, about which many consumers know little. The largest proportion of complaints received by the department relate to the motor trade. The same applies in every nation in the western world.

The provisions of the bill continue the Government's programme of protection for the consumer. Despite the great satisfaction that the honourable member for Northcott gets when there is no protection at all, the great bulk of people in Australia are delighted with consumer protection. My department receives 300 000 telephone calls a year, between 800 and 1 300 a day. Each year it deals with 30 000 complaints. At least 6 000 cases are waiting to be heard by the consumer claims tribunal. It is a busy and vital office. That is the Government's attitude to citizens generally. It provides protection in the areas where it is most needed. The people of New South Wales have shown great satisfaction with the Government's record in this area.

Motion agreed to.

Bill read a second time.

### In Committee

#### Schedule 2

Mr DOWD (Lane Cove) [9.7]: The schedule demonstrates why it is difficult to make intelligent amendments to make work the amendment that the Minister proposes. The schedule is badly drafted. The Opposition is not putting forward specific amendments because of the problems that that would create in relation to other provisions of the bill. I point out the ineptitude of the definition of car market operator. It is couched in terms far too wide. When a car market operator decides for some reason that he is not going to fulfil his obligations and he flits in the night, the owner of the freehold will be the person who comes within the definition and is at risk. Despite the Minister's bland assurance that the owner of the freehold is excluded, it would not be difficult to draft the definition so as to exclude that possible interpretation.

The definition of motor vehicle consultant is also couched in terms that are **far too** wide. Many newspaper proprietors carry on the business of advising persons who wish to buy a motor vehicle by informing them where the vehicle can be bought. Everyone who operates **any** sort of advertising business such as a newspaper, a magazine or some other means of advertising is caught in this lazy draftsmanship. It should have been made clear that it is not intended to include such people. I am not suggesting that the Minister will sue the press, but when a bill is being drafted it ought to mean what the Minister thinks it means. The way he replied to the second reading debate makes it clear that the Minister does not understand a large part of the bill. He should look again at the **definitions** before the **bill** goes to the upper House. for he must accept responsibility for legislation that he introduces into the Parliament.

Mr EINFELD (Waverley), Minister for Consumer **Affairs**, Minister for Housing and Minister for Co-operative Societies [9.9]: The **definitions** are exactly the same as those contained in the New Zealand legislation, which has operated for some time. I shall inform the Parliamentary Counsel and the other legal people from whom I received the definitions what the honourable member for Lane Cove thinks about them. They have assured me that everything said by the honourable member for Lane Cove is wrong, which is in line with what he said earlier this evening.

Schedule agreed to.

#### Schedule 3

Mr DOWD (Lane Cove) [9.10]: This schedule underlines the problem encountered by the Minister in bringing forward the bill and allowing only some ten days or so for its consideration. The honourable member for Charlestown went through every problem that any of his constituents has ever had with motor cars. Of course the industry has known about this bill for a long time: the Minister has been bleating about it for two and a half years. In 1974, at the Committee stage of the debate on the original legislation, despite the fact that it was 3 o'clock in the morning he moved an amendment and the Minister was a lot more lucid then than he is tonight. The Opposition applauds the widening of this part of the Act to give better control. The Minister has said that the definitions were drafted in New Zealand: obviously he is trying to avoid responsibility for them.

Any legislation of this nature must have stringent restrictions. If one studies prosecutions that have been pursued one finds that they usually relate to failure to complete a register and so on. One might have thought that the trade was entitled to a little time to look at the bill itself and not merely to know that the Government intended to bring down legislation. Had the industry been afforded that time it could have obtained proper advice. In the second reading debate the Minister admitted that the Parliament will have to deal with this legislation time and time again. When defects appear I hope the people will not have to wait for another two and a half years before the Minister gets around to bringing down the necessary amendments.

Schedule agreed to.

#### Schedule 4

Mr DOWD (Lane Cove) [9.13]: This evening we have heard references to the number of defective vehicles found in car saleyards. Of course there would be defective vehicles in saleyards. The Minister has referred to 47 per cent of vehicles inspected being defective. Not all vehicles inspected by his department were necessarily on display for sale. When a dealer buys a car or trades in a car often some work must be done on it before it is offered for sale. The point is whether the vehicle was displayed for sale. In proposed new section 24 the Minister brings forward a

most stringent provision, though I appreciate the difficulties he has encountered. The Opposition does not oppose this provision but hopes that the Minister will work out proper amendments and introduce them soon.

Mr EINFELD (Waverley), Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies [9.14]: There is no relevance in proposed new section 24 to the fact that last week Department of Motor Transport inspectors reported that 47 per cent of used cars on sale in used car yards were found to be unserviceable and that either the number plates were taken away or the cars made the subject of defect notices. That has nothing whatever to do with the schedule that the Committee is considering. This provision is exactly as it was in the original Act.

Mr McDONALD (Kirribilli), Deputy Leader of the Opposition [9.15]: Schedule 3 provides that a dealer's licence and a car market operator's licence shall not be held by the same person. The business of a car market operator has been referred to as the business of providing a site for a market under proposed new section 22c. A car market operator must keep an operator's register and comply with certain other conditions. I should like the Minister to explain the difference between a car market operator and a dealer. In the case of an absentee owner of a site leased to someone else, does the responsibility and onus remain upon the owner of the site? The Government owns the land on which the Flemington markets are located and a church may own land in Parramatta Road used as a saleyard. Does the owner fall within the definition relating to a car market operator and if so, is there a responsibility under the Act?

Mr EINFELD (Waverley), Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies [9.16]: The answer to the honourable member's question is, no.

Schedule agreed to.

Schedule 6

Page 51

15 (3A) An appeal lies to the Supreme Court of  
New South Wales against an order made under sub-  
section (1)—

Amendment (by Mr Einfeld) agreed to:

That at page 51, line 16, the figure (1) be left out and there be inserted in lieu thereof the figure (2).

Schedule as amended agreed to.

Schedule 7

Mr DOWD (Lane Cove) [9.17]: We have heard some extraordinary statements from the Minister about this schedule. Even he probably read the original Act when he proposed amendments to section 46, which include references to a certificate of inspection. It is defined clearly. The point I made earlier, which the Minister obviously did not pick up, was that this measure will widen the number of circumstances under which actions might be brought. People are concerned about certificates of inspection under the Motor Traffic Act, leaving aside completely the Motor Dealers Act. Under the old section certain persons were obliged to issue certificates. The Act contains penalty provisions. Obviously in the majority of cases people will try to ensure that its provisions are complied with.

In the proposed amendment to section **46** the sum prescribed will be increased to \$1500. A car market operator will require a certificate in relation to vehicles. This **will** involve considerable expense in not just a limited range of vehicles. A motor vehicle dealer who wants to stay in business must maintain a good reputation. The machinery introduced in **1974** by the former Government provided, with all its faults, a remedy to protect people. The consumer affairs report tabled in Parliament last week underlines how effective that legislation has been. The number of claims made has been small indeed. The Minister referred to the number of matters dealt with by his officers. I remind him that they were dealt with under the provisions of legislation enacted by the coalition parties when in government. The Minister goes on and on about how marvellous is his department but he forgets that it was the former Government that set up this machinery. In the past two and a half years the Minister has not seen fit to amend the legislation, though he has criticized it. He sat on these amendments for a couple of years. It is obvious that the original legislation gave protection to the public.

What we are talking about in new section **46** is the great enlargement of opportunities for people to receive faulty certificates where the certificate of inspection is not for the same car as the one ultimately sold because of additions and removal of parts. We are talking not about dealers, but about people who will not be able to be found, people who may be men of straw, against whom the Minister has said there is no adequate recourse. That can happen only if they are people of substance who can be found and so on, assuming that under this provision car markets continue to operate. Under new sections **29A** and **29B** the car market operator is in an impossible position, as the Minister well knows. The dealer lobbyists have obviously had a better chance with the Ministers here than the car market operators. The Opposition believes that under these provisions the car market operators will eventually close down. Certainly, they will be extremely limited. We are still left with the problem of the dishonest dealer using a so-called backyard operator, as against somebody who happens to sell one or two cars a year. That happened even before the Minister was born.

The Minister is loading far too much on to the certificate of inspection under the Motor Traffic Act. It will bring about destruction of this very useful piece of legislation. I pointed out to the Minister during the second reading debate that he is enlarging and widening the circumstances for a greater number of plaintiffs who will not be able to recover from the persons they bought from, the car market operators, who will be out of business unless they take stringent precautions. The whole thing will collapse. The Minister should have thought more carefully, after all his talk, about new protection by way of warranties to all those purchasers **whom** he is supposedly protecting.

Mr EINFELD (Waverley), Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies [9.24]: I am thoroughly amazed that honourable members of the Opposition who have received briefs from some dissident members of the motor industry should not have absorbed the fact that if there is one thing that unites the industry it is their horror and disillusion with motor car fair operators. It is a peculiar situation. The honourable member for Lane Cove is now saying that the bill is making the task of the car market operators very difficult. That is what I set out to do. The trade and the industry have clearly said that they think the car market operator is a danger to the industry. The honourable member for Kirribilli is attempting to interject. I am not talking about land or developers or knocking doors down. I **am** not talking to him.

Mr McDonald: What about your experience in the motor trade?

Mr EINFELD: I know a lot about it, much more than you will ever know. The presence of the car market operator horrifies **the** motor industry. The car market operator frightens the motor industry. Those operators cause a great loss of sales to the industry because they give to private sellers for \$15 the right **to** put **a** motor car on display for sale. I am now saying, in response to representations by the motor trade, that it ought to be difficult for the motor car operator to provide that site without accepting any liabilities. Unless he places on the car a notice that that car is encumbered, he is to be responsible if it is encumbered and sold. **A** purchaser can tell the car market operator that he is liable if the car is encumbered. The operator **will** have to provide, among other things, a certificate of roadworthiness.

The service station owner who has the right to issue a certificate is not as dishonest as honourable members opposite would suggest. There are no manifestations anywhere that service station operators are dishonest and issue certificates without proper inspection. They have to check that lights and brakes operate properly, that steering is quite satisfactory, and other things. They do not make out **certificates** dishonestly. They do not act deliberately dishonestly. Honourable members opposite are impugning service station operators—decent fellows who have had to put up with a lot in the past few months over petrol shortages. The Opposition is saying that they are **likely** to be dishonest. It is quite wrong and unfair to accuse this group, who are probably as honest as men who have been called to the Bar or are in any other profession. One should not without good reason impugn their honesty in this House. Service station operators are decent and honourable people who cause few injustices and do few wrongs.

Mr DOWD (Lane Cove) [9.27]: It is extraordinary that the Minister has missed the whole point of the development of the law of negligence. We are talking about people who have to issue those certificates being liable in negligence for their failure to inspect.

Mr Einfeld: Tell me how many cases of negligence there have been. Quote me **a** couple.

Mr DOWD: We will see in a couple of years time whether the Minister can come into this Chamber and say that. The Service Station Association is concerned, and has been for some time, with good reason. The Minister knows we are not **talking** about dishonest issuing of certificates: We are talking about the liability that attaches to somebody who does not adequately inspect and on whom a heavy onus is placed.

Mr Whelan: Why should they be exonerated?

Mr DOWD: They ought to be told of their liability rather than conned by the Minister who suggests that perhaps they should charge more than \$6.

Mr Einfeld: Who said that?

Mr DOWD: The Minister has not said that?

Mr Einfeld: Where did you get that? Is that another fixation of your imagination?

Mr DOWD: For a trifling fee they accept tremendous responsibility. What is really interesting is that the Minister has now admitted that the motor trade is concerned about the fairs. He is going to make sure that it is very difficult, if not **impossible**—

Mr Einfeld: I did not say it would be impossible.

Mr DOWD: He did not say it but *Hansard* will show what we all heard him say.

Mr Einfeld: Did I say it was impossible?

Mr DOWD: I did not say that you said it.

Mr Einfeld: Be careful.

Mr DOWD: The Minister should be patient. The Minister has now admitted that the trade has been to him. It is seriously worried about market operators, as it has a right to be. He now admits that all this claptrap about the giving of certificates and about extra provisions is aimed at stopping the market operator getting away with what he does now, offering a site for \$15, and so on. The Minister is going to load conditions and responsibilities on to the operator until he is wiped out. The public will then ask what happened to the markets that they liked?

Mr Einfeld: You think they should stay? You want the car market operators to continue to function?

Mr DOWD: The Minister who introduces this legislation must take responsibility for his actions. He has not told the public that he is going to wipe out the markets, because the public might be unhappy about that. It is not necessarily reasonable that the public should be unhappy, but the Minister should have been honest and told the people what he is doing in bringing forward this bill. His next step will be to control backyard operators, which he ought to be trying to do now. After all his talk about it he has failed to do so.

The legislation fails to tackle the growing section of the car market industry about which the Minister ought to be concerned. In wiping out the market it attacks the people who bought from auctions and will be forced to go back to the auctions. I wish I knew their lobbyist, because he obviously did a lot better than the market operators that the Minister is prepared to wipe out, without having the honesty to say so.

Mr EINFELD (Waverley), Minister for Consumer Affairs, Minister for Housing and Minister for Co-operative Societies [9.31]: I would not have said anything further in the debate had it not been that the honourable member for Lane Cove impugned my honesty, which is very rare in this House. I do not have a dishonest streak in me. I have never hidden the facts. The honourable member for Lane Cove has gone on record as wishing to perpetuate the car market operators that the trade generally has strongly suggested should disappear. He is suggesting that this House should not introduce legislation that makes them more responsible. If he wants to go on record as the man responsible for their continuation, then it is fair that he says so clearly.

Schedule agreed to.

Schedule 9

Mr DOWD (Lane Cove) [9.32]: As I indicated at the second reading stage, the extraordinary provision in column 3 of the new Schedule 1 to be added to the Act deals with a motor vehicle, not being a secondhand car, driven less than 15 000 kilometres. I ask that the Minister look carefully at what is proposed. It is twelve months less a month for each 2 000 kilometres that the vehicle has been driven before sold by the dealer. In respect of a vehicle 11 months old, which has done a few thousand kilometres, it imposes a very heavy obligation, whereas for a secondhand vehicle only two months old the obligation to repair extends for **only** three months. The Minister should consider if that is what he intends, otherwise it is a **Draconian** provision.

Schedule agreed to.



Adoption of Report

Bill reported from Committee with an amendment, and report adopted on motion by Mr Einfeld.

IRRIGATION (AMENDMENT) BILL

Second Reading

Mr GORDON (Murrumbidgee), Minister for Conservation and Minister for Water Resources [9.35]: I move:

That this bill be now read a second time.

The objects of the bill are to increase the penalties for offences under the Irrigation Act and to permit the Water Resources Commission to determine the quantity of water supplied to occupiers of lands in irrigation areas constituted under that Act in certain circumstances and to issue certificates in respect thereof. During recent watering seasons it has become increasingly obvious to the Water Resources Commission that the penalties prescribed for offences under the Irrigation Act, particularly those in relation to interference with commission works and unauthorized use of water, are totally inadequate. The penalties have remained unchanged since 1970 and no longer serve as a deterrent to persons contravening the provisions of the Act. The amendments proposed in schedule 1 of the bill will provide more realistic penalties for present-day circumstances.

Schedule 2 of the bill relates to the quantification of water supplied in the irrigation areas to which I have referred. Proposed new section 16 will permit the commission to determine the quantity of water supplied during any period when there is no prescribed method of measuring the quantity or when the method of measuring does not function correctly. New section 16 (a) will allow the commission to issue a certificate of the quantity of water supplied when the quantity was ascertained by a prescribed method of measuring or was the subject of a determination under section 16. The certificate will be conclusive evidence in any proceedings of the matters certified in and by the certificate. The need for these provisions arises from a Supreme Court case in 1976 when joint landholders in a Southern Riverina irrigation district challenged in the Equity Court the accuracy of water measurements through the Dethridge outlet serving their holding. The challenge came after the commission had cut off the supply of water to the holding because the water allocation for the year had been supplied. The commission was involved in costly litigation and testing of the outlet to establish that there had been no undersupply of water. In addition the landholders received the benefit of additional water through the outlet whilst a range of tests was carried out over two days. There are several thousand such outlets in the channel systems operated and controlled by the commission in irrigation areas and districts. The commission is concerned at the possibility of similar challenges, particularly in times of actual or threatened shortage of water. The proposed amendments are designed to meet the position. I commend the bill to the House.

Mr FISCHER (Sturt) [9.38]: The Opposition supports the legislation in principle. The irrigation potential and activity of the State is underestimated by the community. This is a great and expanding industry that stretches across many of the valleys of inland New South Wales and, to a lesser extent, coastal New South Wales. It provides vital insurance against drought to every consumer in the community. The Opposition is always interested in this policy area in terms of the irrigation districts and in the more general powers associated with penalties for offences under the Water Act for river pumpers and the like. A second bill will be brought before the House

to deal with that aspect. It is not cognate, but will follow for consideration in the House. While the Opposition does support in principle the two-pronged attack to update penalties after some eight years, and a more realistic approach to the issuing of certificates of quantification, it has a deal of concern about one aspect of the bill.

To all intents and purposes certificates of quantification will give sweeping power to a Government instrumentality without any right of appeal to irrigators, river pumpers and similar water users. Clearly there is a case for the Water Resources Commission to have the power of quantification. As stated in the measure and referred to by the Minister in his rather brief second reading speech, the commission may, by whatever means it considers fit, determine the quantity of water supplied during a period at the point of supply to the occupier of the land. That provision points up the sweeping nature of the measure. The Opposition is not opposed to that provision as it acknowledges that there are cheats in the system.

Human nature being what it is, at drought and other times of the year some people will tamper with their water wheel or water supply to their property in a cheating manner. They do this in an endeavour to add to their income, to save on costs or for similar reasons. Unfortunately, often they do it at a time when real hardship and disadvantage is occasioned to other irrigators in the particular area. Certainly it creates general hardship for all other irrigators as the loss of income to the Water Resources Commission has to be met by the Government through the Treasury or, alternatively, by irrigators and water pumpers paying increased water charges. This is why the Opposition supports the measure in principle.

The Minister has decided that the commission will have certain powers where there is doubt, and where there is no prescribed method of measuring, or where there is a prescribed method of measuring a quantity of water but the commission is of the opinion that it did not function correctly. In that case, let the commission come forward with a certificate of quantification. I submit that there should be some simplified method of appeal against the issue of a certificate when a mistake has been made by the commission. I know that by and large the Water Resources Commission would seek to determine a fair and just value and quantity for the certificate that it issues.

I know that the commission's officers at the regional and local level will handle the details of the issuing of certificates of quantification. I am certain that those officers will try to act fairly in arriving at an accurate value and quantity of water in what has been a grey area when there is some breakdown in the metering, some tampering with it or some other reason to cause doubt. I am sure also that the commission will endeavour to take a just and reasonable approach. However, mistakes can occur and for this reason the Opposition considers that there should be a simplified, non-delaying, direct, uncomplicated appeal system. Although I am not a lawyer and I may be idealistic, I suggest there could be some form of appeal mechanism that would not tie up in litigation many officers of the Commission or cause additional cost to be incurred, delay assessments for a further twelve months, or cause similar problems that should be avoided.

At the Committee stage I shall move on behalf of the Opposition for the deletion from the measure that aspect which, in effect, removes all rights of appeal for irrigators or other water users. I refer to that part of schedule 2 which states:

**147AB. (1) A** certificate purporting to be issued under subsection (2) for the purposes of this subsection shall, in any proceedings, be admissible in evidence and be conclusive evidence of the matters certified in and by the certificate.

**Mr Fischer]**

I am advised that the phrase "conclusive evidence of the matters certified" means in law that it can in no way be the subject of appeal to any court or any other body at all as the certificate issued by the commission will be conclusive evidence in every situation. It is not clear whether the Water Resources Commission, in having second thoughts about the decision it has arrived at with a certificate of quantification, would have the right, if some additional evidence were presented, to act on those second thoughts.

Clearly there was a need to bring up to date penalties associated with the various breaches. The amounts proposed by the Government are quite reasonable. There was need for certificates of quantification to cover the positions to which I have referred. However, the Opposition submits that there should be provision for a simplified appeal mechanism available to an irrigator when a genuine mistake or some error is made so that it can be corrected. At the Committee stage the Opposition will seek a division on its amendments. The Opposition hopes to do one of two things by moving amendments. First, to force the hand of the Minister and the Government to come back with a simplified appeal mechanism by removing the conclusive evidence description or, alternatively, to obtain from the Minister an assurance that when there are second thoughts by the commission or new material is presented in relation to a particular certificate of quantification, the commission will be willing to look again at the matter and not be bound by the certificate previously issued in accordance with the Act. The Opposition recognizes the importance of the measure and, as I have said, supports it in principle, subject to the qualification of providing a right of appeal.

Mr GORDON (Murrumbidgee), Minister for Conservation and Minister for Water Resources [9.46], in reply: The Government cannot accede to the suggestion made by the honourable member for Sturt. His proposed amendment would defeat the object of the bill. The honourable member for Murray will recall that over the past two summers certain water users in her electorate exceeded their allocation of water, particularly during early December. One gentleman challenged the accuracy of the Dethridge wheel. At least 2 000 or 3 000 of these wheels are in use along the Murray River. Nobody said that it is an accurate scientific instrument. It is a measuring device generally accepted.

During last summer the Water Resources Commission showed considerable patience and tolerance towards those water users who, in effect, miscalculated their amounts of water and exceeded their allocations. There was a 20 per cent allocation given and borrowing against allocations of 10 per cent. From memory they got up to about 145 per cent of the allocation. A couple of growers who exceeded their allocation were warned periodically throughout the summer. They sowed more crops than they had water with which to grow them. They were warned continually. They were given two or three extensions of allocations.

The commission must reach the stage of deciding what is for the common good of all water users. Some of these users keep to their allocations. Even though extra water was offered they were not in a position to take it as they had kept to the area of crop that accorded with their original allocation. The extension of the allocation was extremely unfair to the person who did the right thing. A person could put in a crop and then take a punt on challenging the accuracy of the measuring device. The matter could go to court. This happened. By the time he obtained an injunction, and with pending court proceedings, he obtained his water. Then it was decided to check the measuring. He received free water as it was passing through another wheel that was used to check the accuracy of the first wheel. By that time he had finished his crop.

Somebody has to be in charge. The Water Resources Commission must be in charge. There is no alternative. The suggestion by the honourable member for Sturt would hamstring the whole operation. It may seem hard that a person can be given an assessment without right of appeal but someone has to make these determinations. The determination is made in a fair way. Nearly all farmers know how they are going with use of water through the year. After every watering he can look at the wheels. Throughout the season the farmer has many opportunities to have the wheels checked if he thinks there is something wrong. The determination is made by the channel attendant who each day travels around the farms and if there is anything irregular he would notice it. A stick may get in the wheel and the water passes through but the wheel does not turn. Someone could pick up the wheel and lift it out of the water which could be flowing freely.

In most cases the channel attendant sees if there is something irregular and tells the farmer. There and then they would assess the amount of water used. In that case 99 farmers out of 100 would say to the channel attendant that their measuring device has broken down. I know that the honourable member for Barwon would do that. The farmer would say that he estimated that 10 megalitres were used the night before. The channel attendant keeps a daily record and in the case of any dispute the matter could be handed over to a more senior officer in the Water Resources Commission. In point of fact that does not happen. A good working arrangement exists between channel attendants and farmers. The honourable member for Sturt is creating difficulties that are just not present. If an irrigator or farmer seeks to take an unfair advantage over his neighbours and fellow water users in a situation where there is a shortage of water the action taken in the bill must be available for the protection and common interest of all water users. The amendment would simply destroy the whole point of the bill. The idea is to get smooth running and a fair allocation of water-available.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 2

Page 4

25                   16A. (1) A certificate, purporting to be issued under subsection (2) for the purposes of this subsection, shall, in any proceedings, be admissible in evidence and be conclusive evidence of the matters certified in and by the certificate.

Mr FISCHER (Sturt) [9.55]: I move:

That at page 4, lines 24 to 26, the words "and be conclusive evidence of the matters certified in and by the certificate" be left out.

This matter was discussed during the second reading debate. The Minister's comments in reply were particularly interesting. He conceded that this is the kernel of the bill. It removes all rights of appeal for irrigators in terms of certificates of quantification. The Minister also indicated that he will not accept the amendment because it will hamstring the work of the Water Resources Commission of New South Wales. There are times of the year when with a fast moving operation, delays, particularly in relation to allocations of water in part of the State could have dire consequences. I recognize a measure of importance in what the Minister has said but lack of a right of appeal is a serious principle. It is one that the Committee could not lightly pass by.

I ask the Minister to give consideration to another aspect, if he proposes not to accept the amendment. Will he assure the Committee that in an informal process where the commission has a second thought on the decision that a particular certificate of quantification be issued or in a case where an irrigator presents genuine new evidence of some aspect which was not known to him or the commission until after the issue of a certificate there will be sufficient leeway to allow an amended certificate of quantification to be issued by the commission which would still have a total and somewhat arbitrary power. If the Minister does not accept the amendment, at least he should assure the Committee that consideration will be given where genuine new evidence is presented or where there is a new development in terms of the irrigator's side of things or where the commission itself comes up with a new aspect in relation to certificates it has issued so that a revised, amended or updated certificate of quantification can be issued. I commend the amendment to the Committee.

Mr GORDON (Murrumbidgee), Minister for Conservation and Minister for Water Resources [9.57]: The Government cannot accept the amendment, which would defeat the whole purpose of the bill. The honourable member for Sturt dealt with an appeal. He did not say to whom the appeal would be made or who would make the decision. I am pleased to see the honourable member for Murray in the Chamber. I remind her of the Water Resources Commission's record in this type of operation. The only objection that has ever been raised and the only litigation for years—perhaps ever—was the case of a person who made an objection deliberately to gain time to finish a crop. That created a precedent.

When I had a farm, the measuring mechanism broke down. The channel attendant went to read the amount of water used but none was recorded. In that case one goes back to the same period in the year before. It might be that 48 feet of water were used in the same period the previous year with the same crop of lucerne. In my case we negotiated a figure. I said that it rained this year a bit more than it did the previous year but the rain record was produced by the attendant. I was happy with that because it was done by agreement. If 100 acres of rice is under cultivation a reasonable man would accept the assessment. An unreasonable man in a situation where there is a shortage of water, with everyone watching what everyone else is doing, would not accept the assessment. The amendment would encourage people of that type. A small minority, having used the water allocation by about Christmas, could lodge frivolous objections when the courts were on holidays in January. The irrigator could take out an injunction which the judge on duty would not be able to hear during the law vacation, and the case would be adjourned for six weeks. In the meantime, the water would have been supplied. The amendment would defeat the whole purpose of the bill and put us back where we were. The Government cannot accept it.

Mr Fischer: What about where there is a genuine case of new evidence?

Mr GORDON: A person who has used his water and has had the matter looked at could not produce new evidence. I do not know how he could produce new evidence if a certificate has been issued. How could new evidence be brought forward after it has all happened? The water has gone.

Mr Fischer: If that could be done and it was a genuine case, would the Minister issue a certificate?

Mr GORDON: There would be no need to issue a certificate. No one could say he had a genuine case. It has always been my policy and that of the Water Resources Commission that if there is a doubt the customer nearly always gets the benefit of it. Following a recent Equity Court decision the Government has acted on advice it received to prevent frivolous objections by people seeking to gain unfair advantage over others.

Question—That the words stand—put.

The Committee divided.

Ayes, 61

Mr Akister	Mr Gabb	Mr O'Connell
Mr Anderson	Mr Gordon	Mr O'Neill
Mr Bannon	Mr Haigh	Mr Paciullo
Mr Barnier	Mr Hatton	Mr Quinn
Mr Bedford	Mr Hills	Mr Renshaw
Mr Booth	Mr Hunter	Mr Robb
Mr Brereton	Mr Jackson	Mr Rogan
Mr R. J. Brown	Mr Jensen	Mr Ryan
Mr Cahill	Mr Johnson	Mr Sheahan
Mr Cavalier	Mr Johnstone	Mr A. G. Stewart
Mr Cleary	Mr Jones	Mr. K. J. Stewart
Mr R. J. Clough	Mr Keane	Mr Wade
Mr Cox	Mr Kearns	Mr Walker
Mr Crabtree	Mr Knott	Mr Webster
Mr Day	Mr McCarthy	Mr Whelan
Mr Degen	Mr McGowan	Mr Wilde
Mr Durick	Mr McIlwaine	Mr Wran
Mr Egan	Mr Maher	
Mr Einfeld	Mr Mair	<i>Tellers,</i>
Mr Ferguson	Mr Mallam	Mr Britt
Mr Flaherty	Mr Mulock	Mr Face

Noes, 34

Mr Arblaster	Mr Fisher	Mr Pickard
Mr Boyd	Mrs Foot	Mr Punch
Mr Brewer	Mr Freudenstein	Mr Rozzoli
Mr J. H. Brown	Mr Healey	Mr Singleton
Mr Bruxner	Mr McDonald	Mr Smith
Mr Cameron	Mr Maddison	Mr Taylor
Mr Catterson	Mr Mason	Mr West
Mr. J. A. Clough	Mrs Meillon	Mr Wotton
Mr Cowan	Mr Morris	
Mr Dowd	Mr Murray	<i>Tellers,</i>
Mr Duncan	Mr Osborne	Mr Moore
Mr Fischer	Mr Park	Mr Schipp

Question so resolved in the affirmative.

Amendment negatived.

Mr FISCHER (Sturt) [10.12]: I have no alternative but to seek an amendment to the all-embracing and arbitrary powers conferred on the Water Resources Commission. I move:

That at page 5, after line 32, there be inserted the words

(4) This section shall cease to have effect on and from 30th June, 1980.

The Opposition believes there should be a fundamental review of the arbitrary powers that have been conferred on the Water Resources Commission whereby there will be no appeal for irrigators in any situation involving the issue of certificates of quantification. We support the system whereby such certificates will be provided in **certain** conditions. We believe that is most necessary, but the **Government** has rejected any

simplified appeal mechanism in respect of the certificates. It would be reasonable for a Minister or the government of the day to seek renewal of these powers in 1980, if they have worked satisfactorily and if, in fact, irrigators have not been disadvantaged. I am fairly confident that the commission will continue to exercise a reasonable and just discretion in the issue of certificates of quantification, but I see no harm in inserting a provision that will compel a fundamental review of these arbitrary powers. Otherwise, it is most likely that these arbitrary powers will remain in the Act until the next century, which may not be in the best interests of irrigators.

Mr GORDON (Murrumbidgee), Minister for Conservation and Minister for Water Resources [10.15]: The Government must reject the amendment. I think it is a humbug provision and would simply defeat the whole object of the bill.

Question—That the words be inserted—put.

The Committee divided.

**Ayes, 34**

Mr Arblaster	Mr Fisher	Mr Pickard
Mr Boyd	Mrs Foot	Mr Punch
Mr Brewer	Mr Freudenstein	Mr Rozzoli
Mr J. H. Brown	Mr Healey	Mr Singleton
Mr Bruxner	Mr McDonald	Mr Smith
Mr Cameron	Mr Maddison	Mr Taylor
Mr <b>Caterson</b>	Mr Mason	Mr West
Mr J. A. Clough	Mrs Meillon	Mr Wotton
Mr <b>Cowan</b>	Mr Morris	
Mr Dowd	Mr Murray	<i><b>Tellers,</b></i>
Mr Duncan	Mr <b>Osborne</b>	Mr Moore
Mr Fischer	Mr Park	Mr Schipp

**Noes, 61**

Mr <b>Akister</b>	Mr Gabb	Mr O'Connell
Mr Anderson	Mr Gordon	Mr O'Neill
Mr Bannon	Mr Haigh	Mr Paciullo
Mr Barnier	Mr Hatton	Mr Quinn
Mr <b>Bedford</b>	Mr Hills	Mr Renshaw
Mr Booth	Mr Hunter	Mr Robb
Mr Brereton	Mr Jackson	Mr Rogan
Mr R. J. Brown	Mr Jensen	Mr Ryan
Mr Cahill	Mr Johnson	Mr Sheahan
Mr Cavalier	Mr Johnstone	Mr A. G. Stewart
Mr Cleary	Mr Jones	Mr K. J. Stewart
Mr R. J. Clough	Mr Keane	Mr Wade
Mr Cox	Mr Kearns	Mr Walker
Mr Crabtree	Mr Knott	Mr Webster
Mr Day	Mr McCarthy	Mr Whelan
Mr Degen	Mr McGowan	Mr Wilde
Mr Durick	Mr McIlwaine	Mr Wran
Mr Egan	Mr <b>Maher</b>	
Mr Einfeld	Mr Mair	<i><b>Tellers,</b></i>
Mr Ferguson	Mr Mallam	Mr Britt
Mr <b>Flaherty</b>	Mr Mulock	Mr Face

Question so resolved in the negative.

Amendment negatived.

Schedule agreed to.

#### Adoption of Report

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

#### BILLS RETURNED

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

Local Government (Rating and Valuation) Amendment Bill

Valuation of Land (Rating and Valuation) Amendment Bill

#### WATER (AMENDMENT) BILL

##### Second Reading

Mr GORDON (Murrumbidgee), Minister for Conservation and Minister for Water Resources [10.22]: I move:

That this bill be now read a second time.

The objects of the bill are to increase the penalties for offences under the Water Act and to provide for the measurement or determination of the quantity of water supplied to holdings under that Act and the assessment of rates and charges therefor. Penalties for offences under the Act have remained for the most part unchanged since 1970. They are no longer a deterrent to persons acting in contravention of the provisions, particularly in respect of interference with commission works and unauthorized use of water in irrigation districts. The amendments proposed in schedule 1 of the bill will provide more realistic penalties to meet present-day requirements.

Item (1) of schedule 2 extends the time for the assessment of the rates and charges for water in irrigation districts by two months after the end of a year. Under the existing provisions of section 139 of the Act the commission is required to make the assessment before the end of each year, that is, by 30th June. This requirement creates difficulties in a dry year when landholders often require water deliveries continued up to 30th June. Sufficient time must be allowed for the reading of the meters, recording and checking total deliveries for the year and preparing assessments. The amendment will overcome this problem.

Item (2) of schedule 2 inserts two new sections 147AA and 147AB in part VI of the Act. New section 147AA will allow the commission to determine the quantity of water supplied to holdings during any period when there is no prescribed method of measuring the quantity, or when the method of measuring does not function correctly. Proposed new section 147AB will allow the commission to issue a certificate of the quantity of water supplied when the quantity was ascertained by a prescribed method of measuring or was the subject of a determination under section 147AA. The certificate will be conclusive evidence in any proceedings of the matters certified in and by the certificate. These two sections are in similar terms to sections 16 and 16A proposed to be inserted in the Irrigation Act by the Irrigation (Amendment) Bill, 1978, which is currently before the House. I commend the bill to the House.



**Mr FISCHER (Sturt) [10.25]:** The Opposition supports in principle the measure that the Minister has brought before the House. It is in two parts. The first deals with penalties, some of which have been increased by 400 per cent and reflect an adjustment based on an eight-year period since 1970. It is interesting to note the variation in the increases. Some have been doubled, some have not been increased and others have been increased by 400 per cent. I suppose there has been a further evaluation of the proper penalties by the Water Resources Commission. This is a wise course of action because there have been deliberate breaches of the Act and illegal activities carried out by licensed pumpers and other water users. The Opposition does not oppose the increase in penalties but wonders why there has not been a consistent across-the-board increase. The Minister might inform the House of the reason. Item (9) of schedule 1 relates to section 21A. The amounts involved are merely to be changed from words to figures. My colleague the honourable member for Murray will refer to that matter.

The second part of the bill refers again to the introduction of certificates of quantification, once more without providing any right of appeal. I do not propose to delay the House by going over the ground covered in the debate that has just taken place and on which the Committee twice divided on amendments proposed by the Opposition to provide a basis for appeal or, alternatively, a fundamental review in 1980. However, the Opposition will again be moving in the Committee stage for amendments to this bill, because it believes that the commission should not have arbitrary powers without some qualification. The wording of the bill is firm and sweeping. It involves an important principle that confers on the Water Resources Commission sweeping powers whereby certificates will be conclusive evidence of the matters certified in them. There has been comment throughout the State on the fact that there is to be no right of appeal by an irrigator, water pumper or any other user against an assessment.

Mr Gordon. Water pumpers are not involved.

Mr FISCHER: I am sorry; then I exclude them. The Minister will recall that he has received a communication or two relating to the appeal aspect.

Mr Gordon: I have received one out of 5 000 water users.

Mr FISCHER: The reason the Minister may not have received more is that the community at large, or the water-orientated community at large, may not realize the consequences of the measure. The Minister should be fully aware of the sweeping powers being conferred on the Water Resources Commission. Being the temperate man that he is, I hope he will ensure that these powers are administered justly and reasonably. While supporting the principle involved in the measure, the Opposition will try to improve the bill in Committee by moving an amendment to provide some qualification of the sweeping powers that the bill is conferring on the commission.

Mr GORDON (Murrumbidgee), Minister for Conservation and Minister for Water Resources [10.29], in reply: I repeat what I have said several times, that the honourable member for Sturt wants an appeal but will not say to whom it should be made or suggest the mechanics of an appeal. The purpose of the bill is to stop frivolous breaches and appeals. One man was able to obtain a water supply from mid-December until the end of February, which enabled him to finish the harvesting of his crop. Good luck to him. But this would be followed by others who would use this case as a precedent for exceeding their quotas. It would affect the system throughout the whole of the Murray Valley.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

**Mrs MEILLON** (Murray) [10.32]: Item (11) of schedule 1 seeks to increase the fine in section 22 (2) of the Act from \$250 to \$500. That section relates to a person who removes, injures or interferes with any marks made, or pegs or stakes fixed as aforesaid. However, item (9) of schedule 1, which refers to section 21A (1), makes it plain that the penalty there is to remain unchanged. That penalty relates to a person discharging into rivers any noisome, noxious, poisonous, unwholesome matter or a number of other similar noxious materials that would pollute the rivers.

My point is that, while the bill seeks to double the penalty for offences in section 22 (2), the penalty for the much more serious offence under section 21A (1) has not been increased. I hope that the commission does not regard the penalties as another means of raising revenue, because on many occasions irrigators who suffer hardship have to pay. I should like them to be given some consideration when penalties are fixed.

**Mr GORDON** (Murrumbidgee), Minister for Conservation and Minister for Water Resources [10.35]: The honourable member for Murray said that she hoped the Water Resources Commission would not use the penalties as a method of raising revenue. I assure her that would never be the case. Any revenue raised from funds does not go to the commission or supplement water charges. The honourable member mentioned also the apparent inconsistency in fines. Discharging effluent into a river would be covered also by the Clean Waters Act. The penalties set out in the bill are consistent with those prescribed in the Clean Waters Act.

Schedule agreed to.

Schedule 2

Page 11

15 147AB. (1) A certificate, purporting to be issued under subsection (2) for the purposes of this subsection, shall, in any proceedings, be admissible in evidence and be conclusive evidence of the matters certified in and by the certificate.

**Mr FISCHER** (Sturt) [10.36]: I move:

That at page 11, lines 15 to 17, the words "and be conclusive evidence of the matters certified in and by the certificate" be left out.

The Minister said that I have not nominated to whom irrigators or water users would appeal about their certificate of quantification. I agree that this has not been spelt out in detail. It would be preferable for the commission in its wisdom to devise a simplified mechanism of appeal which would not delay the procedures to any great extent but would allow fair, just and quick determinations to be made and still provide for a measure of adjustment that is necessary. Although only one certificate in a thousand may have a mistake requiring an adjustment of the certificate, the Opposition seeks to remove the sweeping power associated with the measure by having removed the phrase "conclusive evidence". It is a matter for the Government either in this House or in another place to produce some form of simplified appeal mechanism.

Amendment negatived.

Mr FISCHER (Sturt) [10.37]: I move:

That at page 12, after line 23, there be inserted the words

(4) This section shall cease to have effect on and from 30th June, 1980.

This is a sunset clause, which is a feature of legislation in some parts of the world. Unfortunately the former Government and the present Government have failed to come to terms with this matter. There is a real place in our statutes for sunset clauses to force the hand of government instrumentalities and departments into conducting a fundamental review at a particular time.

Mr Walker: You will be facing a sunset clause soon.

Mr FISCHER: The Attorney-General and Minister of Justice interjects to refer to a redistribution, which is close to his heart. He seeks to alter a river which forms the southern boundary of his electorate. The amendment I have moved will force a review of the powers I have mentioned after a twelve month period of operation, which is after almost two full irrigation seasons. This would be a reasonable time to decide whether there should be any further improvements made to the **Act**, particularly to those provisions relating to certificates of quantification. A government seldom brings forward legislation from which there can be no appeal whatsoever. This is one such piece of legislation. It is reminiscent of the legislation introduced in the last session of Parliament relating to death duties which had a number of absolute provisions. It is most reasonable to bring about a review. If the Water Resources Commission and the Government are happy with these sweeping powers, they may introduce amending legislation in 1980. If the irrigators and water users are satisfied at that time the Opposition will not oppose those powers. For these reasons the Opposition presses the amendment.

Amendment negatived.

Schedule agreed to.

#### Adoption of Report

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

#### ALLOCATION OF TIME FOR DISCUSSION

Mr WALKER: On behalf of the Premier I desire to give notice of business to be dealt with under Standing Order 175B: Auctioneers and Agents (Amendment) Bill, second reading, Committee and report stages and third reading by 4.15 p.m., Wednesday, 29th November, 1978; Statutory and Other Offices Remuneration (Auctioneers and Agents) Amendment Bill, second reading, Committee and report stages and third reading by 4.15 p.m. on Wednesday, 29th November, 1978.

#### ADJOURNMENT

##### Contract Cleaners

Mr WALKER (Georges River), Attorney-General and Minister of Justice [10.42]: I move:

That this House do now adjourn.

Mr RAMSAY (Wollongong) [10.42]: I take the opportunity to bring to the notice of the Government a matter of serious concern in the electorate of Wollongong. I understand from the executive officers of the Miscellaneous Workers Union that this is a matter of extreme concern throughout New South Wales. Three weeks ago the executive officers of the Miscellaneous Workers Union arranged for a meeting with myself, Mr Speaker, the honourable member for Ilawarra and the honourable member for Cunningham, Mr Stewart West.

The executive officers of the union are extremely concerned that in some government offices no day labour is employed. The cleaning work is done by contract cleaners. In my opinion and in the opinion of the union officers it is a serious case of exploitation of people. The contract cleaners clean government offices and private offices at night time. A married woman is put in to do the cleaning. She is required to do a large amount of work in a period of three hours. It is impossible to do the work in the time allowed. Sometimes the lady brings in her husband and, on other occasions, one or two children. On occasions 12-year-old girls have worked in these buildings.

The situation cannot continue. If the young people are injured they are not covered by the provisions of the Workers Compensation Act. Straight after the meeting that was held three weeks ago in the office of the honourable member for Cunningham as I came downstairs I witnessed a woman with a husband and young child cleaning in that building. It is a matter of serious concern. I know that the Minister for Lands and Minister for Services has 18,000 cleaners under his ministerial control. Those cleaners are attached to the Government Stores Department and there is no day labour problem there. The work is carried out in an efficient manner. The cleaners are all members of the Miscellaneous Workers Union. The union is concerned that contracts are being let and people are being exploited. This sort of thing is going on at the Goulburn technical college. It has been reported at a number of buildings. I ask the Minister to have the matter investigated and a decision made in regard to future cleaning in government offices. The matter is of serious concern to me, to other members and to the officers of the Miscellaneous Workers Union.

Mr CRABTREE (Kogarah), Minister for Lands and Minister for Services [10.45]: I thank the honourable member for Wollongong for the information he supplied as a result of a deputation received by honourable members on the South Coast and the federal member with members of the Miscellaneous Workers Union about contract cleaners. I do not have available full information but I assure the honourable member for Wollongong that a big increase has occurred in the day labour force as far as cleaners in the department are concerned. That has been essential because of the increased number of schools and government offices throughout the State. I am a little concerned at allegations that exploitation of labour has occurred. I say this off the cuff: award conditions should be observed.

I ask the honourable member to request the Wollongong branch of the Miscellaneous Workers Union to give me details of the allegations so that the matter can be examined. I assure the honourable member for Wollongong that I shall thoroughly examine the matter. It is the policy of the Government that award conditions should be observed where they apply. I look forward to the further advice from the honourable member.

Motion agreed to.

House adjourned at 10.47 p.m.

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