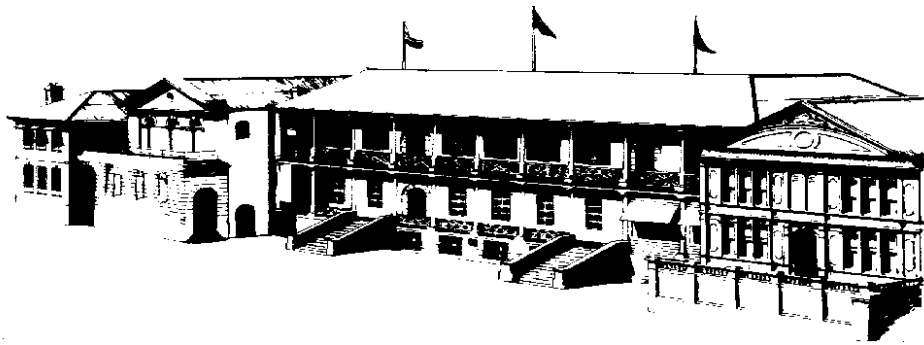




**NEW SOUTH WALES**



*Legislative Council*

**PARLIAMENTARY  
DEBATES**

**(HANSARD)**

**FIFTY-FIRST PARLIAMENT  
THIRD SESSION**

**OFFICIAL HANSARD**

**Wednesday, 27 May 1998**

# LEGISLATIVE COUNCIL

Wednesday, 27 May 1998

**The President (The Hon. Max Frederick Willis)** took the chair at 2.30 p.m.

**The President** offered the Prayers.

**MARKETING OF PRIMARY PRODUCTS  
(MURRAY VALLEY WINE GRAPE  
INDUSTRY) SPECIAL PROVISIONS BILL**

**PAWNBROKERS AND SECOND-HAND  
DEALERS AMENDMENT BILL**

**DARLING HARBOUR AUTHORITY  
AMENDMENT AND REPEAL BILL**

**SYDNEY COVE REDEVELOPMENT  
AUTHORITY AMENDMENT BILL**

**ROADS AND TRAFFIC LEGISLATION  
AMENDMENT (LOAD RESTRAINT) BILL**

**TRAFFIC AMENDMENT (VARIABLE SPEED  
LIMITS) BILL**

**MARKETING OF PRIMARY PRODUCTS  
AMENDMENT (RICE MARKETING BOARD)  
BILL**

**AGRICULTURAL INDUSTRY SERVICES BILL**

**ROAD TRANSPORT (VEHICLE  
REGISTRATION) AMENDMENT BILL**

**Bills received and, by leave, read a first time.**

**Suspension of standing orders agreed to.**

**JOINT SELECT COMMITTEE ON VICTIMS  
COMPENSATION**

**The PRESIDENT:** I report the receipt of the following message from the Legislative Assembly:

MR PRESIDENT

The Legislative Assembly desires to acquaint the Legislative Council that on Tuesday, 26 May 1998, it agreed to the following resolution—

That the terms of reference of the Joint Select Committee on Victims Compensation be amended by omitting the

date "29 May 1998" from paragraph (6) and inserting instead the date "30 September 1998".

And the Legislative Assembly requests that the Legislative Council pass a similar resolution.

Legislative Assembly  
26 May 1998

JOHN MURRAY  
Speaker

**STANDING COMMITTEE ON SOCIAL ISSUES**

**Motion by the Hon. M. R. Egan agreed to:**

That the reporting date for the reference to the Standing Committee on Social Issues relating to the state of parent education in New South Wales be extended from 15 June 1998 to 30 October 1998.

**DISABILITY DISCRIMINATION  
LEGISLATION AMENDMENT BILL**

**Bill read a third time.**

**TRUSTEE COMPANIES AMENDMENT  
(RESERVE LIABILITIES) BILL**

**Bill read a third time.**

**MINISTER FOR POLICE LICENSED  
PREMISES OWNERSHIP**

**Suspension of standing and sessional orders agreed to.**

**The Hon. J. P. HANNAFORD** (Leader of the Opposition) [2.45 p.m.]: I move:

1. That this House grants leave to Mr Hannaford to table a legal opinion relating to the relationship of the Minister for Police, Mr Whelan, MP, with the licensee of the Orient Hotel (Reachbold Pty Limited) and other persons within the meaning of the Liquor Act 1982, involving a breach of the Liquor Act 1982 by the Minister for Police.
2. That, on tabling, the document be printed.

A legal opinion has been prepared by Mr Ian Temby, QC, assisted by Mr Arthur Moses, and is dated 20 May 1998. The legal opinion states—

**The Hon. J. W. Shaw:** On a point of order. The motion relates to the tabling of a legal opinion. It seems premature for the Leader of the Opposition,

who moved the motion, to read from the substance of the legal opinion. That would make the motion redundant. I should have thought it was out of order for the honourable member to quote from the legal opinion he seeks to table. He should simply advance arguments as to why the legal opinion should be tabled.

**The Hon. J. P. HANNAFORD:** On the point of order. The House is entitled to understand what the legal opinion relates to so that it can decide whether to accede to the motion.

**The PRESIDENT:** Order! There is no point of order. The Leader of the Opposition is entitled to try to persuade the House why leave should be granted. However, that does not entitle him to debate the matters referred to in the legal opinion.

**The Hon. J. P. HANNAFORD:** As the motion indicates, the legal opinion prepared by Mr Ian Temby relates to a breach of the Liquor Act by the Minister for Police. According to the legal opinion, within the meaning of the Liquor Act Mr Whelan is a close associate of a licensee and the employer of a key official. Mr Temby is of the opinion that Mr Whelan is in breach of section 105A of the Liquor Act, which is a penal provision. Accordingly, the breach of the Liquor Act by Mr Whelan constitutes a criminal offence within the Act.

Mr Temby's opinion should be before the House for decision. Mr Temby said the position may be rectified by Mr Whelan in either of two ways. First, he can cease to be the Minister for Police. He could continue to be a Minister and no difficulty would present if he held any portfolio apart from those of Minister for Police and Minister for Gaming and Racing. Alternatively, Mr Whelan could take steps to divest himself of assets and offices in the company involved so that he ceased to be a close associate within the meaning of the Liquor Act. Taking either of those steps would cease the offence that Mr Temby says has been and is being committed. Mr Temby indicates that if Mr Whelan resigned as Minister or disposed of his assets other avenues would have to be pursued, which might lead to the responsible prosecuting authority deciding that proceedings under section 105A should not be commenced or, if commenced, should not be carried through to finality.

Advice that is available to the House or any member which gives rise to a belief that a Minister of the Crown has committed a criminal offence—Mr Temby is clear that such criminal offence has been committed by Mr Whelan—should be brought

before the House for urgent deliberation. I acknowledge that it is unusual to bring this matter before the House by motion, but the issues surrounding Mr Whelan and his ownership of the Orient Hotel are not new. In 1996 the matter was raised in the other House and Mr Whelan made it clear that, whilst statutory obligations apply in relation to his ownership of the Mercantile Hotel, those obligations are on the Police Service and not on the police Minister. Mr Temby's advice makes it clear that that is not so.

**The Hon. J. R. Johnson:** Are we talking about the Mercantile Hotel or the Orient Hotel?

**The Hon. J. P. HANNAFORD:** The comment of the Minister related to the Mercantile Hotel. The advice before this House relates purely to the Orient Hotel. However, the Minister has made his views clear about his statutory obligations. The matter has been raised in the other place on a number of occasions. If my recollection is correct, on the last occasion the Minister made it clear that the matter could be raised outside the Parliament, but, to use his words, "Do so and bring your assets with you." It is clear that the Minister is a man of substantial assets, more than anybody in this Chamber I believe. A threat of that nature is intimidation of a member of Parliament and precludes that member of Parliament from doing what would be normally expected, that is, to canvass other members on the substance of the opinion provided.

As a result of canvassing what an opinion provides, motions are brought before the House. However, the Minister clearly sought to intimidate members of the House by threatening that they should bring their assets with them, which indicates that he is prepared to sue anyone who raises the issue and to use his considerable wealth to silence someone by intimidation. The House can deal with the matter only by motion of this type seeking to table and print the opinion. All honourable members will then be able to have access to that opinion. Members will be able to get advice on the opinion with the protection of the Parliament. This method is unusual because the Minister for Police is prepared to intimidate members of Parliament into silence on this issue.

**The Hon. J. R. Johnson:** Who paid Mr Temby for the advice?

**The Hon. J. P. HANNAFORD:** Coalition members will pay for that advice. That interjection, by mere inference, might suggest collusion between Mr Temby and the coalition. Anybody who knows Mr Temby would reject that suggestion.

**The Hon. J. R. Johnson:** It is not inferred.

**The Hon. J. P. HANNAFORD:** No, but others might seek to infer it. I recognise the extreme seriousness and significant delicacy of this issue, but I make it clear that in handling this matter no single coalition member has had any direct contact with Mr Temby. As will be seen from the advice, the material that was made available to him was virtually all from the public record. The coalition would have accepted whatever advice was given because of the serious nature of the matter and there must not be any suggestion of partiality. I do not believe that anybody could suggest that in matters of such seriousness Mr Temby would be involved in any such partiality. I ask the House to support the motion to table the advice and to agree to an order to print that advice.

That advice then being available to all members, including Government members, further advice can be taken to help the House reach a decision on which direction to take. Mr Temby has been most clear in his advice that a criminal offence has been committed, that that offence continues and that two avenues are open to rectify that offence. The matter is now in the hands of the Minister for Police and the Premier. This House will act accordingly, depending upon the actions taken by the Minister and the Premier. However, it is clear from the advice that the Minister has one of two options: resign as Minister for Police or divest himself of all of his hotel interests. I emphasise also that the advice relates only to the Minister's interests in the Orient Hotel.

**The Hon. R. S. L. Jones:** You said all assets.

**The Hon. J. P. HANNAFORD:** I said when members read the advice they will come to that conclusion. From a reading of the Minister's pecuniary interests in relation to the Mercantile Hotel, his interests will or may give rise to other issues. It is appropriate that the House consider the relationship with the Orient Hotel and that the Minister make his determination about that. When honourable members read the advice it will be clear that it relates to all interests that might arise under the Liquor Act. I ask the House for its support and that I be given the opportunity to table the document and have it printed.

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [2.58 p.m.]: The Government is not inclined to oppose the motion, for two reasons. First, if it were to oppose the motion, no doubt the Minister for Police and the Government would be

accused of trying to suppress information. The Government does not want to be vulnerable to that allegation. Second, in any event, opposition would be futile in light of your ruling, Mr President, with which I do not cavil, that allowed the Leader of the Opposition to, in effect, summarise and quote from the opinion. In the light of that procedural course, there is an element of fiction and of futility in opposing the tabling of the legal opinion which, apparently, underpins the precis and distillation that the Leader of the Opposition undertook in his speech in support of the motion.

Nevertheless, I express some serious reservations about the course which is proposed. The Leader of the Opposition accepted that it was an unusual course. Not only is the course that has been taken unusual, my understanding is that it is without precedent. We have the proposal that a privately obtained legal opinion should be tabled before the House, thus attracting privilege and thus depriving a person whose reputation might be damaged by that legal opinion the opportunity of taking civil action and seeking damages in response to it. The procedure adopted by the Opposition is designed to use the privilege of the House to protect and preserve a legal opinion which apparently makes allegations against a member of the other House of this Parliament, and to therefore obviate the prospect of a civil action in defamation or otherwise, which that member would otherwise have available to him.

A more courageous course, if the Opposition had a legal opinion, would have been to provide it to the press gallery in the boxes downstairs, or otherwise publish or disseminate it, and take the legal consequences of that fact. It is for that reason that I express reservations about the use, or some might think the misuse, of the privilege of this House to give that protection to a legal opinion. After all, there are myriad legal opinions around this city which would say things about all kinds of citizens—members of Parliament, Ministers and others—which, if published, would have legal consequences. If people have evidence in a legal opinion they will publish it. They will give it to the press or otherwise make it a public document. Here we have the privilege of the House being used in that respect. I would have thought the better course would have been for the Opposition to simply make the document available, vouch for its accuracy and take the consequences.

I have assumed that the Leader of the Opposition vouches for the accuracy of the propositions contained in the motion, because if the motion were found to be predicated upon error obviously an injustice would be done by the tabling

of this legal opinion. I can only assume that in good faith the Leader of the Opposition personally vouches for the accuracy of the allegations contained in the motion. The other and final proposition I would like to put by way of reservation is that if any member of this House has information that any person—whether it be a member of Parliament, a Minister or another citizen—has breached the law, he or she should report that breach, or that alleged breach, of the law to the proper authorities.

Not only should people with information in their possession suggesting or alleging a breach of the law bring it to the attention of the proper authorities, they have a duty to do so. They should approach the Liquor Administration Board, the Police Service or the Independent Commission Against Corruption and bring that information to the attention of the proper authorities rather than, as I would suggest, use or misuse the procedures of this House to publicly ventilate that material. One may readily infer a political purpose, a political motive, rather than the purpose of bringing the allegation of illegality to the attention of the proper authorities. In summary, and ignoring the inane observations from the Opposition, which are of the usual level of intellectual calibre, for the reasons I have explained the Government is disinclined to oppose the motion but I have expressed reservations and doubts about its propriety and about the fact that it is unprecedented in the use of the procedures of this House.

**The Hon. J. P. HANNAFORD** (Leader of the Opposition) [3.04 p.m.], in reply: I will address only one aspect of the comments made by the Attorney General: the obligation to refer the matter to the proper authorities. In relation to an allegation of a breach of the criminal law, the appropriate authorities are the police. The person involved in this issue is the Minister for Police. The advice, when examined, will identify why, because of the relationship, this matter appropriately should not be sent to the police.

This is not a matter which is brought anew to this House; it is not a matter that has been raised for the first time today; this matter has been in the public domain since 1996 and the Government and the Premier have refused to act. The matter has been appropriately dealt with by obtaining independent legal advice rather than pursuing this matter by what might be described as continued political attacks. The advice has confirmed that there is an issue and the matter has been brought before the Parliament because it seems that the Government has been prepared to be inactive on this issue for more than two years.

### Motion agreed to.

**The Hon. J. P. HANNAFORD** (Leader of the Opposition) [3.06 p.m.]: According to the resolution just adopted, I table a memorandum of advice by Mr Ian Temby, QC, and Arthur Moses regarding the Minister for Police and section 105A of the Liquor Act 1982, dated 20 May.

### CONDUCT OF JUSTICE VINCE BRUCE

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [3.07 p.m.]: I move:

1. That in view of the report of the Conduct Division of the Judicial Commission of New South Wales concerning complaints against the Hon. Justice Vince Bruce, dated 15 May 1998, and tabled in this House on 26 May 1998, the Hon. Justice Vince Bruce, a judge of the Supreme Court of New South Wales, be called on to address the House and show cause why he should not be removed from office.
2. That this House grants leave for the Hon. Justice Vince Bruce to attend at the Bar of the House on Wednesday, 3 June 1998, at 11.30 a.m., in person or by his legal representative, to show cause why he should not be removed from office on the grounds set out in the report of the Conduct Division.
3. That in attending at the Bar of the House, the Hon. Justice Vince Bruce or his legal representative be allowed a time not exceeding 75 minutes to address the House only in relation to matters set out in the report of the Conduct Division.
4. That this resolution be communicated by the President in writing to the Hon. Justice Vince Bruce and seeking a written reply by 2.30 p.m. on Tuesday, 2 June, as to whether or not the Hon. Justice Vince Bruce or his legal representative will appear at the time and place appointed.

This motion reflects a matter of major legal and historical significance. In considering the question of the removal of a judicial officer from office, it is incumbent upon the Parliament to deal with the matter both expeditiously and with a process that is fair and appropriate. The motion provides that this House calls upon Justice Bruce to show cause why he should not be removed from office, and to do so by attending at the Bar of the House on Wednesday, 3 June 1998, at 11.30 a.m., in person or by his legal representative, to address the House on this matter.

I would express the opinion that it is essential that this House extend the opportunity to the judge to address the House on the findings of the Conduct Division and for him, as a matter of procedural fairness, to have the opportunity to state his case or, should he wish, to have his case presented by his legal representative. A time of 75 minutes is

nominated in the motion as the time this House should allocate to Justice Bruce for his address. It is, of course, entirely a matter for Justice Bruce as to whether he wishes to accept the invitation of this House, and the motion seeks a response by 2.30 p.m. on Tuesday, 2 June 1998, as to whether he will or will not appear at the time and place appointed.

When I tabled the report of the Conduct Division I also tabled a written response by Justice Bruce, which I considered to be fair. I did not intend that such a written response be his only opportunity to state his case. As the House is to decide whether he should or should not be removed from office it should extend to him the courtesy to address it. Contrary to some reports, this motion does not constitute any element of prejudgment of the matter and nothing said by me or by the Leader of the Opposition, the Hon. J. P. Hannaford, represents a prejudgment of the matter. This move has not been initiated by the Government; it is a proper and inevitable result of the Judicial Commission's report. The Parliament, which established the Judicial Commission, is bound to give appropriate consideration to its report. The motion is designed to facilitate that appropriate consideration, not—I reiterate—to prejudge the matter. I call for disinterested, proper consideration and procedural fairness. Those concepts are embodied in the motion.

**The Hon. J. P. HANNAFORD** (Leader of the Opposition) [3.10 p.m.]: The House has taken an historic approach in relation to this matter. The motion provides Justice Vince Bruce with an opportunity to appear before and to address the House to show cause as to why he should not be removed from office. As this matter is historic in nature I shall express a number of views for the record. There is available an argument that this House has passed over to the Judicial Commission authority to investigate the allegations and to report to the House, and that the House should not further investigate; and that the issue of natural justice in relation to such an investigation rests with the inquiry by the Judicial Commission and that that is the extent to which natural justice needs to be observed. I believe there is some merit in that argument. However, the final decision as to whether a judge should be removed is vested in the House by the Constitution. Therefore, the House should not only do justice but be seen to do justice.

Therefore, I believe the approach proposed by the Government is appropriate. In all cases where it is proposed that a judge be removed the judge should be given an opportunity to address the Chamber. The structure of our Constitution is such

that it requires each House of Parliament to pass a motion to remove that person from office. A decision by either House not to do so means that the person will stay in office. The motion before the House proposes that the Legislative Council provide the opportunity for Justice Bruce to address all members of the House as to why he should or should not remain in office. I trust that should such a motion be passed by this House and then passed by the Legislative Assembly, the Government will extend to Justice Bruce the opportunity to address the Legislative Assembly. That should be the approach in such matters. Today the House is outlining a procedure which will be followed in the future when we are no longer members of Parliament or even mere mortals on this land.

**The Hon. J. H. Jobling:** Never "mere".

**The Hon. J. P. HANNAFORD:** Perhaps never mere. That is the appropriate approach. I ask the Attorney General to consider a matter that has been raised with me. Many honourable members have had the opportunity to read the majority report and have noted the issue on which the newspapers have focused: procrastination. There have been delays which, on their face, appear to be lengthy. However, the Judicial Commission report does not give a benchmark against which such delays can be assessed to determine whether procrastination is the appropriate description. Unfortunately, no public documentation is available against which there can be a benchmark.

I ask the Government to consider whether a document is available within the Judicial Commission—against which we do not have to identify judges or cases—against which we can assess caseloads and performances in a comparable court during the period to which this matter relates. I shall not go into the detail of that matter. Suffice it to say that a number of honourable members have expressed concern about it. I ask the Government to consider this matter, which I have raised on behalf of all honourable members.

**Reverend the Hon. F. J. NILE** [3.15 p.m.]: The Christian Democratic Party supports the motion moved by the Attorney General. Obviously, as the various documents relating to Justice Vince Bruce, a judge of the Supreme Court, were tabled only yesterday honourable members have had a short time in which to consider them. I understand that there is no precedent for the House to be involved in a process that could result in a judge of the Supreme Court being removed from his position. This is a most serious matter. As stated in paragraph 3 of the motion, honourable members should allow—and we

will allow—the Hon. Vince Bruce or his legal representative to speak to the House for a period not exceeding 75 minutes. All honourable members should reserve judgment until they hear Justice Bruce, or his legal representative, speak. The judge should be allowed every opportunity for natural justice before the House.

**The Hon. R. S. L. JONES** [3.17 p.m.]: I support the motion. As the old saying goes, justice delayed is justice denied. However, as the Leader of the Opposition pointed out, there are no benchmarks against which to assess the delays. Were they unreasonable? Against what are they being judged? I hope Justice Bruce will address another matter when he comes before the House: I refer to a case that has been before him for a number of years—the Copper-7 IUD case—which has already cost approximately \$10 million. A number of women are waiting for the outcome of that case. That case also deserves to be taken into consideration because if it is passed to another judge—who may not have the same understanding of the veracity or demeanour of the witnesses and who may have difficulty judging the witnesses—those women, who have waited such a long time, will be denied justice. That serious case should be taken into consideration by the House. I hope Justice Bruce will address it when he comes before the House.

**The Hon. FRANCA ARENA** [3.18 p.m.]: I live with the sword of Damocles over my head because I may be expelled from the House by members of Parliament. Therefore, no-one understands better than I what Justice Bruce is going through. I read the documents very carefully. He seems to have been a sick man for a long time; he was in denial that he was sick.

*[Interruption]*

I can do without the inane interjections of Labor members. I will consider this matter very seriously. I look forward to hearing what Justice Bruce has to say. I support what the Attorney General has said today. It will be interesting to see how his procrastination—to quote the report—compares to that of other judges. Today I spoke to one of my lawyers, who told me that she knew of two cases of judges taking three years to give a judgment. I know the names of the judges, but I will not name them. This Parliament should consider the issue very seriously.

My heart goes out to people who have to wait a long time for their judgment. I understand the public interest, but I also remember the Premier and this Attorney General—yes, I am pointing at you,

Mr Attorney—seven months ago rushing through an expulsion motion to do away with me, thinking that they would very quickly do away with my right as a parliamentarian so that they could dispose of me and silence me forever. To their chagrin, I am still here. I will certainly consider the issue of Justice Bruce much more carefully than many other honourable members, I should think, because having gone through the past 7½ months with the expulsion motion in front of me I know how he must feel.

**The Hon. ELISABETH KIRKBY** [3.21 p.m.]: I support this motion. I agree with other honourable members that it is impossible for any member of the House to make a detailed statement as to his or her opinion until the House has heard what Justice Bruce has to say. Honourable members have not had time to study in detail the findings of the Judicial Commission, having had them for less than 24 hours. Certainly those findings need to be studied very carefully. I do, however, take on board what has been made a matter of public comment in the past 24 hours—the fact that there is still no judgment on the case involving women who used the Copper-7 IUD device. That is a very important issue indeed. The device, although originally hailed by medical men as a suitable method of contraception, has regrettably proved not to be so and many women have suffered very greatly physically and emotionally because it was prescribed for them.

I believe that case has now been before the court for some 11 years. I believe also, however, that, whatever is the future for Justice Bruce, it would be possible for the case to be taken over by another senior judicial officer so that the women who have suffered so greatly would have their case finalised and a decision made. I do not believe that the future of Justice Bruce will be an impediment in the finalisation of that particular appeal to the court. I do not intend to make any other statement at this time because, along with other honourable members, I will wait to hear from Justice Bruce, if he decides to come before the Parliament and explain his reasons to honourable members.

**The Hon. A. G. CORBETT** [3.24 p.m.]: I support this motion. The capacity of the Parliament to remove a judge on the grounds of misconduct or incapacity is unarguable. What is open to question is the form and manner by which the decision to remove a judge is made and the procedures employed to ensure that natural justice is observed. The various commentators on this issue, such as Quick and Garran, all agree that a necessary component of any process to remove a judge is the requirement that the judge be permitted to make his

or her case directly to the Parliament. Accordingly, I support this motion. The seriousness of this matter and the fact that it is unprecedented, however, warrant the closest scrutiny of the manner in which Justice Bruce appears before this House, as does the manner in which his representations are considered prior to honourable members voting on any motion to remove him from judicial office.

Under this motion, Justice Bruce or his legal representatives will have one hour and 15 minutes to make a case to this House. That is a considerable period of time and, inevitably, questions will be raised that will require time for consideration and deliberation. I suggest that it would be desirable, maybe even necessary, for honourable members to be permitted to ask questions of Justice Bruce or his representatives for the purposes of clarifying or eliciting information necessary to reach an informed and considered opinion on the matter. The fact that the Judicial Commission has made findings is important and is of the utmost seriousness, but I do not believe that it is the role of this House to rubber stamp those findings as a way of expressing confidence in the commission. The collective responsibility of the Parliament and my personal responsibilities as a member of the Parliament warrant a measured and considered response.

I shall give a great deal of thought and weight to the report of the Judicial Commission, but in the end I have to be personally satisfied that Justice Bruce has been guilty of misconduct or suffers some incapacity that prevents him from continuing to serve as a judicial officer. For myself, sufficient questions have been raised merely by the existence of a dissent report in which honourable members are presented with a 2:1 majority on the matter, let alone the fact that it was produced by someone of the eminence of Justice Mahoney.

I indicate to the Attorney General that I have several questions that will need to be answered before I make any decision on this matter. I shall consider the report of the majority of the Conduct Division of the Judicial Commission, the dissent of Justice Mahoney, the written response of Justice Bruce and the representations made by Justice Bruce next week. I and, I would imagine, many other honourable members will need sufficient time to consider these matters seriously. I urge the Government to proceed with due care in respect of this matter.

**Motion agreed to.**

## **CRIMES LEGISLATION AMENDMENT (POLICE AND PUBLIC SAFETY) BILL**

### **In Committee**

**Consideration resumed from 21 May.**

**Bill reported from Committee with amendments.**

### **Adoption of Report**

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.31 p.m.]: I move:

That the report be now adopted.

**Amendment by the Hon Dorothy Isaksen agreed to:**

That the question be amended by omitting all words after "That" and inserting instead "this bill be now recommitted for further consideration of schedule 1[8]."

**Motion as amended agreed to.**

### **In Committee [Recommittal]**

#### **Recommitted schedule 1**

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.33 p.m.]: I move the Government amendment as circulated:

Page 13, schedule 1[8], line 2, as amended in Committee of the Whole. Insert after "relation to:"

- (a) an industrial dispute, or
- (b) an apparently genuine demonstration or protest, or

This measure amends proposed section 28G as amended by the Committee last week. Also in Committee last week the Hon. J. S. Tingle moved an amendment to delete the original form of proposed section 28G, and its four paragraphs were dealt with seriatim. That amendment would have provided that division 4 of the bill did not authorise a police officer to give directions under the new powers in that division in relation to an industrial dispute, an apparently genuine demonstration or protest, a procession, or an organised assembly.

The Committee defeated the first two paragraphs of the amendment, so that the section only precludes the new power being used in relation

to a procession or an organised assembly. In the Government's view, that section is unacceptable in its present form. The Government's intentions were very simple: it wanted to preserve the legal status quo relating to police powers in demonstrations, protests, industrial disputes, processions and organised assemblies.

The bill already has an adequate range of provisions to deal with all of those circumstances. However, in drafting the original provision the Government was concerned not to create a legal loophole that would defeat the intention of division 4 and enable any unruly or violent group to claim it was an organised assembly and therefore beyond the reach of the new provision in division 4. It seems that the Opposition is quite happy for the new "reasonable direction" provision to be used in the context of industrial disputes, protests and demonstrations. That is in stark contrast to the views of the Police Association, whose agenda the Opposition has until now been happy to support. At the Police Association conference earlier this week the retiring president, Phil Tuncheon, said in his speech in the presence of the Minister for Police:

Minister, I congratulate you on your steadfast approach in dealing with our submission on the issue of knives and associated powers required to protect both police officers and the community. The presentation of the Crimes Legislation Amendment (Police and Public Safety) Bill is a strong indication of both Government and Opposition support for police. It is hoped that the ridiculous extension of these powers to cover picket lines is removed this week.

The extension to which Mr Tuncheon referred is the deletion by the Opposition of those parts of revised proposed section 28G moved by the Hon. J. S. Tingle, which would have prevented the new power being used in an industrial dispute. Today's amendment will reinsert the additional and essential elements of section 28G to ensure that the power in division 4 to give a reasonable direction cannot be used by police in relation to persons engaged in an industrial dispute or a genuine demonstration or protest. The Opposition tried to confuse the issue by maintaining that an industrial dispute, demonstration or protest would be covered by the terms "procession" and "organised assembly". The Government does not believe that is the case.

The Government's policy position is clear and unambiguous: it does not want this new power to be used against demonstrators or in the context of an industrial dispute. The Government believes that the legislation should be equally clear and unambiguous and should clearly state that that power should not be used in those circumstances. The Government does not want courts tied up with arguments about

whether a protest by a group of farmers, anti-paedophile campaigners or Christians opposed to the Mardi Gras is or is not an organised assembly. If the bill states explicitly which circumstances the power will not apply to, the law will be clear.

The Hon. I. Cohen has foreshadowed an amendment to delete "organised" from proposed section 28G. The Government does not support this amendment, for reasons that have already been referred to. The Government's advice is that an assembly can consist of any gathering of three or more persons. The effect of deleting "organised" may be to prevent the new "reasonable direction" power being used when a gathering of people behaves in an intimidatory or obstructive manner. That is the precise circumstance in which these powers should be available.

The retention of "organised" will enable the power to be used where necessary but will prevent it being used when an assembly is organised or arranged. The Greens amendment would have the effect of seriously undermining the intention and purpose of division 4 of the bill and it is therefore not supported by the Government.

**The Hon. M. J. GALLACHER** [3.40 p.m.]: I am pleased to continue leading on behalf of the Opposition on this bill.

**The Hon. J. H. Jobling:** As the amenders keep changing.

**The Hon. M. J. GALLACHER:** Yes, the goalposts keep moving, but the Opposition is doing its best. The weekend break was an excellent opportunity for me and other honourable members to consider the implications of the legislation before it is voted on and whether it will be effective in covering all possible contingencies. The Opposition has consistently said that the legislation is very badly worded. If the legislation is passed the Government will have to amend it in the near future. As the legislation stands, police will have difficulty making it work in accordance with the promises and claims made by members of the Government.

I should like to briefly clarify a number of matters raised in debate last week. It has been brought to my attention that my views about the workers compensation entitlement of members of the Police Service have been misinterpreted; the suggestion is that I believe that police officers who have joined the service since 1988 are not entitled to workers compensation. Any officer who is injured in the course of duty is entitled to the statutory rate provided in the workers compensation legislation.

The Leader of the House mentioned the Police Association's biennial conference, held last Monday, which discussed workers compensation. Under legislation introduced in 1987 by the Unsworth Government—not a Liberal or coalition government—police officers who have joined the service since 1988 and are injured and forced to leave the Police Service get nothing more than the statutory rate irrespective of how seriously they are injured. If the Parliament is serious about ensuring that police have access to mechanisms that support them and encourage them to do their job it will have to address that matter very quickly.

We hear a lot of rhetoric in this House about empowering police, but we have to realise that each officer has a family, a mortgage and responsibilities and unless we provide them with monetary protection they will not have the incentive to pursue criminals. The Government is fighting tooth and nail over the industrial dispute provision. It knows that the legislation does not contain that nebulous term "apparently genuine demonstration or protest", or any definition of it. Last week I was corrected by the Hon. J. S. Tingle—and I thank him for further advancing my understanding of the English language—who said that that is an objective term. I hope that in the future I can attain the high standard that he sets.

"Apparently genuine demonstration or protests" can encapsulate industrial disputes. I have not had an opportunity to speak to members of the crossbench, who, at the end of the day, hold the key to this debate. Mention has been made of the discretion of the commissioner and members of the Police Service. I have not asked crossbenchers individually—nor would I ask them outside this Chamber and risk verballing them inside it—their opinion of Commissioner Ryan's attitude to the role of the Police Service in dealing with the Maritime Union of Australia in the recent dispute.

I would be interested to know whether the crossbenchers feel that the commissioner handled that dispute appropriately, and, in hindsight, did the right thing by the community and the members of the MUA in allowing them the opportunity to voice their concerns in the public arena. They should be aware, of course, that the legislation will remove forever the discretion that Commissioner Ryan has in dealing with any protest. That discretion will be gone. Honourable members who think that Commissioner Ryan did a good job and that any replacement in the future will do an equally good job in any protest or procession can rest assured that the commissioner's discretion in any industrial action, demonstration or protest will be removed.

The commissioner will not have an opportunity to say, "We are not sending the police in." Even if honourable members and the community want the police to act and even if thousands of people demonstrate outside Parliament House and say, "We want the commissioner to act," he will not have the legislative authority to do so. This legislation is very badly worded. The Hon. I. Cohen mentioned the term "organised" in respect of an "organised assembly". The only legislative definition of "assembly" is a "public assembly" under the Summary Offences Act; there is no definition of "organised". The Government assured honourable members that the inclusion of the word "organised" will ensure that the legislation will work with respect to giving police the authority to move people. Whilst there is no definition of "organised", the courts or the police will interpret what is "organised" and what is not.

**Reverend the Hon. F. J. Nile:** A gang leader will organise his members.

**The Hon. M. J. GALLACHER:** As Reverend the Hon. F. J. Nile rightly points out, if a gang leader rings the members of his gang and asks them to meet him at a set location at a set time, that meeting will meet the "organised" criterion. When a police officer asks any member of the gang, "What are you doing here?" the response will be, "Joe Bloggs arranged for us to meet." That will be an organised assembly.

**The Hon. Jan Burnswoods:** You are talking rubbish.

**The Hon. M. J. GALLACHER:** The Hon. Jan Burnswoods says that I am talking rubbish. Is it any wonder that when she speaks the people of New South Wales listen; they listen closely to what she has to say because they know her words are an absolute waste of time. Is it any wonder that members of her own party call her "new shoes", because nobody can wear her; that is how they feel about her. She has not participated in this debate and rather than interject she should skulk back to her room. Other honourable members have taken part in the debate.

**The Hon. Jan Burnswoods:** You are a nasty, aggressive little creep.

**The Hon. M. J. GALLACHER:** Thank you for that, I appreciated those nice, kind words from you! You just go back to sleep and we will wake you when there is a division. The legislation does not define "organised" and it is the Opposition's view that the legislation will not give the police

reasonable power or authority to move on people who say their assembly is legal because their leader organised it. The courts will have to determine that question. I suggest that in the foreseeable future the Government will have to bring this legislation back and put in place definitions that will give the courts parameters within which they can interpret it.

I have reason to believe that the views put forward by the Law Society, and the views I put forward last week in accordance with written information from the Law Society, will be further expanded. I look forward to hearing the expansion of information that the Law Society has given to an honourable member of this Chamber. I am sure its position will be further clarified. However, I believe that the information supplied to me and other honourable members, and the terminology used, may not be in accordance with the information that may be read onto the record today. Be that as it may, it is still worthwhile gleaning from the Law Society the direction it thinks the Government should take with this legislation.

The Treasurer spoke about the view of the Police Association. If what the Police Association said on Monday is true, the Opposition welcomes the Government's position. If what the Treasurer said is true, I expect the Government to agree with the Opposition to continue to push the Police Association's view over the next nine months. Honourable members must not lose sight of the fact that the Police Association—with due respect to the association—is a trade union. I agree that the association has a right as a trade union to put forward its view, but that view must be considered in the context that not all members of the Police Service belong to the Police Association, which is actively pushing trade union politics. As a former secretary delegate of the Police Association I am in a position to make a contribution on this matter.

Honourable members should not take the view of the Police Association on this aspect of the bill as being the view of every member of the Police Service. I ask honourable members to give the association's view the due weight it should be afforded and to bear in mind that, as a trade union, the association is not necessarily speaking for every member of the Police Service. The Opposition thanks the association for its contribution. The healthy dialogue between the Opposition and the Police Association will continue, and I am sure we will hear more from the association in the future. I assure the Treasurer that he will hear more from the Opposition about giving the green light, or a tick, to the association's view on the matters raised on

Monday. I look forward to the Government acting on those matters as quickly as possible.

**The Hon. ELISABETH KIRKBY** [3.52 p.m.]: When this bill was debated last week the Hon. M. J. Gallacher made some extraordinary statements. He began by suggesting that I had been approached by the Minister for Police, Mr Whelan, and that Mr Whelan had spoken to me outside this Chamber. I have not spoken to the Minister for Police for many, many weeks. In fact, I do not think I have even seen him. He certainly did not approach me outside the Chamber and I have had no conversations with him on this matter or on any other matter. The Hon. M. J. Gallacher said also that I had taken the line that the Opposition is the only group in New South Wales that has this particular view towards bashing members of the Maritime Union of Australia. The honourable member said:

The Hon. Elisabeth Kirkby suggested that members of the Opposition will go out with truncheons and help police bash people at MUA pickets.

I have not made any statement that even remotely suggests that. What I did say—and it is so recorded in *Hansard*—is that it does not matter how it is wrapped or what the rhetoric is, the only concern of the Opposition is that it wants police to have the power to bash MUA picketers. I never suggested for a second that Opposition members or any private person would help the police to bash picketers. The most serious statement made by the Hon. M. J. Gallacher related to a letter that he and other members of Parliament received from the Law Society. He suggested that the Law Society had had a close look at the legislation and that the Opposition's amendment sought to remove the provision relating to the ability of the police to take action during an industrial dispute, which is the provision that the Hon. J. S. Tingle sought to amend.

The Hon. J. S. Tingle's amendment seemed to make that part of the bill reasonable, although the Hon. M. J. Gallacher said that the Law Society wanted that provision omitted from the legislation. I read the Law Society's letter and that was not my understanding of its intention. When I received *Hansard* on Friday I rang the Law Society and asked for clarification; I read out what had been said in the debate. Yesterday, I received a fax signed by Mr R. K. Heinrich, President of the Law Society, which states:

It appears that the comments made in my letter of 4 May 1998 about clause 28G of the Crimes Legislation Amendment (Police and Public Safety) Bill 1998 have indeed been misinterpreted by some Members of the Legislative Council.

It is my view that Clause 28G of the Bill is an acknowledgment that proposed Division 4 of the Summary Offences Act 1988 is not appropriate legislation by which to regulate industrial disputes. My letter of 4 May did not seek deletion of clause 28.

I would appreciate your taking steps to have this misconception about the Society's views clarified.

That convinced me that my interpretation of the Law Society's letter was correct and that for reasons known to the Opposition, but not to me, it decided, perhaps in the heat of debate, to give the letter a totally different interpretation. The Hon. M. J. Gallacher further said that I did not know that officers who had joined the Police Service in the past 10 years did not have workers compensation protection. I could not believe that statement. I could not believe that any person working in New South Wales was not covered by workers compensation.

All employers in New South Wales must by law provide workers compensation protection for their employees, whether in the public service, a shop, a factory or elsewhere. I have to provide workers compensation for the shearers and other agricultural workers I engage. Similarly, members of the Police Service must be covered by workers compensation. I rang the office of the Minister for Police and asked for an assurance that police in New South Wales are covered by workers compensation, and I was given that assurance over the phone. As I realised that it is sometimes difficult to convince people unless one has confirmation of a matter in writing, I suggested that the Minister for Police put that in writing so that I could assure the Committee that I had a document from the Minister saying that police officers were in fact covered by workers compensation. The strange thing is that I cannot get confirmation in writing from the Minister for Police.

When my staff made inquiries this morning the Minister's office assured me that my letter was being dealt with through the usual channels. My staff pointed out that the matter was urgent and that a reply could be faxed quickly, but apparently that would have been too difficult. I understand that the Minister for Police probably has his mind on other matters at the moment. I then contacted the Police Association, which informed me that it had received a request from the Minister's office about the position relating to workers compensation protection for police. The association had sent the reply to the Minister's office and said it would give a copy of that advice to my office. However, within a short time that offer was quickly countermanded. It was not possible to respond to me except through the Minister's office.

Other statements of the Hon. M. J. Gallacher are correct. Police officers do not easily achieve payments of victims compensation. When the House debated legislation on victims compensation it was suggested that the Police Service should have its own compensation fund because quite often its members are injured and even killed whilst performing dangerous duties required of them. Police officers certainly do receive workers compensation payments. It is totally erroneous for the Hon. M. J. Gallacher to suggest that police do not have workers compensation protection. He should withdraw that claim. *Hansard* for that debate is not yet in its final form—

**Pursuant to sessional orders progress reported and leave granted to sit again.**

## QUESTIONS WITHOUT NOTICE

### SUPREME COURT DELAYS

**The Hon. J. P. HANNAFORD:** My question without notice is directed to the Attorney General. Is it true that in 1994 the delay in the criminal list of the Supreme Court for trials for people in custody was six to eight months and that by the end of December the delay had tripled to 17 months; and that the delay for persons on bail had doubled from between 11 and 13 months to 24 months? Does the Attorney General find this increase acceptable? If not, what steps is he taking to address the delays?

**The Hon. J. W. SHAW:** There is no doubt that the delay in the criminal lists of the Supreme Court has increased. However, the Supreme Court deals with a small percentage of criminal matters in New South Wales. Such delay increases have not been replicated in the Local Court or the District Court. The structural changes of the Supreme Court in its relationship with the District Court will substantially alleviate those delays. The idea is that a significant amount of civil work will flow from the Supreme Court to the District Court—a process achieved after some objection from the legal profession—and will free Supreme Court common law judges to conduct criminal trials. Indeed, former Chief Justice Gleeson indicated that Supreme Court judges would have a substantial increase in criminal trial time in the next financial year.

In the Government's first year of office it devoted to the Court of Appeal additional resources that were made available in the budgetary process. Real and tangible results in the Court of Appeal lists

were achieved. In the next financial year it is proposed that any additional resources in the budget be directed to the common law lists, that is, essentially to criminal trials. Although I accept the proposition that delays in the Supreme Court criminal law lists have increased, steps have been taken to deal with the problem. First, the structural change in the court system resulting in many more civil matters being dealt with in the District Court will free up Supreme Court judges for criminal work. Second, additional resources that are made available from time to time will be put into the criminal law lists instead of the Court of Appeal. I do not regard any increase in trial delays acceptable if that is what is implied in the question; few people would. Nonetheless, positive steps have been taken to deal with the situation.

#### NEW SOUTH WALES CREDIT RATING

**The Hon. A. B. KELLY:** My question without notice is to the Treasurer. What implication does Standard and Poor's recent AAA credit rating of New South Wales have on next Tuesday's State budget?

**The Hon. M. R. EGAN:** It is pleasing to note Standard and Poor's reaffirmation of the State's AAA credit rating. New South Wales is one of only two Australian States that has a AAA credit rating from both Standard and Poor's and Moody's. The other State is Queensland. Victoria has a AAA rating from Standard and Poor's but not yet from Moody's. However, I am fairly confident that Victoria will soon join New South Wales and Queensland with a double-barrel AAA credit rating. Few national or State governments around the world have AAA ratings. I am sure Australia will soon have three. The Hon. A. B. Kelly asks what implication this rating will have on next Tuesday's budget. He and other honourable members are aware that it is not my practice to release details of the budget before it is presented to Parliament, and I will not do so this year.

**The Hon. D. J. Gay:** But Standard and Poor's reckon you're selling electricity. That's what you told them.

**The Hon. M. R. EGAN:** No, that is what the Opposition falsely claims.

**The Hon. Virginia Chadwick:** Didn't you tell them?

**The Hon. M. R. EGAN:** No. Standard and Poor's rating and yesterday's release of the consolidated financial statements of the New South

Wales public sector give a glimpse of the strong financial foundation that will underpin and will be bolstered by this year's budget. The consolidated financial accounts show that as at 30 June 1997 the State public sector had net assets amounting to \$65.9 billion compared with only \$20 billion in Victoria. That means that per person, for every one of the six million people in New South Wales, we have net public sector assets of more than \$10,000. The consolidated financial statements also show that all our new investments in 1996-97, that is, our new schools, our new hospitals, our new roads and our Olympic infrastructure, were all paid for; not a single cent was put on bankcard. This all means simply a strong and secure future for New South Wales and a budget that can take advantage of this strong financial foundation.

It means a budget that puts families first; a budget that bolsters our hospitals, our schools and our police; a budget with first-class support for our great regions and country towns; a budget that positions New South Wales for more investment and more jobs. It means a secure budget, a family budget, a fair budget and, I believe, a far-sighted budget. I assure the House that next Tuesday's budget, like the three budgets before it, will be community responsive and financially responsible, but honourable members will have to wait until next Tuesday for the details.

#### TOTALIZATOR AGENCY BOARD PRIVATISATION

**The Hon. R. T. M. BULL:** I address my question to the Treasurer. Is he aware that the TAB float may be jeopardised by legal action over alleged unfair trading, on the grounds that State laws imposing the minimum bet on offcourse betting conflict with national competition principles?

**The Hon. M. R. EGAN:** I did read a tiny article on page 2 of one of this morning's newspapers. It related to attempts by bookmakers to have changes made to the taxation and regulatory regime that apply to them. I informed them early in May, through meetings they had with members of my staff and members of the staff of the Minister for Gaming and Racing, that there will be no change.

#### STATE WAGE CASE

**The Hon. J. R. JOHNSON:** My question is addressed to the Attorney General, and Minister for Industrial Relations. Is the Minister aware that the New South Wales Industrial Relations Commission begins hearing the State wage case this week? Will

the Government appear in those proceedings? What position will the Government advance before that tribunal?

**The Hon. J. W. SHAW:** It is important that honourable members know the position that the Government is taking in relation to the 1998 State wage case. The Government appeared in the recent national wage case before the Australian Industrial Relations Commission and generally supported the wages claim of the Australian Council of Trade Unions—certainly our submissions endorsed the principles underlying the ACTU claim, subject to the AIRC finding that awarding the claim would be economically viable. One of the reasons for the Government's support of the ACTU claim is its belief that workers with little or no bargaining power should not be disadvantaged because of their inability to negotiate an enterprise bargain. The alternative would be to leave those workers to the rigours of the free market, resulting in a two-tiered wage system whereby those on award wages are at the bottom of the heap.

The Government supports the adoption of the national decision by the New South Wales Industrial Relations Commission, based on the belief that the national wage case decision is a reasonable one and the fact that the national wage case decision balances the need to protect the interests of low-paid workers with the need to limit the negative effects of any increase on the economy. Under New South Wales industrial relations legislation, the commission must have regard to the state of the economy of New South Wales and the likely effect of its decisions on that economy. The position of the New South Wales Government is that the increases contained in the national decision can be responsibly adopted in New South Wales without having a deleterious effect on the New South Wales economy. The Government supports the principle that equality in labour market opportunities and remuneration, including equal remuneration for work of equal or comparable value, is one which must be sustained and applied in all New South Wales Industrial Relations Commission determinations on wages and conditions.

Adopting the national wage case decision in the New South Wales jurisdiction will assist women workers for a number of reasons: first, the comparative lack of access to overaward payments by women will be ameliorated by the absorption of the safety net adjustment into overaward payment; and, second, the differential access to wage increases under enterprise bargaining will be addressed by the safety net adjustment, especially as there is a high

concentration of women in sectors that have not benefited from enterprise bargaining. It will, of course, be a matter for the independent New South Wales Industrial Relations Commission to adjudicate on any competing claims, but I suspect that there will be a large degree of consensus before the commission in these proceedings. I believe that responsible employer organisations in New South Wales accept the propriety of incorporating the national decision into the New South Wales jurisdiction. I anticipate that in the near future the commission will produce its decision and I am sure it will be a fair and reasonable one.

#### MULTIPLE CHEMICAL SENSITIVITY

**The Hon. A. G. CORBETT:** I ask the Minister for Public Works and Services, representing the Minister for Health, a question without notice. I refer the Minister to the situation in regard to Don and Ann Want, whose Coffs Harbour residence is near a farm, the owner of which uses an approved pesticide on his vegetables. Mr and Mrs Want's sons have a condition known as multiple chemical sensitivity and can suffer from exposure to pesticides used on the nearby farm. Has the department recorded any health problems experienced by the Want children? Has the department taken any action in respect of the Want children? Has the department considered the long-term effects of exposure to pesticides? What action will the Department of Health take in regard to the exposure of children to pesticides?

**The Hon. R. D. DYER:** The House will appreciate that the question deals with particular circumstances relating to a particular farm and family. Therefore I shall take the course of referring the question to my colleague the Minister for Health and I will communicate his response to the honourable member.

#### DEPARTMENT OF COMMUNITY SERVICES CHILD PROTECTION PROCEDURES

**The Hon. PATRICIA FORSYTHE:** My question without notice is directed to the Attorney General, representing the Minister for Community Services. Further to my questions of yesterday and 8 April about a nine-year-old boy on the streets of Manly, is the Minister aware that the nine-year-old boy is now accompanied by his 10-year-old cousin? What action will the Government take to ensure that these children are given appropriate care? Will the Government admit that a nine-year-old and a 10-year-old living on the streets of Manly is a sad indictment of the Government's record of caring for at-risk children?

**The Hon. J. W. SHAW:** I will refer the question to the relevant Minister.

#### AUSTRALIAN REPUBLIC FORUM

**The Hon. B. H. VAUGHAN:** I direct my question without notice to the Attorney. A forum will be held this evening in the Parliamentary Theatre at 5.30 p.m. entitled "The Republic and the States". Will the Attorney inform the House about the forum, in so far as there are implications for the republic and the States?

**The Hon. J. W. SHAW:** This evening's forum to be held in Parliament House will be of interest to members whatever view they take about the republican debate. It has been organised by the New South Wales Chapter of the Constitutional Centenary Foundation and, as the honourable member said, it will commence at 5.30 p.m. in the Parliamentary Theatre. The Constitutional Convention resolved to support in principle Australia becoming a republic, and in the lead-up to the 1999 referendum much of the public debate will focus on whether we should become a republic and which republican model is the more appropriate.

The implications for the States of a move to an Australian republic may not attract the same degree of attention as those more fundamental questions of principle, but nonetheless the effect of the transition on the States raises critical issues that need to be discussed. The issues include whether the States should be required to cut their ties to the monarchy if Australia were to become a republic, how those ties would be cut and what should happen to the Heads of State for each State and Territory. Those are the sorts of issues that I understand will be discussed at this evening's forum. I expressed the view at the convention that Australia would look bizarre in the eyes of the world community if it became a republic at the national level while some States remained tied to the monarchy. Accordingly, I consider that should the nation decide to move towards a republic, it should do so collectively.

Although the Constitutional Convention communique notes that it is desirable that the advent of the republican system of government occurs simultaneously in the Commonwealth and all States, the convention decided that it is a matter for each State to consider the implications for its own constitution of a decision by Australians to move to a Federal republic. The Constitutional Convention also resolved that the title, role, powers and dismissal of Heads of State should be matters to be determined by each State. As part of the public

debate on the issue it is important that these matters are also promoted for consideration.

I acknowledge the valuable work of the Constitutional Centenary Foundation in providing information and promoting public awareness about the model for a republic and associated issues to be put to a referendum in 1999. Amongst its many other endeavours the foundation organised a Federation centenary convention last September in Sydney. It was an excellent forum and laid the groundwork for many who attended the Constitutional Convention in February this year. I congratulate the New South Wales chapter of the CCF on organising this evening's forum to promote further consideration and discussion of issues relating to how a republic would affect the States.

#### SMALL BUSINESS INVESTMENT

**The Hon. J. M. SAMIOS:** I ask the Treasurer, Minister for State Development, and Vice-President of the Executive Council whether it is a fact that sales and profit growth in the New South Wales small business sector during the past quarter slumped to its lowest level for 12 months, with the employment figures remaining flat, reflecting further staff cuts rather than hirings. Is it also a fact that 83 per cent of small businesses reported that the waterfront dispute had not affected their businesses? Where does this leave all the rhetoric of the Government when clearly it has not improved the lot of small business in New South Wales?

**The Hon. M. R. EGAN:** I am not sure where the Hon. J. M. Samios gets his information.

**The Hon. J. M. Samios:** A media release.

**The Hon. M. R. EGAN:** Interesting. The Australian Bureau of Statistics produces authoritative publications almost every day. They show that New South Wales, which accounts for roughly 34 per cent of the economy and roughly 34 per cent of the national population, accounts also for some 40 per cent of new Australian business approvals.

**The Hon. Dr B. P. V. Pezzutti:** You are making this up.

**The Hon. M. R. EGAN:** The honourable member should look at the ABS publications. There is no excuse for him not to do so. I know he will not put his hand in his pocket for anything; he will only take things that are free. But I advise him that he does not have to pay for ABS publications. As a

member of Parliament he is entitled to them free of charge. They can be delivered the day after they are released or the honourable member can make arrangements, as I do, to have someone collect them for him at 11.30 a.m. every day so that at noon he will know what they show. And what they show, almost inevitably, is that New South Wales is leading in the economic stakes. Not only is New South Wales getting 40 per cent of Australian's building approvals—

**The Hon. D. J. Gay:** You send a member of staff down there every day?

**The Hon. M. R. EGAN:** No, it is all computerised now.

**The Hon. D. J. Gay:** What a waste!

**The Hon. M. R. EGAN:** What do you mean what a waste? I actually have them hand delivered, in hard copy. It is no good my bringing a computer into this Chamber; I cannot show that around. I can, however, pick up a document and show it around. That is why I like to get hard copy. The publications also show that private capital investment figures in New South Wales in the December quarter, which is the last quarter for which figures are available, went through the roof and that New South Wales has the second-lowest unemployment rate of any other State: 7.2 per cent seasonally adjusted. I think the trend figure is about 7.4 per cent. Western Australia, with 6.9 per cent unemployment, leads all other States in the unemployment stakes, but New South Wales' rate is much lower than that of Victoria.

Interestingly, I have not been able to work out why for the past three or four months New South Wales seems to have, per capita, more retail spending than Victoria. That suggests that in the State of Victoria small businesses are doing it real tough. I do not read the newspapers every day, as honourable members will be aware. However, on the occasions I do, it is interesting to note the articles that say that business is deserting Victoria and coming to New South Wales. I believe it was the weekend *Australian Financial Review* that pointed out that funds managers, for example, were deserting Melbourne and coming to Sydney. Another article in the *Daily Telegraph* a week or two ago reported that all the head offices of Australian companies are deserting Melbourne for Sydney. I do not want to knock Melbourne; it is a fine city. I occasionally go there for a restful holiday. It is a nice place for a holiday, but this is the State where it is all happening.

## OLYMPIC GAMES BUSINESS OPPORTUNITIES

**The Hon. E. M. OBEID:** My question is to the Treasurer, and Minister for State Development. Will the Minister advise the House how the Government is getting information on business opportunities arising from the 2000 Olympic Games to local industry?

**The Hon. M. R. EGAN:** I am sure honourable members know by now that the Government is intent on maximising local industry participation in the development of the Sydney 2000 Olympic Games facilities. To help business and industry access information on Olympic progress opportunities, the Government introduced OBIS—the Olympic Business Information Service. I am pleased to report that OBIS now has more than 5,300 companies registered on its mailing list for Olympic business information. More than 3,400 of those companies are based in New South Wales and 800 are from regional New South Wales. There are already many OBIS success stories. In the two years since its establishment, 115 companies registered with OBIS have secured work at the Homebush Bay site. Another 83 OBIS-registered companies have reached the final stages of the tender process.

In addition to the work of OBIS, the New South Wales Industrial Supplies Office has successfully found local companies to supply some \$34 million worth of Olympic-related products that otherwise would have been imported. Following on from the success of OBIS and the Industrial Supplies Office the Government, through the Olympic business roundtable, has recently developed a new initiative to assist local businesses. In July this year the Olympic business roundtable will host what is being dubbed the industry capability and production opportunity expo—an expo of construction materials. Future expos are planned for other industry sectors such as sporting goods and information technology and telecommunications.

This expo and those that follow will physically display currently imported products and technologies, many of which are being used at the Olympic site. More than 100 New South Wales and Australian companies will be invited to investigate opportunities for the local manufacture of these products. If an Australian manufacturer is confident it is able to meet the price, quality and quantity specifications required, the Industrial Supplies Office will work with that company to secure the supply contract and replace the imported product. The

Government will continue to work with local companies through OBIS and programs like the Australian capability expo to ensure that New South Wales takes full advantage of the once in a lifetime opportunity the 2000 Games offers.

#### **OLYMPIC GAMES HOMELESS ACCOMMODATION**

**The Hon. I. COHEN:** I ask the Treasurer, representing the Minister for Urban Affairs and Planning, and Minister for Housing, a question without notice. Currently homeless shelters are unable to meet the emergency shelter needs of Sydney's homeless. What plans is the Government making to provide emergency accommodation for the homeless and unhoused before, during, and immediately after the Olympic Games?

**The Hon. M. R. EGAN:** That question has direct relevance to a number of my ministerial colleagues, including the Minister for Housing, the Minister for Community Services and perhaps even the Minister for the Olympics. I will refer the question to the appropriate Ministers and obtain a response.

#### **LOCAL GOVERNMENT SUPERANNUATION SCHEME**

**The Hon. VIRGINIA CHADWICK:** I address my question to the Treasurer, and Leader of the House. Upon the establishment of the local government superannuation scheme was a shareholders meeting held to determine the level of remuneration of directors? At that meeting were the shareholders represented by the directors? Does that therefore mean that the directors determined and approved their own remuneration? Does the Treasurer regard this as appropriate, and has the procedure been reviewed?

**The Hon. M. R. EGAN:** The Hon. Virginia Chadwick is always about six or 12 months out of date. This matter was well reported in the newspapers. The trustees did purport to recommend a level of remuneration. They do not do that, the Government does. I subsequently did so. That information was known and available a long time ago. The Hon. Virginia Chadwick reminds me of a former parliamentary colleague, whom I shall not do in, who used to rush up to his colleagues, in a sense of breathless urgency, with newspaper clippings that were usually about 12 months old. The Hon. Virginia Chadwick seems to be doing the same thing.

#### **FEDERAL EMPLOYMENT ADVOCATE**

**The Hon. A. B. MANSON:** Will the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading outline to the House what actions the Federal Government's Employment Advocate has taken in New South Wales? Have those actions met the Prime Minister's pre-election commitment that the Employment Advocate would ensure that "no worker would be worse off"?

**The Hon. J. W. SHAW:** The Office of the Employment Advocate was created by the Howard Government with the stated intention of ensuring that no Australian employee was disadvantaged. Despite this rhetoric, the Employment Advocate has appeared to be more interested in pursuing trade unions than in standing up for the interests of individual workers against their employers. Honourable members would be aware that the Office of Employment Advocate was established to ensure that individuals were protected from victimisation. Of the 234 complaints received relating to freedom of association as at 30 April 1998, the Employment Advocate has commenced legal action in only two instances. Both of those are against trade unions for allegedly pressuring individuals to join a given union.

In the first matter the Employment Advocate alleges that an official of the National Union of Workers incited the manager of an employment agency to remove an employee from a distribution company. The individual was not a union member. The second matter is an application to the Federal Court for breach of the freedom of association provisions of the Workplace Relations Act against three members of the Queensland Transport Workers Union. The application alleges that the TWU members subjected a contract driver to industrial action in order to force him to join the union. That allegation is denied by the union and its members. A court challenge has since been initiated to the proposition that the Employment Advocate is acting outside its powers in a constitutional sense. The New South Wales Government will intervene in that proceeding, to put constitutional submissions.

It is difficult to understand how those two actions could credibly be said to be examples of the Office of the Employment Advocate discharging its duty to protect the interests of individual workers, given the number of complaints about discrimination and the like. The New South Wales industrial relations legislation provides for an umpire, credibly set up and acting independently as a referee. In this

State in 1997 seven applications were made for relief from victimisation, and all respondents were employers. There must be cases in which the Federal Employment Advocate ought to tell employers not to discriminate against people because they are union members or because they have undertaken some industrial activity. I believe that history will show the Employment Advocate to be a biased failure, not acting in a disinterested fashion and not acting in the interests of disadvantaged employees. Only time will tell, but so far the statistics indicate a bias, a prejudice, to attacking unions rather than protecting individual employees.

#### COURT ARBITRATOR PANEL MEMBERSHIP

**The Hon. HELEN SHAM-HO:** I ask a question of the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Is the Attorney General aware that of the 91 solicitors appointed to the Supreme Court Arbitrators Panel and the District Court Arbitrators Panel for 1998 only four were women, a mere 4.39 per cent of the total? Is he aware that arbitrators panels are considered to be a vital training ground for prospective judges? Does he agree that the failure to appoint women lawyers to the panels will effectively hinder the appointment of more women to the judiciary? Can the Attorney General explain this gross underrepresentation of women on Supreme Court and District Court arbitrators panels, or is it the Government's intention to virtually exclude women from this important role? Does the Attorney General intend to rectify this situation, and, if so, how?

**The Hon. J. W. SHAW:** If the statistics given by the Hon. Helen Sham-Ho are correct, the gender balance of the arbitrators panels is not good enough and ought to be rectified. If there is a competent woman solicitor in this State who wants to be put on the panel, she should speak to me this afternoon and she will be put on it.

**The Hon. D. F. Moppett:** Here she is.

**The Hon. J. W. SHAW:** I do not know that the Hon. Helen Sham-Ho wants to be on the panel. If she wants to be on the panel, I will put her on it. Let any woman solicitor who wants to be on the panel apply to me, and the Government will effect the appointment.

#### INTERNATIONAL PRISONER TRANSFER

**The Hon. FRANCA ARENA:** My question is addressed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading.

With reference to the International Transfer of Prisoners (New South Wales) Bill, which was passed by the Parliament last year, what has happened at the Federal level? Have all States agreed to implementation of arrangements to enable international prisoner transfers? If the answer is in the affirmative, when will those transfers be implemented?

**The Hon. J. W. SHAW:** Model State and Territory legislation to give effect to the international transfer of prisoners scheme was endorsed by all participating jurisdictions at a meeting of the Standing Committee of Attorneys-General in October 1996. Since then the Commonwealth has enacted the International Transfer of Prisoners Act 1997, and complementary legislation has been passed in New South Wales, South Australia, Queensland and Tasmania. Legislation has also been introduced in the Victorian Parliament but, as I understand it, that legislation has not yet been passed. The Northern Territory Government has indicated that it will not participate in the scheme, and I recall that indication being made at the relevant meeting of Attorneys-General.

To my knowledge, the Northern Territory is the sole dissentient, subject to an observation I shall make at the end of this answer. The Commonwealth Minister for Justice, Senator Vanstone, has advised that the Commonwealth Government is proceeding with preparatory work so that the appropriate agreements relating to the scheme may be concluded as soon as possible after the necessary State and Territory legislation has been passed. In short, I report positive progress. New South Wales, South Australia, Queensland and Tasmania have the legislation in place. Victoria is moving on the matter. The Northern Territory is a dissentient. I point out that the only other dissentient in the land, the only other political force to oppose this sensible legislation, is the New South Wales Opposition. Opposition members oppose the legislation root and branch.

#### VICTIMS OF CRIME

**The Hon. CARMEL TEBBUTT:** My question without notice is to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Will the Attorney advise what measures are being taken by the Government to ensure that stakeholders in the provision of services to victims of crime have a voice in the planning and provision of these services?

**The Hon. J. W. SHAW:** Honourable members would be aware that the Victims of Crime

Bureau was established in April 1997 pursuant to the provisions of the Victims Rights Act 1996. Since September 1997 the bureau has conducted interagency forums. Those forums include representatives of a range of government and community agencies that provide services and/or referrals and education about victims' needs and services. The primary objectives of the forums are: to consult about specific operational issues, to exchange information about services and remedies, to facilitate a whole-of-government approach to the delivery of services to victims of crime, and to discuss implementation issues concerning the charter of victims' rights.

Policy issues raised by the forum are referred to the Victims Advisory Board for its consideration. Three subcommittees have been established to review specific policy areas and initiatives involving the provision of services to victims. A court support in New South Wales subcommittee has been established to review the range of court support services in this State with the aim to ensure the provision of consistent and high-quality court support services to victims of crime. The subcommittee is developing a consultation document on court support services which will examine the current state of these services and the ways in which they can be improved.

A subcommittee has been established on policies and procedures for counselling services for victims of crime. A resource development subcommittee has been formed to investigate the feasibility of producing a video to assist staff in government departments and other agencies to help individuals who are required to attend court as a result of being a victim of crime, and those who are supporting victims of crime, through the court process. The interagency forums and subcommittees provide a good illustration of the Government's commitment to work with the community to ensure that the support services provided to victims are efficient, co-ordinated and relevant.

Over many years a lot of rhetoric has been heard about victims of crime. The Government has taken practical steps to involve them in the criminal justice process to ensure that they have a say, and to make sure that they have a charter of rights so that they are consulted and informed by the police and other law enforcement agencies, including the Director of Public Prosecutions. One thing that has always been a mystery to me about the former Government is the curious enactment of legislation about victim impact statements which was never brought into force and effect.

Perhaps I should peruse the files and discover why the curious anomaly occurred of the Liberal Government putting victim impact statements into the legislation but not having the will to proclaim the law. The Labor Government has put victim impact statements into the criminal justice system with a statutory charter of victims' rights.

**The Hon. J. M. Samios:** Do you think our initiative was good?

**The Hon. J. W. SHAW:** I acknowledge the sincerity of members of the Opposition who say it is a good thing. I do not want to be too partisan, but it is an enigma why it took so long and why this Government had to include victim impact statements in the legislation.

### COMPUTER MILLENNIUM BUG

**The Hon. Dr B. P. V. PEZZUTTI:** My question without notice is to the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs, and his own portfolio. I refer the Minister to his answer in the House on 20 May regarding the millennium bug when he stated:

The results of assessments and tests conducted to date indicate that very few items of equipment are likely to have their functionality affected by the problem, and the vast majority of those can be rectified to eliminate any impact.

Has the Sutherland hospital identified a laser camera and an ultrasound machine that will be rendered inoperable in the year 2000 and will cost approximately \$550,000 to replace? Has the Central Sydney Area Health Service identified 15,000 pieces of equipment that need testing and possible replacement? In light of this information would the Minister care to reconsider his answer?

**The Hon. R. D. DYER:** Although yesterday I described the Hon. Dr B. P. V. Pezzutti in his absence as my "esteemed colleague opposite", I doubt his capacity to quote anything accurately. Last week the honourable member asked me a question which I described as a "vexatiously expressed question". The honourable member went outside and issued a media release bearing the heading, "Life saver helicopter blueprint described as *Vexatious* by Minister". No way in the world did I describe any such blueprint as vexatious.

**The Hon. Dr B. P. V. Pezzutti:** On a point of order. Yesterday the Minister had an opportunity to give a personal explanation on this matter and that should be the end of it. He should not raise the matter again.

**The PRESIDENT:** Order! What is the point of order?

**The Hon. Dr B. P. V. Pezzutti:** That is it.

**The PRESIDENT:** Order! There is no point of order.

**The Hon. R. D. DYER:** I have established the point without doubt that the Hon. Dr B. P. V. Pezzutti, on the basis of his recent track record, cannot be assumed to quote anything accurately. Before I accept the veracity of the quote attributed to me I want to read it in *Hansard* for myself. Be that as it may, I will refer such parts of the question as might deserve a response to my colleague the Minister for Health.

#### NORTH ARM COVE LAND SALES

**The Hon. J. KALDIS:** My question without notice is directed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Can the Minister inform the House of his concerns about land sales at North Arm Cove at Port Stephens?

**The Hon. J. W. SHAW:** It is often said that if something appears too good to be true, it probably is. One finds that adage vindicated in the area of fair trading. During the years, unwitting purchasers have been taken in by the offer of cheap land at North Arm Cove, Port Stephens. Up to June last year more than 130 people paid more than \$1.65 million to just one North Arm Cove land company. Last Thursday advertisements appeared in a Sydney newspaper again promoting very cheap land at North Arm Cove. The advertisements told readers that they can have a block of land in a "natural paradise" on the golden north coast.

The most recent advertisements listed blocks for as low as \$7,950, with an average price of \$10,000. It sounds too good to be true and, of course, it is. The land is zoned non-urban and the blocks sold cannot be built on, not even for a weekender. Indeed, owners cannot even leave a caravan, or pitch a tent, on their blocks for more than two consecutive days. During the years rumours have circulated that the council will rezone the land to permit building, giving owners a windfall profit when blocks jump in value. The original North Arm Cove subdivision was drawn up by the eminent architect, Walter Burley Griffin, when the site was a rival to Canberra as a candidate for the national capital earlier this century. No rezoning has occurred in all that time.

Further, Great Lakes Council planning documents state that council will not even consider rezoning until 2014, another 16 years hence. Council is reluctant to rezone because of the large estimated subdivision costs of approximately \$30,000 a block. When people ignore the warnings and buy blocks, they often do not realise that they must pay council fees of \$200 annually, even though the blocks have no water, sewer, electricity or any other service. Instead of a block that jumps in value, buyers are stuck with the annual cost, which eats into their savings. Some owners have been so disgusted with the position in which they have found themselves that they simply stopped paying council fees, and the council then resumed the land in default of payment of the rates.

North Arm Cove blocks are worth very little if the owners try to sell. The council recently sold several resumed blocks at auction. They went for only several hundred dollars each—a long way from the current average asking price of \$10,000. The tragedy is that these blocks are the first investment for many owners—people who have worked hard for many years and who have only a small amount of money to invest. North Arm Cove land is highly attractive to modest investors. Over the years the Department of Fair Trading has received complaints about North Arm Cove land, and daily the Great Lakes Council receives complaints from dissatisfied purchasers.

However, while it may be morally dubious to market land at North Arm Cove, it is not illegal so long as purchasers are not told that the land will be rezoned in the near future. The Department of Fair Trading continues to warn people about this undeveloped, scrub-covered, non-urban land. As a result of past efforts of the department and the council there are substantial warnings in the area about the land. I am informed that the council has erected signs near the highway to warn that the land is non-urban. Also, before the purchase can go ahead, buyers must produce a solicitor's letter declaring that they know that their blocks cannot be built upon.

All media advertising of the land must warn that it is non-urban. People should be extremely wary about buying land at North Arm Cove and, if they do buy, they should have no illusions about their purchase. The Department of Fair Trading is in frequent contact with North Arm Cove land companies, and officers of the department attend auctions held by companies to make sure that consumers are not misled and that media advertising carries the non-urban zoning warning. I strongly

urge prospective purchasers of land at North Arm Cove to seriously consider this warning. I assure the House that my department is taking every possible course of action to alert and protect vulnerable consumers in this marketplace.

### LAND TAX

**The Hon. R. S. L. JONES:** I ask the Treasurer a question without notice. Is the Treasurer aware that last Sunday an elderly lady who had lived in her house for 60 years was forced to auction some of her furniture and other possessions to pay land tax on her home? Has the Treasurer given consideration to removing land tax on private homes which have been owned and occupied for many decades by people who are now elderly and on low incomes? If not, why not? Have some compassion, please.

**The Hon. M. R. EGAN:** I did not see an article stating that someone had been required to sell furniture and possessions. I assure the honourable member that no-one need be in that position.

**The Hon. R. S. L. Jones:** Why did she have to sell her furniture?

**The Hon. M. R. EGAN:** She may have been badly advised. If anyone is asset rich but income poor and is unable to meet land tax payments on their \$1 million-plus residential land they can apply for a deferment of payment; they do not have to pay anything until the property is disposed of. For example, pensioners get an automatic deferment. People who may not be able to pay land tax can apply for deferment and if they are in difficult circumstances or anything near those circumstances described by the Hon. R. S. L. Jones, they would get a deferment. I am advised that only a relative handful of applications have been received. Last time I asked I was told that there were 11 applications for deferment, and all had been granted that exemption.

### ABORIGINAL BUSINESS ASSISTANCE

**The Hon. DOROTHY ISAKSEN:** My question is addressed to the Treasurer, and Minister for State Development. What is the State Government doing to help improve Aboriginal employment through support for Aboriginal businesses?

**The Hon. M. R. EGAN:** For many Aboriginal people getting a secure job close to home is not easy. For many, their best chance comes through Aboriginal-owned and Aboriginal-operated

businesses. To support and encourage the growth of Aboriginal businesses and jobs the Government has implemented a number of initiatives, through the Department of State and Regional Development, aimed at helping to develop appropriate business programs for Aboriginal people, promoting successful Aboriginal businesses to the whole community, developing industry opportunities for Aboriginal business programs for Aboriginal people, establishing Aboriginal business networks, and increasing business trading in the Aboriginal economy.

One of the major projects under way is the creation of a database of Aboriginal businesses in New South Wales, which already has the details of some 270 businesses, with more to come. I am told by the department that this database is the most sophisticated of its type in Australia. It includes company profiles, employment numbers, financial details, types of industries, and ownership structure. It will be used to help identify the needs of Aboriginal businesses while at the same time providing a comprehensive networking system for them.

One of the very successful businesses on this list is the Nungera Aboriginal Co-operative in Maclean. Nungera has established an Internet service provider for the whole of the Clarence Valley. In addition to its information technology business, Nungera has a number of other successful local businesses. It has won contracts to build houses in the region, using tradespeople trained through its own group training scheme. The Nungera co-operative also runs a successful market garden and it owns and operates the Maclean taxi service. Nungera is wholly managed by Aboriginal staff and employs 103 people.

The Government has a number of programs designed to help Aboriginal businesses get started and keep going. The Government's regional business development scheme is available to expand and plan Aboriginal regional businesses. Local business enterprise centres also play a key role, especially in the start-up phase. New contracts to business enterprise centres now require that they let the Government know how many Aboriginal clients they are working with. That information will be used to develop future programs. An Aboriginal business development manager has been appointed to the Department of State and Regional Development.

Most Aboriginal businesses are less than five years old and have particular problems, generally relating to cashflow and a lack of marketing expertise. Unfortunately the Federal Government's

decision in the last budget to axe the State and federally funded AusIndustry enterprise improvement programs is another blow to Aboriginal people. In 1996 alone this program generated more than \$740 million in exports for New South Wales and played an important part in creating 6,100 jobs. Peter Costello has built his \$2.7 billion budget surplus by sacrificing programs like this. That is why his budget does not deliver jobs or any real security to people. The State Government is committed to creating a business environment that gives every opportunity to small businesses in general and Aboriginal businesses in particular—an environment that lets them grow and lets them create jobs.

### WAGGA WAGGA SUPREME COURT SITTINGS

**The Hon. D. F. MOPPETT:** I direct my question without notice to the Attorney General, and Minister for Industrial Relations. I preface my question by reminding the Attorney of the old adage that a good wine needs no bush and a good attorney needs no horticultural analogies. Is the Attorney aware that various communications media have published pessimistic prognoses for the continuation of Supreme Court sittings in the city of Wagga Wagga? Is the Attorney aware that the *Wagga Daily Advertiser* cited the president of the South West Slopes Law Society, Mr John Potter, as stating:

... indications were that there would be no more Supreme Court in Wagga for civil matters, however, if there is sufficient interest a judge may be sent to Wagga each year.

What commitment can the Attorney give to the people of Wagga Wagga and surrounding areas that they will continue to have matters heard in their district rather than have to travel the long distance to Sydney?

**The Hon. J. W. SHAW:** Given the structural changes that have been made in the court system about civil matters, it is inevitable that there will be some decline of Supreme Court sittings in country areas. After all, most civil litigation, most personal injury litigation and most motor accident litigation will now be conducted in the District Court. Only the very major civil cases will be dealt with by the Supreme Court. Most legal practitioners have come to accept that the District Court will be the major civil trial court for this State. The District Court will continue to sit extensively in country areas. The Supreme Court will continue to conduct country sittings—I am not saying that they will suddenly be abolished—for both major crime and significant civil matters.

Local communities will adjust to seeing more of the District Court, because that court does ordinary day-to-day civil litigation, and less of the Supreme Court. The arrangement of sittings and the organisation of court business is a matter for the head of the jurisdiction rather than for the Executive Government. I do not feel able to direct the courts as to when and where they should conduct sittings, just as I do not think any Attorney General in recent history felt able to do so. That would be an excessive intrusion into the internal management of the court system, which must remain separate from the Executive Government. Whilst I am not precisely aware of the arrangements of the Chief Justice for the Wagga Wagga sittings of the Supreme Court, I shall take steps to find that out. The Executive Government must respect the right of the court to determine where and when it will sit in order to efficiently discharge its business.

**The Hon. M. R. EGAN:** If honourable members have further questions, I suggest they put them on notice.

### DEATH OF ANNA WOOD

**The Hon. J. W. SHAW:** On 5 May the Hon. Elaine Nile asked a question concerning the death of Anna Wood. The Minister for Education and Training has supplied the following answer:

- (1) Ms Bower did not suggest that Anna Wood actually died of an overdose of water. She referred to the technical explanation provided on page 86 of the book *Anna's Story* by Bronwyn Donaghy. The AMA Charitable Foundation provided this book to all schools which participated in their 1996 Live the Future campaign.
- (2) Departmental staff make quite clear the harms resulting from drug use to any audience to whom they speak.

**Questions without notice concluded.**

### REAL PROPERTY AMENDMENT BILL

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

**Suspension of standing orders agreed to.**

### STANDING COMMITTEE ON SOCIAL ISSUES

**Report: Caring for the Aged**

**Debate resumed from 20 May.**

**The Hon. DOROTHY ISAKSEN** [5.03 p.m.]: The population of Australia is getting older. The average Australian is now 34.3 years old, compared to 20 years ago when the average age was 28.6. Confirmation of the continuing ageing of the

Australian population came in figures released recently by the Australian Bureau of Statistics. The data reveals that declining mortality and increased life expectancy were having a major impact on the Australian population. The figures show that the number of Australian women over 85 has increased by 7 per cent in the past year—five times the growth rate for the general population. There are now more than 216,000 people aged over 85, compared to 87,900 some 20 years ago—an increase of 146 per cent. There are twice as many women over 85 years as there are men. These statistics are important when considering the provision of care for the elderly. The Standing Committee on Social Issues had a difficult task inquiring into nursing homes in New South Wales in a period of great uncertainty brought about by the Federal Government's numerous changes to the financial arrangements between residents and the providers of residential care.

I am sure honourable members would agree that uncertainty about financial matters, health services and accommodation is most distressing to the elderly. The changes proposed to nursing home entrance fees and charges caused great anxiety amongst the elderly, both those already in nursing home care and those in retirement units and hostels who feared becoming sick or immobile. During the inquiry the committee received 91 submissions, heard formal evidence from 28 witnesses and held briefings with 12 people. These people represented a variety of stakeholders such as government and non-government not-for-profit care providers and private for-profit aged-care providers and consumers. Other interest groups such as local government bodies, government departments, health professionals and community groups were also included.

In addition to hearing evidence, the Committee made site visits to a number of residential aged-care facilities in both metropolitan Sydney and rural New South Wales towns. These visits enabled the committee to have a first-hand look at issues affecting the daily operation of nursing homes, hostels and multipurpose services. It also gave the committee the chance to speak with residents, relatives, staff and management. The various standards of the nursing homes visited by the committee were of great interest and sometimes concern. They could be described from first-rate to very depressing standards. It was interesting to observe how some residents found quality of staff of more importance than perhaps the material surroundings. Chapter two of the report deals with protection of residents' rights and dignity as well as staff training. Recommendation 11 states:

The Committee recommends that all nursing and personal care staff in New South Wales residential care facilities be trained

to an Assistant-in-Nursing Course Certificate III level by the year 2000 and that a range of programs be made available to ensure equitable access to training.

After hearing evidence about the issues relating to policy and administration, the perceived costs associated with an ageing society, residents' rights, the use of medication, restraint practices and services for people from mixed culture and linguistic backgrounds, I was most struck by the evidence from younger people with disabilities who reside in nursing homes in New South Wales. As stated in the report, about 929 residents of nursing homes in New South Wales are under the age of 60 years. These people have a range of disabilities, including acquired brain injuries, intellectual disabilities, neurological impairment and physical disabilities, all of which prevent them from living at home and participating fully in society. If we accept that nursing homes traditionally cater to the needs of older people and focus on preventing the degeneration of their health and abilities, it would then be true to say that placing younger people who require intensive developmental or educational programs in nursing homes is most unsuitable.

These developmental and educational programs are essential in developing the potential of these people, but these services are not often provided because they are costly. This is because the service has to be administered by professionals and others who understand the relevant needs and have the skills to meet them. Accordingly, these services are not available in many nursing homes. Younger residents also spoke about their feelings of isolation, having few people around of similar age with which to communicate and share experiences. They also referred to having insufficient activities to occupy them. Another interesting reality of nursing home life is that access to home and community care and other State services is not possible. On making this point I draw the attention of honourable members to recommendations 37, 38 and 39.

These recommendations make a number of requests of the Minister for Aged Services in relation to HACC services. If these recommendations were implemented by the State they would allow younger nursing home residents access to HACC and other State services. They would enable the Minister to approach the Commonwealth to make the necessary financial arrangements to ensure access of younger residents of aged care facilities to an equitable distribution of resources to promote a quality of life to the standard we ask for the entire community. We must ensure that the recommendations of this report are not ignored or left on the shelf, as if the completion of the report is the solution. We must all demonstrate our commitment to ensuring that nursing home residents are valued members of our society.

**The Hon. Dr MARLENE GOLDSMITH** [5.10 p.m.], in reply: On behalf of the Chair of the Standing Committee on Social Issues, the Hon. Jan Burnswoods, I thank the Hon. P. T. Primrose, the Hon. D. F. Moppett, the Hon. J. Kaldis, the Hon. Elisabeth Kirkby and the Hon. Dorothy Isaksen for their contributions to this debate. I have noted with particular interest the points they raised. I especially thank the Hon. D. F. Moppett for his initiative in bringing this inquiry to the social issues committee. The committee dealt with a number of crucial issues. I hope the Government will take on board its recommendations, which will become more important as the New South Wales population ages.

Health care enables people to live longer and the baby boomers are ageing. These problems must be dealt with and we must ensure that quality of life for older citizens is maintained as far as possible, that their autonomy and integrity are respected and that the best possible solutions to problems are found. This report certainly goes some way in that direction and follows the proud tradition of reports of the Standing Committee on Social Issues, which has enjoyed a considerable reputation in this State for its contribution to debates on various issues.

The committee takes pride in its meticulous research, careful analysis and ultimately non-partisan responses to problems. That approach was typical of this report. This report could easily have become a political football in the hands of a committee that put politics ahead of the people of New South Wales. The committee did not take that approach and I thank all committee members for maintaining that direction. The committee is far stronger for that approach and its recommendations will be far harder to ignore. Again I thank all staff members, whom I mentioned in my introductory speech. Without their extraordinary efforts, the long hours they worked, and their great talents and abilities the report would not have been of such a high calibre. The Standing Committee on Social Issues is fortunate in its staff. On behalf of the Chair and the committee, I commend the report.

**Motion agreed to.**

#### **STANDING COMMITTEE ON STATE DEVELOPMENT**

#### **Report: Fisheries Management and Resource Allocation in New South Wales**

**Debate resumed from 12 November 1997.**

**The Hon. A. B. KELLY** [5.14 p.m.]: The Standing Committee on State Development's "Report

on Fisheries Management and Resource Allocation in New South Wales" is the culmination of 18 months work. During the inquiry a total of 86 submissions were received from recreational and commercial fishers, environmental groups, New South Wales Fisheries, academics and members of the public. Evidence was also obtained from 129 witnesses during 18 public hearings held throughout the State between January and July 1997. The Standing Committee on State Development seeks to increase awareness of the major problems facing the State's fisheries and, through its recommendations to the Government, address existing shortcomings in the present fisheries management system.

The report is divided into four parts. The first part introduces the principal issues by examining New South Wales fishery history and predominant physical and administrative characteristics. Part two details the main provisions of the Fisheries Management Act 1994 and the way in which it has been implemented. This part also examines generic and specific examples of fisheries resource allocation conflict. Part three focuses on resource sustainability, particularly coastal, estuarine and inland habitat management issues. It also explores opportunities for aquaculture and research to contribute to the sustainability of fisheries production. Part four concentrates on issues of equity. It examines and contrasts indigenous participation in the fishing industry throughout Australia, proposes a new method of assessing the resource and supports the notion of compensation for those displaced by structural adjustment. The committee makes 33 recommendations throughout the report which aim to improve the conservation, sustainable development and equitable allocation of fisheries resources of New South Wales.

**The Hon. D. F. Moppett:** It will not be such as to make the Minister blush with embarrassment about the praise you have heaped on him.

**The Hon. A. B. KELLY:** Many of these recommendations are interconnected, reflecting the ecological, economic and social linkages that exist between fisheries management and resource allocation.

**The Hon. Dr B. P. V. Pezzutti:** How many did he accept?

**The Hon. A. B. KELLY:** I shall deal with the Minister's response in my reply. A major issue that arose during the inquiry was the speed and extent to which the share management provisions of the Fisheries Management Act 1994 were being implemented. The committee supports the principle

of share management fisheries, but believes it is essential for participants in a fishery to be made aware of their financial obligations in the form of management and community contributions prior to deciding whether share management is the appropriate form of management for their fishery. The committee is concerned also that recreational fishing effort be explicitly taken into account in any share and total allowable catch distribution. Accordingly, the committee recommends that the share management provisions of the Act be amended to provide for recreational share holdings to be held in trust.

The committee recommends also the establishment of a general angling licence to provide a much-needed means of direct communication between fisheries managers and recreational fishers, and to raise sufficient funds to service the financial obligations of any recreational shareholdings. The establishment of a mechanism to allow share trading between the recreational and commercial sectors in individual fisheries is also recommended. The committee has addressed the major difficulties encountered in the management of the inland fishery. The committee believes that the serious decline of the inland fishery cannot be arrested and reserved without significant capital works and provision for environmental flows. The recent water reforms will go some way towards addressing the latter, but the full environmental benefit arising from environmental flows will not materialise without the prioritised installation of fishways on the State's hundreds of barriers to fish migration and the modification of the major dams to solve the serious problem of cold-water pollution.

The committee also considers an accurate, up-to-date and ongoing assessment of the condition of the State's fisheries to be an essential tool for the sustainable management of the resource. The committee does not believe that existing assessment mechanisms are effective, and has recommended that the Resource and Conservation Assessment Council be made responsible for fisheries assessment in a way similar to its work on forestry issues. This would not only enable a skilled assessment of the resource, but would remove perceptions of bias from the process. The committee also recommended that where the resource assessment warrants the removal of participants from a fishery a structural adjustment package, possibly including retraining and compensation, be offered to displaced participants.

The committee strongly believes that New South Wales fisheries deserve the highest quality assessment and management. The next few years may represent the last chance to ensure that the

fishery is sustainably utilised and preserved for future generations. The committee urges the Government to adopt its recommendations to achieve this end. Finally, I thank my predecessor, Patricia Staunton, who was committee chairman for the bulk of the inquiry. I also thank the secretariat staff involved in the research and preparation of this report, including the director, Stewart Webster, and the committee officer, Annie Marshall. I extend special thanks to the senior project officer, Dr Michael Lowry, who was recruited in August 1996 specifically to assist the standing committee with the inquiry and whose research, grasp of the material and drafting of the final report was invaluable.

**The Hon. I. COHEN** [5.21 p.m.]: There have been 18 months of committee deliberations, 86 substantial submissions, evidence taken from 129 witnesses during 18 different hearings, and 33 recommendations. How many of the committee's recommendations have been adopted? Three! Three recommendations in more than six months. Responses to the committee's carefully considered and well-researched recommendations averaged two or three sentences, which is basically a padding out of the main message of the majority of the responses: no. A loud and resounding "no" from the Minister for Fisheries and his department. Despite three solid years of nothing but industry outcry, recreational confusion and conservation atrophy, the Government does not appear to accept that something is wrong. I believe that the inquiry by the Standing Committee on State Development was thorough. It was an honest inquiry that attempted to examine the situation and resolve many of the problems that are burgeoning in the New South Wales fishing industry at this time. The Minister has a one-eyed, lopsided approach to this issue. He is targeting aspects of the professional fishing industry but, as I said before, maintaining this lack of regulation towards the recreational industry. As a conservationist, I find that quite appalling. At the same time there is a lot of confusion in conservation ranks and the Minister is working with various elements of the conservation movement, trying to set one against the other.

The New South Wales Greens are very clear about this matter. We believe that a sustainable industry, well-managed and scientifically based, is the way to conserve fish stocks. I do not believe that the Minister is casting his line in the right direction in relation to this issue. Something certainly stinks in the state of fisheries management in New South Wales. If the tremendous amount of evidence, the careful consideration of the evidence by the committee and the distillation that culminated in the 33 recommendations is practically disregarded by

the current administration, it certainly will not get any better. The committee particularly wished to progress three issues: share management in New South Wales fisheries, inland fishery management, and a current and accurate assessment of the State's fisheries and fish habitat resources. The issue of implementing share management in New South Wales is not a minor issue. It involves the current Government, Minister and department accepting the application of the Fisheries Management Act 1994 to New South Wales. The bulk of the Act relates to share managed fisheries. It was to be the way to achieve ecologically sustainable development in fisheries management. It was cutting edge, and addressed many of the problems which have plagued restricted fisheries, quota managed fisheries and other fishery management regimes worldwide. Dr Young of the CSIRO, an august body, said:

In common with many other of the world's fisheries, fish stocks in New South Wales have been declining. Recreational fishing pressure is increasing, existing licence provisions encourage the use of inefficient gear and technology and incomes from fishing are low. In addition the regulatory regime prevented investment in gear and equipment necessary for efficient exploitation of the available stock and a large black market in fish existed. There was widespread political dissatisfaction with various governments' inability to manage the State's fisheries in anything other than a reactionary and crisis management style. The challenge was to find a mechanism that would solve as many problems as possible.

Management plans would be prepared for Fisheries, communities would be consulted on the fisheries management plans, sustainability indicators would be monitored to ensure the resource was being farmed, rather than mined, and fishers would have direct financial incentives to protect the future sustainability of the resource. It also gave fishers a reason to become more involved in protecting not just fish, but fish habitat, wetlands, mangroves, seagrasses, water quality etc.

There is a growing awareness—I have spoken to many commercial fishers who admit to inappropriate practices in the past and who have championed the cause of habitat restoration in wetlands areas and mangroves, often against the agricultural industry—that we need to preserve those areas and create a viable industry that is sustainable. It is the professional fishers who are turning into good, industrial, commercial—whatever word you choose to describe it—conservationists, in that they wish to see both a balanced industry and a resource that they will be able to pass on to their children.

The concept of share managed fisheries sounds great, but one may well ask: what stage has it reached? Is it provided for in the legislation? Why is it not working in New South Wales? The current administration has decided to try to manage the bulk of New South Wales fisheries from a minor subsection of the Fisheries Management Act 1994. Six

sections of the Act relate to exploratory, developmental and other restricted fisheries—six brief sections, rather than the detail provided for in the 60 sections that relate specifically to the implementation of share management in New South Wales. I believe this represents a subversion of the intent of the Act. I believe that recommendation 2, "That the Minister implement share management immediately after 30 April 1998 in fisheries whose MACS request it", was the single most important recommendation of the inquiry.

**The Hon. Dr B. P. V. Pezzutti:** He would not take the amendment, would he?

**The Hon. I. COHEN:** No, and I am sure the Hon. Dr B. P. V. Pezzutti will discuss the matter later. I await with great interest the decision of the Minister in relation to implementing share management in the Estuary Prawn Trawl Fishery. My understanding is that there is some discussion that it will not go ahead. Part of the committee's considerations related to involving the recreational sector in the share management process. We do not have any clear idea about how many recreational fishers catch fish, where they catch them, how many they catch, or their accumulative impact on fish stocks.

It was clear from the evidence before the committee that serious attention needs to be paid to recreational fishing and it was equally clear that that will cost money, money which New South Wales Fisheries does not have. Similarly, it is not prepared to give any money over to compensate professional fishers who want or need to leave the industry, or in respect of whom it is environmentally appropriate that they leave the industry. The committee agreed that a statewide recreational fishing licence, an extension of the current freshwater fishing licence, would be the best way of implementing a cost-recovery process for managing the recreational fishery of the State.

This fee would also be used to manage the resources and to provide more recreational opportunities. The committee also recommended that the licensing process should be used to collect crucial information about the recreational fishing community, to establish a trust fund to research the effectiveness of bag limits and investigate black market fishing, and to provide that the recreational sector may hold shares in share-managed fisheries. These were all reasonable and well thought out suggestions that were knocked back by the current administration, with no discussion about the basis for their rejection.

The implementation of a decent resource assessment process, with a clear commission to identify areas of high conservation value for fisheries, and an accompanying review of legislation relating to land and water management in the coastal zone, were the last major subset of the committee's recommendations; but none of them will be implemented. They are in good company. The recommendations regarding a post-harvest sector levy and the power of management veto over scientific research carried out by the department have also been rejected.

What happens now? The report is a complete overview of the state of fisheries management in New South Wales with a number of relevant recommendations, the bulk of which have been rejected out of hand by the current administration. What can we do? We can keep on rejecting the Minister's attempts to misuse the powers given to him by the Fisheries Management Act 1994. We can lobby the Government to look very carefully at the state of fisheries generally and perhaps apply a little internal pressure upon a Minister who is not only not performing but cannot see any reason why he should perform effectively. We can seriously consider alternative mechanisms by which we can require the Government to take more notice of standing committee recommendations, because I will not continue to participate in an illusory process.

I find it depressing that the committee put in so much time and energy, and the community and professional bodies provided so much expertise, only to be totally ignored by the Minister. That is disillusioning for me. I came to Parliament with the ideal of working constructively and productively with the Labor Government. I find this Minister one of the most recalcitrant in dealing with positive suggestions. He has an agenda of targeting a specific area of the fishing community, and giving open slather to his recreational fishing mates and those involved in the importing industries that revolve around the recreational fishing industry. It is not a balanced agenda. It will not achieve a balance in the maintenance of fish stocks. It is not a conservation direction despite the Carr Government having said many times that it is undertaking a green agenda.

The Minister is dragging a heavy ball and chain to the next election. He should be replaced. It is likely that he will sink the Government, because he is causing a great deal of confusion in the fishing community and in the community generally—quite apart from what he is doing in the mining portfolio. He is undercutting any attempt that the Government may have made to achieve a fair and equitable distribution and maintenance of this resource.

Although we can see ecological sustainability in this resource, the Minister has his eye on the voting population—the recreational fishers—and they will not sustain the whole resource. I totally abhor what the Minister is doing at the present time.

**The Hon. Dr B. P. V. PEZZUTTI** [5.33 p.m.]: Given the agenda of the Minister for Fisheries, I should like to pay tribute to the House for recognising the severe challenge to the sustainability of fisheries. Upon the change of government this Minister adopted an agenda that was contrary to the Act, and then tried to act illegally and contrary to the nature of the Act. This House rebelled and, with the support of the crossbench, asked the standing committee to report on sustainable fisheries.

All the people who came before the committee were keen to establish their credentials to examine the sustainability of the fisheries. They were the same people who were responsible for the 1994 Act: fishermen, environmentalists, scientists, professional managers, market workers, and ordinary people. They were responsible for the open-handed approach by the previous Government and Minister Causley to try produce an Act that would achieve sustainability and predictability in the fishing industry. Fishing is a very important resource that has a significant impact on our fragile ecosystems.

That open-handed approach by the Fahey Government, instituted by Ian Causley, allowed consultation to take place for almost a year and a half. Then legislation was introduced into the lower House, where the Government accepted some 60 amendments. It came to this House, and the Government accepted more amendments. It went back to the lower House, where more amendments were made. After that the legislation came back to this House and honourable members voted to support all the changes that members of the community sought, again allowing plenty of time for discussion.

**The Hon. D. F. Moppett:** Those tranquil and halcyon days are gone.

**The Hon. Dr B. P. V. PEZZUTTI:** Absolutely. The Hon. I. Cohen will understand when I say that legislation that comes before this House that has not been the subject of wide community consultation is quite likely to be rejected or amended. This House regularly does that. Quite often in the other place the Government will accept amendments because of a huge community outcry; members of the Government beat their chests, but they are really double back flips. That was not the

approach taken by the Fahey Government but this Government, with this Minister, does precisely that.

I pay tribute also to the tenacity of the Hon. Patricia Staunton, until recently a member of this House and the former chairman of the committee. I am sure she is now a superb magistrate, although I hope I do not have to appear before her this week. I had difficulties with that chairman on another highly-charged inquiry—hospital waiting lists. Though she tried to defend the indefensible with those lists, on the fishery reference she set about in a forensic way to discover the truth and to give witnesses adequate time and opportunity to explain what they meant. To see her examine Dr Glaister was, to say the least, intimidating on occasions.

**The Hon. Jennifer Gardiner:** Especially for him.

**The Hon. Dr B. P. V. PEZZUTTI:** For him, absolutely. Especially when he prevaricated, when he ducked and weaved, when he was not forthcoming. She was able to elucidate from Dr Glaister, through the very sweat on his brow, information that he had not been prepared to give easily. But when she had a fisherman in front of her, especially the Aboriginal beach-netting fishermen from the south coast, she was at her most understanding and compassionate. She took time to understand what they were saying. She gave them many opportunities and treated them with enormous dignity, respect and deference, because they were senior members of the Aboriginal community who came before the committee to give evidence about how they had been earning their living for generation after generation.

They learnt to fish the way they did because they were put on a mission and a job had to be found so that they could support themselves. They were taught fishing in the 1900s, 1910s and 1920s. They made it their livelihood. They traded, they learnt the art, and they passed it on to their children. They supported themselves with great dignity and were widely respected for their skill, their business acumen and the way they managed their fisheries.

As the Hon. I. Cohen said, the committee received 86 major submissions from recreational and commercial fishermen, environmentalists, the CSIRO, other fisheries, academics and members of the public. The committee visited five States and Territories—major visits—again consulting widely with other fisheries to see what they were doing. On each visit the committee was welcomed with open arms. In contrast to the committee's experience in

New South Wales, people in other States were happy to answer questions. Committee members were respected as members of a parliamentary inquiry trying to determine what was happening, what could be done, and what was the best way to do it.

The committee undertook site visits and held public hearings throughout rural New South Wales. It visited almost every major fishing spot. Sometimes when the committee finished sitting I took my rod and went fishing, although I was not too successful. I pay due deference to professional fishers, who are so successful in putting fish on our tables. Were it not for them I would not eat too much fish. I am keen on the sport and I love being in the great outdoors, but I am not the world's most successful fisherman.

**The Hon. M. R. Kersten:** It takes longer than 30 seconds to catch a fish.

**The Hon. Dr B. P. V. PEZZUTTI:** I would spend two hours out there. The Hon. I. Cohen would go for a swim, run or walk, and I would be out there trying to catch my fish. I did have success in Hobart, where at my hotel I was able to provide fresh fish for breakfast for the chef, the front counter staff and myself. Members of the committee and the committee staff followed a very arduous timetable. The Hon. J. R. Johnson adhered to the program and accompanied the committee everywhere, in spite of difficulties. He was punctilious in his attendance, his questioning demonstrated a great deal of insight, and his concern for the fishers was obvious. On many rural visits the committee was accompanied by members of the Maritime Union of Australia. Its delegates were more than keen to represent, often forcibly, their fisher members.

**The Hon. D. F. Moppett:** Did they support the high-handed, imperialist policies of the Minister?

**The Hon. Dr B. P. V. PEZZUTTI:** They did not. In the public arena they were highly critical of the Minister. They were firing off letters to Bob Carr saying, "You've got to sack him." It is interesting that Bob Carr did not listen to the union on that occasion.

**The Hon. M. R. Kersten:** Name one person who is not critical of the Minister.

**The Hon. Dr B. P. V. PEZZUTTI:** I am at a loss to do so. I note that no member of the Government offered a name. Even the Minister for Public Works and Services did not say, "Me."

**The Hon. R. D. Dyer:** He is a friend of mine.

**The Hon. Dr B. P. V. PEZZUTTI:** The Minister did not say, "Me."

**The Hon. R. D. Dyer:** I am minding my own business.

**The Hon. Dr B. P. V. PEZZUTTI:** The Minister may be remembered not as the most professional but as the most honest Minister in the House.

**The Hon. A. B. Kelly:** He does not want to delay the honourable member's speech or cause him to take any longer than necessary.

**The Hon. Dr B. P. V. PEZZUTTI:** My contribution will take quite a while. The fishers of this State and the scientists who provided the committee with evidence would expect me to speak at length to the report. Honourable members will recall that when the report was first tabled no opportunity was given for Opposition members, the Hon. I. Cohen or any other member to move to include in it a dissenting statement. The committee had to reconvene and subsequently retable the report. The committee chairman had used government numbers to deny any opportunity for a dissenting statement to be included in any part of the report. Opposition members were horrified.

In relation to another report Opposition members fought the closure of veterinarian research laboratories in many places throughout the State and the Hon. Patricia Staunton allowed the inclusion in that report of certain statements that she thought to be reasonable. She may not have agreed with them, and she may not have been keen to include them in the report, but she accepted that they were supported by the evidence. The Hon. I. Cohen, the Hon. Jennifer Gardiner and I sought to include a dissenting statement in this report. The Hon. I. Cohen highlighted concern about recommendation 2, which is:

The Minister implement share management immediately after 30 April 1998 in fisheries whose MACs request it.

The Hon. I. Cohen, the Hon. Jennifer Gardiner and I were not particularly interested in whether the management advisory councils—MACs—made such a request; we were interested in the sustainability of the fishery and we wanted the words "in fisheries whose MACs request it" removed. At page 109 the paragraph appearing just before recommendation 2 states:

After considering the voluminous evidence before it, the Standing Committee believes share management to be the appropriate fisheries management outcome for New South Wales. The Standing Committee notes that, under the present "progressive implementation path", MACs are due to make their recommendations to the Minister . . .

The words "progressive implementation path" should be rendered in quotation marks because everybody knows that it is not a progressive implementation path. I have evidence of that. A letter from the Minister indicates that he intends to regulate one of the fisheries for five years. It is important that the House understand this matter, because this will be my only opportunity to make a dissenting statement to the report. That opportunity was denied me by the committee chairman, who used the Government's numbers during the deliberation and finalisation of the report. The report was finalised very quickly; deliberation was completed in three weeks. After 18 months of inquiry, it appeared that there was a sudden urgency to meet a strict deadline.

I was keen for the report to be examined in detail so that the committee could decently and honestly deal with the evidence that people had spent a lot of time, anxiety and money on presenting. I have a costing on the report which should be of interest to the Hon. A. B. Kelly, the Government and other members of the House. The costing indicates the thorough nature of the committee's deliberations. Advertising and news media costs amounted to \$13,000. The committee advertised in order to ensure that fishers knew where it would be sitting, and had the opportunity for consultation. The Hon. Patricia Staunton advertised in local papers and issued press releases stating that the committee was visiting Cooma, Lismore, Ballina and other places.

**The Hon. D. F. Moppett:** That is unlike the Minister's clandestine consultation!

**The Hon. Dr B. P. V. PEZZUTTI:** Yes, that is right. The committee let people know that it would be hearing evidence in a regional area, but it did not promote its work. Travel, air fares, accommodation, venue hire and witness-related travel over 18 months amounted to \$90,000. That would appear to be a large sum, but I point out that the committee undertook major site visits in 18 regional locations. That sum does not include the cost of hiring meeting rooms at Parliament House. The cost of reporting and transcription amounted to \$8,000, which is very reasonable when one considers that the committee held 18 full days of hearings. Printing and mailing expenses cost the committee \$11,500. I insisted that every person who came before the committee received a copy of the

report. Staff salaries amounted to \$172,500. They are not the only costs of the committee, but they total some \$295,000. That is the cost of a full and proper review of the current position and the way in which New South Wales will achieve sustainable fisheries.

**The Hon. M. R. Kersten:** I don't know how the committee produced such a valuable report at such modest cost.

**The Hon. Dr B. P. V. PEZZUTTI:** Thank you. The costs I have referred to do not include indirect costs such as the time spent on the inquiry by members' research officers. My research officer certainly earned his living during the inquiry. Committee members were in continuous communication with interested parties around the State for 18 months. Another indirect cost relates to the enormous amount of time given by outsiders to comply with the inquiry—fishers took their boats out of service to participate in the inquiry; and many people gave up the opportunity to be elsewhere doing other things. Fishers came willingly and keenly to give evidence. They want to borrow money, buy a fishery, pay it off over time and pass it on to their kids. They want the fishing industry to be maintained. When the Government appointed the Hon. A. B. Kelly the inquiry was wrapped up and the report was suddenly rushed to print.

**The Hon. A. B. Kelly:** There were two delays at that stage.

**The Hon. Dr B. P. V. PEZZUTTI:** There were delays because of the resignation of the Hon. Patricia Staunton.

**The Hon. M. R. Kersten:** It had been delayed a year while she was still here.

**The Hon. Dr B. P. V. PEZZUTTI:** If the honourable member looks at the sitting and hearing dates he will find that there was a period when the committee could not sit.

**The Hon. Jennifer Gardiner:** And we were doing a regional headquarters inquiry at the request of the Premier.

**The Hon. Dr B. P. V. PEZZUTTI:** We were fast-tracking a regional headquarters inquiry. To his credit the Treasurer accepted almost every one of the recommendations. Big and small businesses told the committee what it should do. The committee travelled and received evidence from around the world, with great support from Great Britain, and the Treasurer is reaping the benefits.

**The Hon. Jennifer Gardiner:** The Commonwealth Government has taken up a lot of the recommendations as well.

**The Hon. Dr B. P. V. PEZZUTTI:** Yes. The Prime Minister and Treasurer Costello and our State Treasurer in concert are trying to make Sydney the financial capital of Asia by getting rid of taxes on share transactions. What will happen in the wash? Offshore share trading will not be taxed and business will not go to Hong Kong, Singapore or Malaysia. That is what happens when a Minister looks at a report by a chairman who considered the evidence without fear or favour and the Government examines the report honestly and openly and accepts the recommendations.

**The Hon. D. F. Moppett:** Did you tell the Minister that Sydney will not be the capital of the fishing industry if he keeps going the way he is going?

**The Hon. Dr B. P. V. PEZZUTTI:** Since the Hon. D. F. Moppett has mentioned that, a major concern at all levels of the fishing industry—recreational, commercial, and markets—is black-market fish and its toxicity. That should be a concern of the Government but it probably is not. The committee considered that matter at great length, and next week I will speak about the Minister's response. Black-market fish were identified by commercial fishermen. Recreational fishermen who do not like to get a bad name by flogging fish through the back door also expressed concern about the black-market fish industry.

Restaurants that buy fish on the black market run a serious risk of not being able to trace the supplier if there is a problem. Therefore the public health department cannot ensure that the problem does not recur. Oysters can be traced to their supplier. The committee was often told that 30 per cent of all fish—\$40 million worth—are bought on the black market. That represents an enormous risk to consumers.

**The Hon. D. F. Moppett:** That alone calls for a ministerial resignation.

**The Hon. Dr B. P. V. PEZZUTTI:** One would think so, especially as Mr Martin was previously a fisheries inspector. The Minister is not interested in the sustainability of fisheries; he is interested in managing fishermen and restricting and constraining them with no options.

**The Hon. Jennifer Gardiner:** He wants to kill them off.

**The Hon. Dr B. P. V. PEZZUTTI:** He wants to kill them off. The Minister has been partly successful, because the number of fishermen in New south Wales is down to 850.

**The Hon. M. R. Kersten:** It is called socialism.

**The Hon. Dr B. P. V. PEZZUTTI:** I think it is more a dictatorship, or the imperial view of the world that "I am the only person who knows what is going on." The Minister is the only person who is out of step. When we had that recommendation, I was fascinated that we could not change it. There was no evidence to support it. But the committee had to wait for the management advisory committees to determine what they wanted to do. The Fisheries Management Act is about the sustainability of fisheries, not about whether fishermen make a living—although I hope that they do.

**The Hon. M. R. Kersten:** That would be nice.

**The Hon. Dr B. P. V. PEZZUTTI:** That would be nice. The Act has nothing to do with whether fishermen want to be regulated, but it has to do with giving fishermen a proper incentive to ensure that they manage their own fishery in a sustainable way. If they do not succeed, they will have nothing left and only themselves to blame.

**The Hon. D. F. Moppett:** Self-regulation towards communism.

**The Hon. Dr B. P. V. PEZZUTTI:** Self-regulation or the responsibility to look after their fishery. With restricted fishery input control at the moment, so to speak, you can have only a certain size motor on a boat and a certain size fish net, but there is no restriction on how often you can go back and forward to fish. It does not matter how much you rip into the seagrass because if there are no fish tomorrow, you have made hay while the sun shone! Everybody knows that is happening and that this is a dangerous time for our fishing stocks.

**The Hon. M. R. Kersten:** This is one of the finest speeches I have ever heard in this House.

**The Hon. Dr B. P. V. PEZZUTTI:** Thank you. When the Minister for Fisheries came into office he set up a quickie review committee. Dr Glaister said in evidence that the review committee did not undertake public consultation; in determining how fisheries should be managed it relied on experts, published information, unpublished briefing notes, status reports and conversations with a few

fishers. I assure honourable members that not too many fishermen will talk to the Minister now. The review provided for a progressive implementation, that is, the hard hand of Mr Martin's day-to-day whim.

The Hon. Patricia Staunton was horrendous when she questioned this process because it became perfectly obvious that it was nothing more or less than a put-up job to give the Minister the answer that he wanted. The Minister was the only one out of step in spite of the Premier saying that there would be share managed fisheries, which people from all over the world would come to visit.

**The Hon. D. J. Gay:** I have heard that "horrendous" is an understatement.

**The Hon. Dr B. P. V. PEZZUTTI:** The Premier must have been horrified after sending Mr Wilkins to a major conference to teach the world how to cut red tape and to go from red tape to success. That was promoted by the Government, the Cabinet Office and the Premier in glowing terms. The Premier wrote a wonderful statement in support of share managed fisheries. Mr Crew, the head of fisheries at the time, was meant to deliver a paper but Bob Martin said, "No way." Mr Crew delivered the paper. Mr Martin said it was all nonsense but the Premier said it was good.

The Premier supported the Act, but the Minister is working by himself to disintegrate it. As the Hon. I. Cohen said, he relies on one section that was intended specifically for new fisheries that have yet had their work cut out for them. He relies on that section to totally change the nature of the Act from share managed fisheries to restricted fisheries. In 1995 the Premier would not have a bar of restricted fisheries but it is now different. Bob must have threatened to resign, forcing the Premier to call a by-election, which he did not want. Even now the Premier could not win a by-election in Kogarah or even in Mr Gibson's electorate. The Government certainly would not survive a by-election in Port Jackson.

**The Hon. M. R. Kersten:** It could not stand a by-election in the pub dart team.

**The Hon. Dr B. P. V. PEZZUTTI:** It certainly could not stand a by-election in Broken Hill, because my colleague the Hon. M. R. Kersten would probably win it hands down. When debate is resumed next week I will talk about the evidence given before the committee. Mr John Connor, who is responsible for a most amazing turnaround—which I will also talk about next week—released a

report by John Marlow dated April 1998 entitled "Share Managed Fisheries in NSW" and issued a press release saying, in effect, "God make me pure—but not just yet." His press release said that more deliberations should be held.

**The Hon. J. R. Johnson:** That was not a press release; that was a statement by St Augustine.

**The Hon. Dr B. P. V. PEZZUTTI:** I was paraphrasing the press release issued by Mr John Connor. In April 1997 Mr Connor said:

I think the share management fishery, and certainly it is set out in the Act, is a far clearer articulation of where the rights and responsibilities lie and also provides the basis for the commercial effort to actually be interested in the sustainability of the resource. It provides some actual clear incentives in that regard.

Restricted fisheries, it's a bit of a mystery I guess to us at the moment. Just how that is to be managed and what sort of performance indicators and criteria are to be set are unknown at this stage. That is part of the problem. There has been the focus of trying to get these things up without really understanding what they are trying to achieve, frankly. That is, one of the major problems I see the Minister has had in trying to run the argument that these are just as effective in terms of sustainability as the share management fisheries.

He has changed his mind in May 1998. His media release stated:

Whilst not rejecting the concept of share management, this report and our recent experience on fishery management advisory committees means that we have to fix flaws in the model that would be applied under current arrangements and adopt a more cautious approach . . .

Whilst doing that fisheries management and the NSW Government must now focus on other initiatives to ensure the ecological sustainability of fisheries and the marine environment . . .

Bob Martin and the NSW Government needs to fix up problems with both the share and restricted management models otherwise it will have failed to provide resource sustainability for the fishing industry in an ecologically responsible context.

That last statement was made by Jeff Angel. In his media release Mr Connor called on the Government in the following terms:

- not create any further share managed fisheries until flaws with community contributions, management planning and sustainability indicators are fixed—

honourable members should read what they said about that—

- release draft plans of management for each fishery for public comment before the end of 1998—

I wish him all the best of luck with that—

- commits to developing a restructure package for the fishing industry in consultation with the Fisheries Regulation Implementation Committee.

That means compensation. The reason for the Minister's opposition and the Government going in behind the Minister is that the Government is terrified about paying out a few bob in compensation to some fishermen to ensure the sustainability of the fishery.

**The Hon. D. F. Moppett:** Most of the money will go from one fisherman to another.

**The Hon. Dr B. P. V. PEZZUTTI:** Exactly! The Hon. D. F. Moppett is perfectly right. He did not hear the evidence in Western Australia but he knows about it because of his wide reading on the subject. When northern Western Australia wanted to regularise and sort out its fishing industry, what did it do? It gave a loan of \$2 million to the prawn trawl, which paid that money back over five years with interest.

**Pursuant to resolution business interrupted.**

## CRIMES LEGISLATION AMENDMENT (POLICE AND PUBLIC SAFETY) BILL

**In Committee [Recommittal]**

**Consideration resumed from an earlier hour.**

**Recommitted schedule 1**

**The Hon. ELISABETH KIRKBY** [6.03 p.m.]: When debate was interrupted by question time I was explaining how I had been trying to get some information from the office of the Minister for Police about workers compensation being payable to police on duty. During question time one of the Minister's advisers told me that he would get that information for me. The information he obtained is similar to that referred to earlier by the Hon. M. J. Gallacher. This is not a letter from the Minister but a copy of the speech that the Minister made at the Police Association Biennial Conference, which was held in Wollongong at the end of last week. The section of the Minister's speech which dealt with workers compensation stated:

I know Workers Compensation entitlements for post '88 officers continues to be of concern.

I understand the unique nature of policing—including the risks police officers face every day.

A working party—which included Association members—has been working for over 18 months to address this complex issue.

Its task was to make recommendations to deliver fair and equitable workers compensation arrangements for police officers—irrespective of when they joined the Service.

Today, I'm pleased to announce that the working party has delivered its report and the Government will implement its recommendations.

They include:

—funding the "topping up" scheme by a source other than "cashing in of leave";

—a review of the Service's rehabilitation/redeployment program for post '88 officers and ensuring discharge is used as a last resort and injured officers are offered meaningful employment without financial penalty;

—new eligibility criteria for the "special risk" benefit and an appeal process;

—the payment of an additional, lump sum "special risk" benefit, equal to a life pension of 15% of the officer's salary at the date of death or permanent incapacity;

—that, in relation to injuries resulting in discharge, a lump sum equivalent to a proportion of 15%, be paid in accordance with the proportionate loss in earning capacity; and

—ensuring the spouse or nominated representative of an officer killed in the line of duty receives the "special risk" payment.

I do not have *Hansard* in front of me, but if I remember rightly the Hon. M. J. Gallacher said words to the effect that it remains to be seen whether the Government will honour this commitment. However, a firm commitment was made to the Police Association last week in this document. The Minister would not have given me this document without giving me the freedom to read it onto the parliamentary record. The document stated:

This means that before the next election the Carr Government will have restored the equity between pre and post '88 police.

I accept the argument put forward by the Hon. M. J. Gallacher that there was a difference between people who were employed prior to 1988 and people employed after 1988, but I still do not believe that the Hon. M. J. Gallacher was correct in saying that police "do not have workers compensation protection to safeguard them". They may have believed it was inadequate and that they needed more because of the onerous and dangerous nature of their duties, but they certainly did have workers compensation. I also place on the record a conversation my office had

this morning with the Police Association about workers compensation. My office had a conversation also with the Minister's office about a matter which I do not wish to place on record.

Yesterday my staff spoke to Police Service headquarters on this issue. The Police Service said that it could not supply the information, which was in the possession of the Police Service and the Minister's office, until a request for the information was made through the Minister's office. That meant faxing a request which, I was told by the Minister's office, would then go through normal channels. Yesterday the Minister's office confirmed that a faxed request for confirmation of workers compensation protection for police would have to go through normal channels.

I have been informed by the Minister's office that there has been no communication between that office and the Police Association but that there has been communication between the Police Service and that office on another matter. Having said that, I still believe that the Hon. M. J. Gallacher, in the heat of debate, misunderstood the position of the Law Society—and I have read onto the record the latest information I received from the Law Society. I am confident that the Law Society does not want proposed section 28G deleted from the bill. I do not believe that provision should be deleted; therefore, I could not support the Opposition's amendment but I supported the amendment moved by the Hon. J. S. Tingle.

**The Hon. J. S. TINGLE** [6.11 p.m.]: I seek clarification of what seems to be a sticking point in this whole affair. As we go round in ever-decreasing circles trying to battle through this we continue to hit the brick wall of proposed section 28G, and within that brick wall we come upon the stumbling block of the word "organised". The Hon. M. J. Gallacher in his erudite and esoteric contribution pointed out that if a gang leader called his gang together for a rumble that would be an "organised" assembly and the police would not be able to move the gang on. I thought the Committee had pretty much disposed of the word "organised" on Thursday night, but it pops up again in the amendment foreshadowed by the Greens. Can the Treasurer inform the Committee of the Government's definition of the word "organised" in the context of an "organised assembly" in proposed section 28G?

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [6.12 p.m.]: The Hon. J. S. Tingle has sought clarification about use of the term

"organised" in relation to "organised assembly" in proposed section 28G. This is the only context in the bill in which the word "organised" is now used. As the Government indicated earlier, this has been included to prevent spurious claims being used to defeat the purposes of division 4 of the Summary Offences Act. The Government understands that the term "organised assembly" in proposed section 28G means a group of people who come together for a common purpose.

In considering use of the term "organised" in the bill the Government was referred by the Crown Solicitor's Office to the definition of "organised" in the *Macquarie Dictionary*, which includes "to form as or into a whole consisting of interdependent or co-ordinated parts, especially for harmonious . . . action". I assure the Committee that, contrary to the misleading assertions of the Opposition, the term "organised assembly" is not synonymous with the term "authorised public assembly" in division 4 of the Summary Offences Act. So that there may be no misunderstanding I repeat: an "organised assembly" is not the same as an "authorised assembly". They are different legal concepts and will remain so in the Summary Offences Act after this bill is passed.

**The Hon. R. S. L. JONES** [6.14 p.m.]: As further enlightenment, I presume that coming together for a common purpose means coming together for a lawful purpose, not an unlawful purpose.

**Reverend the Hon. F. J. NILE** [6.14 p.m.]: I have spoken on this amendment previously. The Christian Democratic Party is still concerned about the legal consequences of including a negative in the bill. In future court cases lawyers may argue that the negative has reduced police powers in some way from the expression of the Parliament that police shall not take action in certain situations. We are concerned that the wording in the provision is negative. It could be argued that the negatives in this bill are unnecessary because police will enforce the law as stated in the legislation. It is unusual to keep adding negatives to legislation and saying that it does not mean this or that. That is a strange way of wording legislation. If legislation is properly drafted its intent should be clear. However, the Hon. M. J. Gallacher has suggested that this bill is not well drafted, is confusing and, therefore, the Government is trying to make its provisions clear by adding negatives.

Perhaps the Government should rewrite the bill in order to get it right; or perhaps it should adopt the Christian Democratic Party bill, the Police

Authorities Bill, which was drafted in co-operation with the Police Association. The Police Association has lobbied us about police powers relating to industrial disputes. The association is concerned that in the future an industrial dispute may get out of hand or become unruly and police will have no power to act. I am not suggesting that members of the Maritime Union are in that group. In the past industrial disputes involving members of the builders' labourers union became violent but police did not have the power to act. At some point during a demonstration or picket police may be required to intervene, not to arrest people but simply to restore law and order and work towards a peaceful resolution.

**The Hon. I. COHEN** [6.16 p.m.]: It seems as if amendments are being rolled into one, and I wonder whether I am missing an opportunity to comment on this matter. Use of the word "organised" arose early in debate on the bill.

**The Hon. M. R. Egan**: If I may assist the Committee, there are two amendments: the amendment I moved and the amendment foreshadowed by the Hon. I. Cohen. The Hon. I. Cohen's proposed amendment was referred to during debate on the first amendment. I suggest that the Committee deal with my amendment and then deal with the amendment of the Hon. I. Cohen.

**The Hon. I. COHEN**: Having regard to what the Treasurer has said, I shall reserve my comments until the Committee deals with my proposed amendment.

**The Hon. M. J. GALLACHER** [6.17 p.m.]: I shall try to tie up a couple of loose ends as debate on this bill comes to a conclusion. It is important to understand the psychology behind the Opposition's amendment relating to police powers. The amendment would mean that police act as a catalyst to prevent crime. Honourable members should consider what direction law enforcement agencies and, indeed, the Legislature want to take with this legislation. If police had the power to move people on, that would prevent situations such as the current one in New South Wales in which a large number of people have congregated in one area. At present the police cannot move that group on. Confrontation invariably raises its ugly head when a large group of people come together. Generally, two large groups can be opposite each other, but they may not necessarily be gangs, and they may come together in one location. This bill is designed to prevent the consequences of confrontation.

The bill will simply enable police to act as a catalyst, a pressure valve, and to tell one group to go one way and another group to go the other way, thereby preventing someone from being stabbed or a violent act from being committed against a person. What the Treasurer said in terms of "lawful purpose" versus "unlawful purpose" is true: a large group of people may gather for a lawful purpose, until a confrontation arises.

A gang might go to a place and say, "Look, we don't want to go in there and start a fight. We don't want to have an act of violence committed upon some other person, but we want to congregate in that area." The moment it is organised by a phone call, its lawful purpose is to congregate in the area with no intention of committing an act of violence. But the gang might say, "We want to meet outside the post office and we are not moving from that spot all night."

**The Hon. R. S. L. Jones:** Why should they?

**The Hon. M. J. GALLACHER:** Is the honourable member now questioning the legislation?

**The Hon. R. S. L. Jones:** No, I am asking why should they.

**The Hon. M. J. GALLACHER:** The Hon. R. S. L. Jones is questioning the legislation by asking that question. He is saying the legislation is not clear, it is not defined and, therefore, should be rewritten. The legislation is well-meaning in that it tries to prevent crime taking place by using terms such as "organised". As the Treasurer commented, when a group of young people come together for a common purpose, wanting to meet outside the post office, and if they are unchecked and not moved on by police, an act of violence might take place. The Hon. R. S. L. Jones asks why should they be moved on?

**The Hon. R. S. L. Jones:** Yes, why?

**The Hon. M. J. GALLACHER:** The Committee will vote on the amendment and, having heard the comments of the Hon. R. S. L. Jones, I look forward to him voting with the Opposition. The legislation is seriously flawed and he now agrees that ethically it is not correct. I make two other points about my views on police taking part in industrial action. I said that police do not have workers compensation protection to safeguard them. Anyone who says police do not have workers compensation cover is seriously mistaken. Everyone

is covered by workers compensation, but the legislation does not provide protection for police by recognising that the likelihood is much greater that they will be seriously assaulted than it is for most other citizens in the workplace.

The legislation does not adequately cover members of the Police Service who joined after 1988. The Hon. Elisabeth Kirkby said that I misled the Parliament. She is quite wrong. If she listens to my answer to her suggestion, she will know that she has misrepresented my view and has done so in an unfair and foolish way. I suggest that in future she speak to me if she is concerned about what I have to say rather than say something in the Parliament that will make her look foolish. Finally, I draw the line in relation to comments she made that the Opposition wants the police to have the power to bash up members of the Maritime Union of Australia. She implied that police want the right to do that. She is totally wrong and she knows she is wrong. The Opposition does not support that approach and members of the Police Service do not want powers to bash up MUA or other union members.

**The Hon. R. S. L. JONES** [6.23 p.m.]: The Hon. Elisabeth Kirkby said that the Opposition wanted police to have powers to bash up members of the Maritime Union of Australia. From the comments of the Hon. M. J. Gallacher it is obvious that he would like the powers available to police to be the same as those available to police under the Soeharto regime, so that when any two or three students gather together they should be automatically moved on in case they are getting up to no good. That is not what we want in this State.

**Question—That the amendment be agreed to—put.**

**The Committee divided.**

**Ayes, 20**

Dr Burgmann	Mr Macdonald
Ms Burnswoods	Mr Obeid
Mr Cohen	Mr Primrose
Mr Corbett	Ms Saffin
Mr Dyer	Ms Tebbutt
Mr Egan	Mr Tingle
Mr Johnson	Mr Vaughan
Mr Jones	
Mr Kaldis	<i>Tellers,</i>
Mr Kelly	Mrs Isaksen
Ms Kirkby	Mr Manson

**Noes, 18**

Mrs Arena	Mrs Nile
Mr Bull	Rev. Nile
Mrs Chadwick	Mr Ryan
Mrs Forsythe	Mr Samios
Mr Gallacher	Mrs Sham-Ho
Mr Gay	Mr Rowland Smith
Dr Goldsmith	
Mr Hannaford	<i>Tellers,</i>
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

**Pair**

Mr Shaw	Dr Pezzutti
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**Question so resolved in the affirmative.****Amendment agreed to.**

**The Hon. I. COHEN** [6.30 p.m.]: I move the Greens amendment as circulated:

Page 13, schedule 1[8], line 4, as amended in Committee of the Whole. Omit "organised".

This amendment removes the word "organised" from the expression "organised assembly". I reiterate what I said in my contribution on 21 May when debate in Committee occurred regarding the Greens amendment, the Opposition amendment and the Shooters Party amendment. The Greens are concerned about the word "organised". I have been involved in a number of rallies—"actions" would be the more appropriate term—in relation to the Chaelundi Forest in northern New South Wales and many other forest issues. The people involved were of the belief that they were involved in actions, not organised rallies. This legislation leaves open and confuses the issue, which has to be interpreted by the police. On the one hand, organised rallies, official rallies, peak group-supported rallies and actions are acceptable to the authorities; on the other hand, other actions are not acceptable. Certainly, many of the forest actions fall into the latter category.

In addition to that there are—it may be organised, although it is hotly debated—people who work on an anarchic principle where they set up tripods and reclaim the streets. There have been some rallies about that. There is an element of organisation involved, in terms of the way the group has come together or been organised. However, that has not been recognised by the police or by the authorities. What is involved is recognition by the police of the reclaim the streets rallies or the critical

mass bike rally that has occurred every final Friday of the month for a number of years and in which I have taken part.

I mention also to the Hon. Franca Arena that anti-paedophile rallies—which I believe, in terms of police perception, are not organised rallies—have been held in Macquarie Street, outside Parliament House. We may have debate in this House about the fact that people get together, therefore it is organised, but I believe if the authorities choose they can focus on these small, relatively unorganised rallies and say, "It is not organised, therefore it is not legitimate." They will have an extra option to move on these small groups in our society, who have a right to protest, to gather, to rally, to be part of a group of people that comes together in a democratic society.

I refer once again to the recent rally or grouping of young people outside the Sydney Town Hall, about whom I asked a question in this House and who were beaten up by the police. A significant number of police were in attendance. The people at the rally asked for the person in charge, but no-one actually fronted and said that he or she was in charge. Those young people were protesting against an excess of police powers. It is interesting to hear the noise being made by Government members behind me. They are not interested in this sort of issue. It shows the lack of interest that the Government and many members of Parliament have taken in this, because they do not recognise that democratic rights are at stake; we are talking about whether people have the right to state a position—as I have in this House, fortunately, and people have to listen. People have the right to state a position in society and to be heard, or at least tolerated.

I am concerned about police perception. If police have an instruction from the New South Wales Parliament that says a gathering, a certain genre of rally or grouping of people—particularly young people or Aboriginal people who might be out in the park—is not an organised rally, there is a grey area of assessment that will allow police to move in when they might otherwise respect the opportunity for young people in particular to be there. That is what happened at Sydney Town Hall recently. A group of young people protesting about what they perceived to be an increase in police powers that would operate against protesters was beaten up. It is a police discretion issue and I ask the Government and other honourable members to look at it in that way and accept that we need to exercise a great deal of care when we are framing laws in this House.

I have a great respect for this House. We are in the process of framing laws that obviously will be challenged in court and the court will have to clarify them. What sort of institution would do that, knowing full well that there will be a so-called unauthorised rally, that the police will move in, and that that very issue will be challenged in court? The legislation is too restrictive. It could impede the opportunity for people in a democratic society to protest freely. I believe the police will be confused about the concept of "organised" as a part of what they see as "authorised". I believe the Greens amendment is reasonable and that we should remove the word "organised" from the expression "organised assembly" in this bill. I commend the Greens amendment in the name of freedom of association and true democracy.

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [6.37 p.m.]: With the greatest of respect to the Hon. I. Cohen, I think he is being passionately unreasonable and/or wrong. The fact is that the bill as already amended makes it clear that the power will not be able to be used, first, in relation to an industrial dispute and, second, in relation to a genuine demonstration, protest, procession or organised assembly. The fact that an apparently genuine demonstration or protest is not organised will be irrelevant. The new power in division 4 cannot be used, because the term "organised" will apply only to an assembly. There is no term "organised genuine demonstration or protest"; there is reference only to "assembly".

**The Hon. R. S. L. JONES** [6.38 p.m.]: There was an organised assembly at 1.00 p.m. in Sydney Town Hall square, to which the Hon. I. Cohen referred. Approximately 200 or 300 people were there. There were bands, including Chosen Sons and Blue Lotus. There were disc jockeys and ramp boards. All was very peaceful for about four hours—they had talked to senior police about it—but at about five o'clock, some 50 or 60 police moved in and started pulling out the electrical cords; they started picking up people by their heads, apparently. I have a letter here from someone who has bruises all over her young body, down her side and all over as a result of this. A number of people were bruised and hurt. It is all on video, and it was an organised assembly.

This incident demonstrated that police are abusing their powers even before the legislation is passed. Whether the assembly is organised or disorganised appears to be irrelevant to these officers. Apparently no senior police officers were

present—they had already left. Honourable members can see that organised assemblies such as this can result in young people—some of whom are in their early teens—being hurt by police officers. They had bruises, scratches, and so on to prove it. It is important that everyone understands that the police are abusing their powers, whether it is an organised assembly or not. Honourable members need to ensure that if the amendment of the Hon. I. Cohen is not successful these powers are carefully monitored to ensure that what happened on Saturday outside Sydney Town Hall does not happen again.

**Amendment negatived.**

**Recommitted schedule as amended agreed to.**

**Bill reported from Committee secundo with an amendment and passed through remaining stages.**

*[The President left the chair at 6.42 p.m. The House resumed at 8.15 p.m.]*

## **PUBLIC TRUSTEE CORPORATION BILL**

### **Second Reading**

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [8.15 p.m.]: I move:

That this bill be now read a second time.

I refer honourable members to the second reading speech I made on an earlier occasion.

**The Hon. J. P. HANNAFORD** (Leader of the Opposition) [8.15 p.m.]: This bill has been before the House previously. On that occasion I indicated that the Opposition would for various reasons oppose the bill. Whilst it is believed that there are reasons for improving the efficient operations of the Public Trustee, this proposed corporatisation is about extracting millions of dollars from the Common Fund. As I have said before, this issue is driven not necessarily by the Attorney General but by the demands of Treasury. Treasury has maintained the view that cross-subsidisation of the cost of this system for the benefit of the poor has been administered successfully by the Public Trustee. The office of the Public Trustee was established for the benefit of the poor and people with small estates. The Government wants us to accept that it will as a community service order provide millions of dollars to ensure the successful continued operations of that system.

I recall this view being advanced solidly when I was Attorney General. No-one was ever able to satisfy me that Treasury would gratuitously make millions of dollars available to the Public Trustee in order that he could maintain services for the poor. In discussions with me Treasury pointed out that the office of the Public Trustee as a corporatised organisation would be required to contribute a dividend and that such contribution would be a profit in an organisation competing on a level playing field with other trustee companies. It was indicated that once the dividend was taken by Treasury the same amount would most probably be paid back to the Public Trustee. At that time I took the view that this was male bovine excreta, and my view has not changed since. I recognise that there are ways in which efficiencies may be improved, but I stress that the office of the Public Trustee exists for the benefit of the poor and that function should be sustained.

There are areas in which corporatisation is appropriate, and this may be one of them. Perhaps corporatisation could be pursued otherwise than by way of what is effectively a profit-making venture for Treasury. For the reasons that I outlined in some detail previously, the Opposition will oppose the bill and seek a division on its second reading. If the bill is passed through the second reading stage, I will at the Committee stage move amendments relating to the Common Fund. I remember receiving a letter from the trade union movement when at the instigation of Treasury I as Attorney General sought to pursue some corporatisation of the office of the Public Trustee.

If my recollection serves me correctly, that letter was signed by Peter Sams, who very strongly expressed his opposition to what was proposed and indicated the action he would take if I pursued that process. Whilst no letter was received from Peter Sams on this occasion, the Public Service Association has strongly expressed its opposition to this proposal. I am pleased that the PSA has expressed its opposition to the legislation. At a recent function I said to Mr Sams that I hoped the PSA had maintained the principles it had when I was forced to look at the matter by Treasury. I hope that the Attorney General is forced not just to look at it but to pursue it by Treasury.

**The Hon. R. S. L. Jones:** Treasury hasn't changed.

**The Hon. J. P. HANNAFORD:** Treasurers change; the Treasury does not.

**The Hon. R. S. L. Jones:** You weren't conned?

**The Hon. J. P. HANNAFORD:** I do not know whether the Attorney General has been conned. He knows what he is doing and what he has to do. Sometimes Attorneys have to do what Attorneys have to do. I am pleased that the PSA has maintained its opposition as a matter of principle to this matter. I look forward to being Attorney General after March next year, when Treasury will try to do the exact same thing to me. I hope the PSA will give me the same support it is giving me now.

**The Hon. I. COHEN** [8.23 p.m.]: The Greens strongly oppose this bill in its present form. It has had a chequered history. The bill was introduced into the Legislative Council on 30 June 1997. According to Matthew Russell, a reporter from the *Sydney Morning Herald*, its introduction came seven days after the Public Accounts Committee—PAC—criticised Treasury for not issuing a green paper to open the matter up for public discussion. The bill was withdrawn after the PAC repeated its call for the corporatisation process to be made public and the Hon. R. S. L. Jones moved a motion to have it deferred. A green paper was subsequently produced by the Government. However, the bill has not been amended as a result of the green paper.

**The Hon. R. S. L. Jones:** It was all a farce.

**The Hon. I. COHEN:** Indeed. As a result, the Greens oppose this bill. The bill proposes to corporatise the office of the Public Trustee. The Greens consider that corporatisation is usually the first step towards privatisation and the Greens are fundamentally opposed to privatisation—in this House we have at least been consistent. It is a pity that the Treasurer is not present in the House to discuss the type of economic activity that is fundamental to the workings of government. The Greens would like the bill to be amended to ensure that the office of the Public Trustee can never be privatised. The Greens sought that amendment but understand that privatisation may occur in the next term of Parliament.

However, the Greens are also concerned that the moneys released through the process go to a social benefit and, unfortunately, we are not convinced of that. A major issue to surface regarding the bill is the \$35 million held in the Public Trustee interest expense account from undistributed income that has been retained by the Public Trustee. By corporatising the office of the Public Trustee the Government believes it has the right to appropriate \$35 million of the \$80 million held in the account. The Law Society and the New South Wales Council of Social Services—NCOSS—have written to our office regarding the bill. The Law Society stated:

The essential purpose of the establishment of the office of the Public Trustee was the furtherance of the public good. It is in this vein that the Public Trustee has serviced the particular needs of lesser privileged members of the community with allowance for their particular needs and circumstances. I view with some disquiet the absence in the Green Paper of a firm and express commitment to this important principle of underprivileged community service, other than the statement that "the service to the traditional clients of the Public Trustee will be preserved". However, the existing obligation cited in paragraph 2.1.5 of the Green Paper has not been repeated.

Additional matters of concern lie in the proposed appropriation by the Government of (1) the surplus which has accrued after distributing interest payable on funds accumulated from year to year and set aside for corporate planning arising from paragraph 3.2.4 of the Green Paper, effectively stripping the capital reserves from the monies to be made available to the new Corporation, and (2) moneys set aside in a special interest expense account from undistributed income over many years. The latter proposal pays no regard to the fiduciary nature of such holdings and the equitable duty of the Trustee to identify and account to each beneficiary for his/her entitlement regardless of the provisions of Section 36A(5) of the present Act.

In an article in the *Sydney Morning Herald* on 3 October 1997 Matthew Russell pointed out that the money in the interest expense account was used as a fall-back position if the Public Trustee did not have sufficient money to keep operations going and to cover against losses caused by adverse interest rate movements. Today Gary Moore, the Director of NCOSS, wrote a letter to our office which stated:

NCOSS is seeking your support to amend the Bill so that the \$35 million in surplus from interest on the common fund will be spent on urgently required social programs, rather than being sent to consolidated revenue in order to retire debt.

Argument that funds be hypothecated to particular social programs are not new. In its last two Pre Budget submissions, NCOSS argued that the revenue raised from Land Tax should be used for affordable housing programs . . . In the case of the interest funds held by the Public Trustee, it is entirely reasonable to suggest that this money be spent on social programs assisting the groups of disadvantaged people from whose money the interest fund was raised.

In an attachment to the letter entitled "Proposed amendment" NCOSS further stated:

NCOSS understands that disadvantaged older people, people with disabilities and mental health problems, are some of the key clients of the Public Trustee. Accordingly, NCOSS believes an in-principle argument can be made that spending from this surplus could be directed towards programs and services for these groups in the community . . .

Besides aged care—residential and community, the State Government has few specific programs for disadvantaged older people.

Examples of high priority activities include:

- more employment assistance for mature aged people;
- pensioner concessions on private bus services;

- increased home and community care assistance;
- community education programs on information technology; and
- improved public community housing assistance.

This is an ideal opportunity for the Government to use those funds and to set the social agenda in the lead-up to the next election. The Government could express its Labor bona fides with a really good social justice package in the lead-up to the next election. Instead, we hear about balancing the budget and money going into consolidated revenue. That does not wash with the Greens; we do not support it and we are saddened that the Government has seen fit not to move in the direction that I am sure the majority of people who support the ALP in New South Wales would expect. It is a great shame. NCOSS sought an amendment to specify either an amount or a proportion of the surplus income from the original Common Fund. NCOSS told my office today that it would be prepared to support such an amendment only if there is a legislative requirement that there be no privatisation of the Public Trustee for the life of this Parliament, and if a consumer protection code is inserted in the legislation.

Another issue raised by the bill is ethical investment. For a long time the Greens have been concerned about ethical investment and superannuation funds. This is an ideal opportunity to create ethical investment, and, rather than balance the budget, use these funds to support the aged people who have contributed to them. This is an obvious opportunity for the Government to move towards ethical investment, which has been ignored so far despite a great number of requests from the Greens and other members of this House. Today I received a letter from Paul Gavin, the Chairman of the Public Service Association Departmental Committee, stating its opposition to the legislation. The letter stated:

The Public Service Association of NSW has prepared a response to the Public Trustee Corporation Bill 1997 Green Paper and a copy of this response is attached . . .

Association members employed by the Public Trust Office have expressed extreme concern regarding the corporatisation proposal and the subsequent effect on their careers and the public generally.

Matters of concern are:

**Appropriation of Funds** . . . The Association believes that transferring funds from the Public Trust Office (PTO) is not a valid argument for corporatisation. The present Act requires amendment in terms of the PTO's funds management responsibilities and amendments to that Act would allow appropriation of current surpluses to the Government and would achieve the same result. Provision to prevent any future

accumulation of excess income should also be included. The PSA believes this is a totally separate issue to corporatisation.

**Service to the Community . . .** The consequences of corporatisation to the Community appears not to be beneficial. Major concerns are the higher fees structure allowable under the Corporation Bill and the \$2,000 fee on estate matters less than \$50,000 and the higher fees for Powers of Attorney clients. This provision will adversely affect members of the Community.

**Social Program Funding . . .** The lack of detail on the Social Program Funding aspects of Corporatisation leads the Association to believe that the Government is more concerned with taking the surplus from the Common Fund than it is about the long term viability of the organisation.

. . . The Association is also concerned that there has been insufficient public debate on this issue mainly because of the poor advertising of responses to the Green Paper. The PSA understands that the majority of responses were in the negative, appearing to support the philosophy behind the original 1913 Act.

In light of these concerns the Association believes that the most appropriate action by the Parliament would be to call for an end to plans for corporatisation and to proceed with updating of the 1913 Act to correct deficiencies in funds management procedures, charging of fees and other powers that need to be updated.

Another activist in this debate is Gary Moore from the Council of Social Service of New South Wales—NCOSS. In a press release headed "Keep the Public Interest in the Public Trustee", dated 27 May 1998, he stated:

The Council of Social Service of NSW (NCOSS) is calling on the Carr Government to review its decision to corporatise the Public Trustee.

The Public Trustee provides the safeguard for those unable to effectively arrange their estates and affairs. Its clients include disadvantaged older people, people with disabilities, and low income families.

NCOSS has been approached by many people concerned that the Government's Public Trustee Corporation Bill, due for debate this week in State parliament, removes essential protections for these vulnerable people . . .

It is suggested that the fiscal and customer service interests of the Public Trustee's clients will take a back seat to market forces and the Government's dividend stream.

The Bill provides no guarantees that the Public Trustee will not be privatised in the future. It establishes no specific or rigorous consumer protection measures for current and future clients.

In particular, the Bill allows higher fee structures which will adversely affect clients. It lacks detail about the ongoing social program funding responsibilities of the proposed corporation.

Some people see this corporatisation simply as Treasurer Michael Egan's desperate grab for the \$36 million surplus in interest, built up over the years, in the Public Trustee's Common Fund.

Are these funds already counted in next Tuesday's State Budget? Were they included in the Treasurer's recent discussions with Standard and Poor's about AAA ratings.

After ensuring that Public Trustee clients receive their entitlements, the Government should be targeting this surplus to spending on community care, employment, transport and housing programs for client groups, such as older people.

The funds shouldn't just disappear into consolidated revenue to fix deficits.

Parliament's Public Accounts Committee has previously called for management reforms in the Public Trustee's Office. It should correct deficiencies in funds management procedure. However, this doesn't automatically mean making it a full blown business.

I am disappointed that we came so close to discussing ideals that could have enabled the Greens to hold the Labor Government in high regard, but we have failed to make that connection on this bill, and as a result, the Greens oppose it.

**Reverend the Hon. F. J. NILE** [8.37 p.m.]: The Public Trustee Corporation Bill has been the subject of fairly long debate. The bill will constitute the Public Trustee Corporation and establish the corporation as a statutory State-owned corporation under the State Owned Corporations Act 1889. It will confer on the corporation certain powers, and dissolve the Public Trust Office and abolish the office of Public Trustee. On the surface that seemed to be a positive move. The Christian Democrats have supported the principle of various corporatisation bills that have been introduced.

The Christian Democrats support privatisation if the rights of workers are protected and if there are no forced redundancies. Other honourable members oppose the principle of privatisation on any basis. Usually it is argued that corporatisation is necessary to achieve greater efficiency in a slack organisation, such as the State Rail Authority and other bodies. A submission from the Public Service Association states:

The Public Trust Office is already an efficient and effectively managed organisation which operates at no cost to the Government and provides a valuable service to the community of New South Wales. The PTO manages investments in accordance with the provisions of the Public Trustee Act 1913 and in doing so has provided above market interest to PTO clients, and in the 84 years of its existence it has not been required to use the Government guarantee against any loss.

The association provided figures that show that 90.35 per cent of applications were lodged with the Supreme Court within two months of receiving the report of estate total; the average time taken to administer an estate was 6.54 months; 83.44 per cent of matters are completed in under eight months; and

probate requisitions were raised in 1.89 per cent of matters dealt with.

The Public Trust Office deals with what we broadly call the working class in society. The average value of estates granted in 1995-96 was \$120,103, which is an indication of the extent to which the Public Trust Office fulfils its mission of providing a service to that section of the community. I am not assuming that the Government is suggesting that corporatisation of the Public Trust Office will result in a cut in services. However, when corporatisation occurs there is always pressure to provide a share profit or benefit to shareholders, that is, the Treasurer, et cetera. In such situations services are evaluated and consequently some unprofitable service may be cut.

In the past the Public Trust Office has met a need, but that need could be cancelled in the future. In paragraph 2.2.5 of the green paper the Government alleged that the Public Trust Office has been recording annual trading shortfalls. However, that is not the case. Examination of the organisation's turnover shows that rather than a shortfall, a surplus has been recorded every year except 1994-95, when there was a major write-down in the value of assets, and 1992, when provision was made for employee entitlements. In 1996-97 a surplus of \$4.6 million was recorded; in 1995-96, \$1.4 million; in 1993-94, \$1.5 million; and in 1992-93, \$1.6 million. Therefore, there seems to be no basis for arguing that the Public Trust Office should be corporatised to make it more efficient and to ensure that it does not record a shortfall in the future.

We agree with concerns expressed by other honourable members about the desirability of corporatising the Public Trust Office at this time. However, we are concerned that insufficient safeguards are provided to ensure that trust moneys will not be used by the Government, if so tempted. Honourable members know that governments always look to hollow logs, and the Government may regard the Public Trust Office as a hollow log.

At a briefing the Treasurer gave an assurance that trust moneys would not be used by the Government, but sometimes pressure is placed on a government to find money in a hurry. That occurred in the past in relation to the poker machine tax, the hotel tax and so on, although the Government had implied that it would not happen. In this case it has been proposed that invested moneys could be transferred to the State budget, although the Treasurer has said at this stage that that will not

happen. For those reasons we reserve our judgment on this bill.

**The Hon. R. S. L. JONES** [8.43 p.m.]: How right the Leader of the Opposition was when he said that when the coalition was in government Treasury tried to corporatise the Public Trust Office but he opposed it! Presumably if he were in government now he would be arguing exactly the opposite if Treasury were able to convince him. Treasury is always trying to find hollow logs but this hollow log does not belong to Treasury; it belongs to the people who have invested moneys in the Public Trust Office—and some of them may or may not be able to be found. Honourable members will be aware that on 26 June 1997 I moved:

That this House declines to give the Public Trustee Corporation Bill a second reading until such time as the Government has released for public comment and consultation a "Green Paper" on the effects of the dissolution of the Public Trustee Office and the abolition of the office of the Public Trustee.

That motion was passed by the House and subsequently, in October 1997, the Attorney General's Department published a paper entitled "Public Trustee Corporatisation Bill 1997". Unfortunately, that paper proved to be merely a sales pitch for the corporatisation of the Public Trustee—and not a very good one at that. Not only did that paper put only one side of the story—the argument for corporatisation—it did so in bureaucratic language with no clear and concise summary, and made virtually no allusion to the drawbacks of corporatisation. As a consequence, ordinary clients of the Public Trustee could hardly be expected to understand the propositions put forward in the green paper; nor could they be called upon to make a proper judgment on the advisability of corporatisation.

That brings me to another important issue: how well the Government has consulted, through its green paper, on the effects of the proposed corporatisation of the Public Trustee. Whilst the Government will no doubt individually list the groups that were contacted and place on record the number and type of advertisements placed in the print media, I wonder how many of the actual clients, investors and beneficiaries of the Public Trustee have been notified about the proposed changes and urged to comment on them? As the Public Accounts Committee made clear in its June 1997 report entitled "Matters Arising from the Auditor-General's 1996 Report", corporatisation of the Public Trustee represents a fundamental change to the office that the New South Wales public has known for the last 83 years.

Corporatisation should be clearly and thoroughly explained to all who are directly concerned to enable them to decide what their best course of action would be in the new circumstances. From the oral and written communications I have had with and from people that presently have wills lodged with the Public Trustee, it appears that they have received no notification whatsoever. Why is this so? While I concede that notification would have been a lengthy task, it would not have been impossible, and it is certainly warranted. After all, these people have chosen to lodge their wills with the Public Trustee on the basis of present practices and statutory provisions, and they may well have entirely different ideas if they were made aware that those practices and provisions were about to change. An article entitled "Ways with wills" on page 5 of the "Money" supplement of the *Sydney Morning Herald* of 17 September 1997 said:

Market research shows clients choose the Public Trustee for its (government) guarantee and because it is perceived to be safe.

Interestingly enough, that article also said:

The Public Trustee is backed by a government guarantee which protects any funds invested in it.

Therefore it is more than clear that while the Government has always contended that the proposal for corporatising the Public Trustee has been widely publicised and Public Trustee staff have been alerting current and intending clients of the resultant changes, the proposed abandonment of the government guarantee in respect of funds committed after the commencement date of the new Act runs directly counter to recent public advertisements.

It is also more than clear that the persons most likely to be affected by the proposed corporatisation of the Public Trustee have not been adequately consulted. The deficiencies of the green paper do not stop there. The paper also fails to include a firm and express commitment, on behalf of the Public Trustee, to the principle of underprivileged community service. The essential purpose of the establishment of the Public Trustee was the furtherance of the public good. It is in this vein that the Public Trustee has served the particular needs of lesser privileged members of the community with allowance for their particular needs and circumstances. The existing Public Trustee's obligation, as cited in paragraph 2.1.5 of the green paper, is:

The Public Trustee Office acts alone or jointly with any other person as executor of a will or administrator of an estate; as trustee of assets, particularly for people under eighteen years of age or under any other legal disability; as manager of the estate of protected persons; and as attorney or agent for any

person. The Public Trustee Act sets a unique obligation on the Office in that it may not decline to administer an estate solely because of the small payment that it would receive for its work in administering a low value estate.

However, the green paper merely includes a statement that "the service to the traditional clients of the Public Trustee will be preserved". Exactly how this is expected to be achieved is unclear, especially considering that the changes proposed in this bill will allow for a higher fee structure to be imposed by the Public Trustee, that is, a \$2,000 fee on estate matters worth less than \$50,000 and higher fees for power of attorney clients. The bill will of course allow the Government to appropriate \$35 million of the \$80 million of the undistributed earnings of beneficiaries held in the Public Trustee's interest expense account. Every year since the 1940s, undistributed income has been retained by the Public Trustee in a special interest expense account to act as a fall-back position if it did not have sufficient money to keep operations going, and to cover losses caused by adverse interest rate movements. This amount has been accumulating with compound interest for more than 40 years.

The appropriation by Treasury of the surplus, which accrued after distributing interest payable on funds accumulated from year to year, will therefore effectively strip capital reserves from the moneys to be made available to the new Public Trustee Corporation. Similarly, the appropriation of moneys set aside in a special interest expense account, from undistributed income over many years, pays no regard to the fiduciary nature of such a holding. In addition to those problems, the Government is effectively appropriating to itself a major portion of assets to which it has no rights and which are essentially private property. After all, the assets of the Public Trustee do have beneficiaries. While they may not be readily identifiable, legally the assets under trust have owners.

As the Public Trustee has an equitable duty to identify and account to each beneficiary for his or her entitlement, regardless of the provisions of section 36A(5) of the present Act, those funds should rightly go to the beneficiaries of the fund who helped create it. While there could be lengthy debate about the rights and wrongs of Treasury being able to transfer surplus funds from the Public Trust Office to consolidated revenue, the Government will argue that the proposed corporatisation of the Public Trustee is intended to do more than that and will ensure that the office is transformed into a more efficient and effective organisation. Admittedly, certain aspects of the Public Trustee could be improved. For example, the Law Consumers Association criticised the Public

Trustee's cost structure and the time it takes to complete many matters.

For many years the association has published a do-it-yourself probate kit, which was recently updated in conjunction with the Probate Division of the Supreme Court. With the kit, ordinary people routinely obtain probate within three to four weeks of commencing the procedure, with costs being limited to the \$125 kit, the cost of an advertisement and the filing fee. Solicitors still have a scale of costs which increases with the gross value of the estate, and with imposed administration charges their fees approximate to 2 per cent of the estate. On the other hand the Public Trustee charges twice this amount. That matter needs urgent examination. It is highly debatable whether the performance of the Public Trustee is likely to be improved as a result of corporatisation.

While all improvement comes from change, all change is not necessarily improvement. In any case, while the present Act could benefit from amendments to Public Trust Office fund management responsibilities and fee charges, the office does not need to be corporatised in order to achieve that. Finally, I am concerned that corporatisation of the Public Trustee is the precursor to its privatisation. As the Minister said in his second reading speech, several years ago private trustee companies supported by the legal profession moved to obtain the rights of election, which is presently an exclusive right of the Public Trustee.

Having the right of election means that the trustee can effectively give probate or letters of administration independently of the probate court. This is a useful facility when there are difficulties complying with the rules of the court. The ultimate outcome is quite clear and could give significant commercial advantage to trustee companies. Therefore, it would not be in the community's interest to sell the Public Trustee and give the rights of election into private hands that could avoid the scrutiny that the probate court provides to all other applications.

Normally I support corporatisation, and very often privatisation, when it is in the public interest, but this is not an example of public interest. In light of all my concerns, I oppose the bill and call on the Government to end its plans to corporatise the Public Trustee and address the real issues that need urgent attention. The 1913 Act may need updating to address deficiencies in its funds management procedures and fees, but there is no need to corporatise the Public Trustee to achieve those objectives. I thank my brilliant policy adviser, Jennifer Emblem.

**The Hon. FRANCA ARENA** [8.53 p.m.]: I oppose the Public Trustee Corporation Bill. If I had not already decided to oppose this legislation, my resolve was affirmed this morning when I heard the Hon. I. M. Macdonald on radio being interviewed about the proposed privatisation of the electricity industry. It was interesting to hear his comments. I shall not repeat his words, but the effect of them was, "Here we have the Federal Labor Opposition complaining about the privatisation of Telstra, and in New South Wales all we are doing is corporatising and privatising everything we can get our hands on!" The New South Wales public, especially the Labor voting public, did not give the Labor Party a mandate to corporatise or privatise, which is the first step, everything in the State so that eventually nothing will be left for future generations. The Hon. R. S. L. Jones said he generally supports corporatisation; I do not. The submission from the Public Service Association on the green paper was very interesting. Its first paragraph states:

The Public Trust Office is already an efficient and effectively managed organisation which operates at no cost to the Government and provides a valuable service to the community of New South Wales. The PTO manages investments in accordance with the provisions of the Public Trustee Act 1913 and in doing so has provided above market interest to PTO clients, and in the 84 years of its existence has not been required to use the Government guarantee against any loss.

The association provided a detailed submission, which I have read carefully. One matter about which I was unaware was that interest paid to clients has always been above market rates. The association sees no need to corporatise the Public Trustee. I shall not read the submission as I am sure most honourable members would have received a copy. However, it was accompanied by a letter that listed matters of concern under various headings. Under the heading "Appropriation of Funds" the letter stated:

The Association believes that transferring funds from the Public Trust Office . . . is not a valid argument for corporatisation.

Under the heading "Service to the Community" the letter stated:

The consequences of corporatisation to the Community appears not to be beneficial. Major concerns are the higher fees structure allowable under the Corporation Bill and the \$2,000 fee on estate matters less than \$50,000 and the higher fees for Powers of Attorney clients. This provision will adversely affect members of the community.

Under the heading "Social Program Funding" the letter stated:

The lack of detail on the Social Program Funding aspects of Corporatisation leads the Association to believe that the Government is more concerned with taking the surplus from

the Common Fund than it is about the long term viability of the organisation.

That paragraph encapsulates exactly the purpose of the bill. I received correspondence also from the Law Society, which enclosed a copy of a letter sent to Mr Laurie Glanfield, Director-General of the Attorney General's Department. It stated:

I am responding to your invitation to comment on the Green Paper . . .

I understand that the principal purpose of the proposed corporatisation of the Public Trustee is to establish the Public Trustee Corporation as a *State Owned Corporation* designed to act viably on a competitive basis with other trustee companies and "to exhibit a sense of social responsibility".

The essential purpose of the establishment of the office of the Public Trustee was the furtherance of the public good. It is in this vein that the Public Trustee has served the particular needs of lesser privileged members of the community with allowance for their particular needs and circumstances. I view with some disquiet the absence in the Green Paper of a firm and express commitment to this important principle of underprivileged community service . . .

It is important to note the comments of such valid organisations as the Public Service Association and the Law Society. The Hon. I. Cohen read onto the record the letter from the Council of Social Service of New South Wales, which I too received, opposing the legislation. NCOSS said that the moneys should at least be directed to the needy members of the community. I am not terribly familiar with this issue, but although I have not been able to speak to any of these organisations, I have read their material and I oppose this legislation.

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.00 p.m.], in reply: When this bill was last before the House the second reading debate was deferred until a green paper outlining the effects of the dissolution of the Public Trust Office and the abolition of the Public Trustee had been circulated. A paper drafted in consultation with the office's steering committee, which assisted with the legislative proposals, was released to public comment in October 1997. It was circulated to members of the Legislative Assembly, members of the Legislative Council, the Law Society, the Bar Association, the Trustee Corporations Association of Australia, the General Secretary of the Public Service Association of New South Wales, the New South Wales Public Accounts Committee, the Auditor-General and heads of jurisdiction. It was also circulated to each of the clerks of the Local Courts who perform agency work for the Public Trustee.

In order to reach clients of the Public Trustee and interested members of the public, the availability of the discussion paper and a toll-free inquiry line were advertised in the *Sun-Herald*, the *Sunday Telegraph* and the *Sydney Morning Herald*; in newspapers circulating in the Armidale, Lismore, Newcastle, Broken Hill and Wollongong regions; and in the Arabic, Lebanese, Chinese and Vietnamese press. The discussion paper described the role and functions of the existing Public Trustee, and provided information on the funding of the Public Trust Office and the operation of the common fund under the Public Trustee Act 1913. It discussed the reasons for corporatisation, gave an overview of the Public Trustee Corporation Bill 1997, and dealt with the governance of the proposed entity, with social policy aspects and with the continuing functions of the new entity as executor and administrator. It addressed the impact of corporatisation on clients and staff. It also discussed the provision in the bill for the appropriation of the surplus generated out of the income from investments made to the common fund under the Public Trustee Act 1913.

Despite the extensive advertising, the final response level on the paper was very low. The Public Trust Office and my department received almost 150 inquiries about the proposals. The paper was offered to all those who inquired. However, a total of only 14 respondents made submissions on the paper. Three submissions were received from members of the public, three from Ministers, one from a member of the Legislative Council, two from lawyers—including the President of the Law Society—two from the trustee industry, two from real estate agents and one submission from the Public Service Association. Some respondents opposed the bill while others supported it. With such a low response rate, the submissions do not give a clear indication of support for or opposition to the bill. It can be speculated that the information set out in the paper allayed some concerns about the proposals. I remind honourable members of the protections for the disadvantaged contained in the bill.

The new corporation will continue with its service to the disadvantaged in the following ways. The new entity will not be able to refuse an estate on the basis of low value. The corporation will retain the unique powers of the Public Trustee for the administration of intestate estates. The power to distribute assets of small estates where probate has not been granted will continue. The corporation will have the power to waive fees in cases of hardship, and the portfolio Minister, with the approval of the

Treasurer, will have power to give directions to the board of the corporation for the performance of non-commercial activities, notice of public sector policies, and directions in the public interest under the State Owned Corporations Act 1989. The Public Trustee Bill establishes a state-owned corporation for the provision of estate and trust services. It will be accountable to the State of New South Wales via its shareholders, being the Treasurer and a Minister nominated by the Premier, who will hold their shares on behalf of the State.

Corporatisation will modernise the governance of the Public Trustee while preserving its traditional functions in the provision of estate and trust services. The only other matter with which I propose to deal is the spectre of privatisation, which was raised by some members in their contributions to the debate. Let me say unequivocally that the new entity will not be privatised. The process of incorporation as a State-owned Government corporation results in ownership of the shares in the new entity on behalf of the State of New South Wales. The Public Trustee Corporation Bill will create a new corporate entity established under the State Owned Corporations Act 1989. The entity will have share capital, and two shareholders—being the Treasurer and a Minister nominated by the Premier—will hold the issued shares in the entity on behalf to the State of New South Wales. There will be a board of directors and a chief executive officer.

Provisions governing the holding of shares, transfer and transmission of shares, general meetings, the directors, the convening of directors' meetings, and the distribution of profits are set out in the memorandum and articles of association of the corporation. Transfer of ownership of the entity to private shareholders cannot take place without the approval of both Houses of Parliament. This is because the memorandum of association provides that the memorandum and articles cannot be altered or added to in any way that is inconsistent with the provisions in schedule 6 of the State Owned Corporations Act 1989.

This schedule includes provisions relating to the ownership of shares in the corporation, including: only eligible Ministers may hold shares; and the shareholders hold their shares in the corporation for and on behalf of the State of New South Wales. The State Owned Corporations Act provides that the memorandum and articles of association cannot be altered or added to in a way that is inconsistent with schedule 6 unless and until resolutions approving the alteration or addition have been approved by both Houses of Parliament. In short, there can be no privatisation without the

approval of the New South Wales Parliament. Honourable members can be assured that the Government has no intention of privatising the Public Trustee Corporation.

**Question—That this bill be now read a second time—put.**

**The House divided.**

**Ayes, 17**

Dr Burgmann	Mr Primrose
Ms Burnswoods	Ms Saffin
Mr Dyer	Mr Shaw
Mr Egan	Ms Tebbutt
Mr Johnson	Mr Tingle
Mr Kaldis	Mr Vaughan
Mr Kelly	<i>Tellers,</i>
Mr Macdonald	Mrs Isaksen
Mr Obeid	Mr Manson

**Noes, 24**

Mrs Arena	Ms Kirkby
Mr Bull	Mr Lynn
Mrs Chadwick	Mrs Nile
Mr Cohen	Rev. Nile
Mr Corbett	Dr Pezzutti
Mrs Forsythe	Mr Ryan
Mr Gallacher	Mr Samios
Miss Gardiner	Mrs Sham-Ho
Mr Gay	Mr Rowland Smith
Dr Goldsmith	
Mr Hannaford	<i>Tellers,</i>
Mr Jones	Mr Jobling
Mr Kersten	Mr Moppett

**Question so resolved in the negative.**

**Motion negatived.**

#### **PAWNBROKERS AND SECOND-HAND DEALERS AMENDMENT BILL**

##### **Second Reading**

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.10 p.m.]: I move:

That this bill be now read a second time.

I seek the leave of the House to have the second reading speech incorporated in *Hansard*.

**Leave granted.**

The Pawnbrokers and Second-hand Dealers Amendment Bill 1998 amends the Pawnbrokers and Second-hand Dealers Act 1996 to clarify a number of the provisions in the Act and to ensure the objectives of the Act are achieved. As honourable members will be aware, the main objective of the Pawnbrokers and Second-hand Dealers Act is to curtail the trade in stolen goods through pawnbroking and second-hand dealing outlets. The bill strengthens this objective by amending the Act to require that licensees must furnish all records which they are required to keep under the Act to the Commissioner of Police, in accordance with the regulations.

At present, section 28(6) of the Act requires only pawnbrokers' records of pledges to be sent to the police. The Act does not currently require second-hand dealers to send any of their records to the police. As the Act currently stands, if police officers need to examine records maintained by second-hand dealers, they must physically attend the licensed premises and carry out inspections of those documents. The result is that the effectiveness of the Police Service in limiting the trade in stolen goods is severely reduced. For the police to effectively locate stolen goods it is absolutely essential that they receive comprehensive licensee records on a timely basis which can then be quickly cross-referenced with police stolen goods data.

The capacity of the Police Service to carry out criminal law investigations in relation to stolen or unlawfully obtained goods has been markedly increased under the bill. Currently, under section 21(2) of the Pawnbrokers and Second-hand Dealers Act an authorised officer, that is a police officer or certain Department of Fair Trading officers, who suspects, on reasonable grounds, that goods in the possession of a licensee have been stolen or unlawfully obtained can direct that the goods be held by the licensee for 21 days. If necessary, a further 21-day notice can be served under section 21(3) of the Act. Representations have been received from the Police Service advising that, in circumstances where goods have been identified by the police as stolen but the rightful owner cannot be located, the maximum 42-day holding period does not provide for the adequate protection of the goods.

In an effort to ensure that the police have sufficient time to conduct a comprehensive criminal investigation and to ascertain the owner of suspect goods, the bill amends section 21 of the Act to provide that authorised officers may serve notices on licensees, directing them to hold goods reasonably suspected of being stolen or unlawfully obtained for a period of 56 days. A further 56-day notice may be served on licensees if required. At the expiry of such notices, and if no further action has been taken by the police, licensees would be free to deal with the goods.

A primary purpose of the principal Act is to establish a more streamlined and equitable procedure for the restoration of stolen property to rightful owners. Currently, under section 22 of the Act, persons who identify their stolen property in the possession of a licensee can lodge a claim over those goods on the spot. The licensee is required to complete a statement which details the name and address of the claimant and a description of the goods. The statement must be given to the claimant immediately upon completion and a copy of the statement must be provided to the police within 24 hours. The licensee must then not alter, sell, redeem, or dispose of the goods except with the consent of the claimant or in accordance with a court order. At present under the Act a licensee is obliged to hold the goods for 28 days unless, within that time, civil court proceedings are commenced for recovery of the goods. If such proceedings are commenced the licensee's obligation to retain the goods applies until the proceedings are concluded.

The bill extends this procedure, by requiring licensees to continue to also hold goods if any criminal proceedings in relation to the theft of the goods are commenced within the 28-day period. This additional obligation to retain goods remains in force until the criminal proceedings are finalised. The effect of this amendment will be to remove the need to instigate civil recovery proceedings for the purpose of ensuring that goods continue to be held at the expiry of the 28-day period, in cases where criminal proceedings in relation to the theft of the goods have been commenced within the 28-day period.

The bill defines criminal proceedings to have been commenced by the laying or filing of an information, complaint or charge in relation to the offence. The bill also addresses concerns regarding the capacity of pawnbrokers to operate their licensed business as itinerants under the Pawnbrokers and Second-hand Dealers Act. Obviously such a practice is highly undesirable due to the adverse impact it could have on consumers. People who pawn goods could face real difficulties in attempting to redeem their goods if pawnbrokers do not operate from fixed locations. The bill amends the Act by making it a condition of a pawnbroker's licence that the licensed business be conducted only from the business premises nominated in the licence application, or from any other premises later notified to the Director-General of the Department of Fair Trading.

The provisions of the Act relating to the sale at auction of forfeited pledges by pawnbrokers have been revised for the purpose of ensuring that the original intention of the Act is fulfilled. At present section 30(1) of the Act, in conjunction with clause 25 of the regulation, provides that pawned goods which are unredeemed must be sold by public auction if the goods secured a debt greater than \$50. The effect of these provisions is that, if at the time of forfeiture of a pawned item the amount loaned plus accrued interest is greater than \$50, that item must be sold by public auction. However, these provisions are inconsistent with the original intention of the Act, which was that there be a mandatory sale by auction of unredeemed pawned goods, if the amount lent on the pawned goods exceeded \$50. This is supported by the comments of the then Minister for Fair Trading, the Hon. Faye Lo Po', in her second reading speech of 24 April 1996, when she stated that the auction system for disposal of unredeemed pawns will be continued for goods on which a prescribed amount has been loaned.

An additional consequence of section 30 of the Act and clause 25 of the regulation is that pawnbrokers are required to sell very low valued items by auction. This results in pawnbrokers incurring increased administrative costs associated with selling items by auction. With increased administrative costs, the likelihood is reduced of there being a surplus of proceeds available to the customer who pawned the item. To address this problem the bill amends section 30 of the principal Act to require that pawned goods that are forfeited must be sold at public auction if the principal lent on the goods is greater than the amount prescribed by the regulations, which is currently \$50. This amendment will allow pawnbrokers to sell more goods in their premises, after the redemption period has expired, rather than send them to public auction, hence reducing administrative costs. It will also provide for easier administration by pawnbrokers as no interest calculations will be required to determine if items must be sold by auction.

The bill also amends the Pawnbrokers and Second-hand Dealers Act for the purpose of circumventing a practice being engaged in by a small number of pawnbrokers which defeats the intention of the legislation. As mentioned previously, unredeemed pawned items which exceed the prescribed value

must be sold by public auction. Currently, the fall of the hammer and acceptance of the bid represents the completion of a sale at auction, whether or not moneys have been paid or the goods have ever left the pawnbroker's possession.

The Police Service has brought to my attention a practice which is being adopted by a small number of pawnbrokers whereby a pawnbroker sells at auction the forfeited goods to a person. That person then defaults on the sale and the pawnbroker records the goods as second-hand goods in his records, describing them as "refund from auction". The goods are subsequently sold by the pawnbroker, who has the ability to fix the price. Additionally, any profit made on that later sale is not required to be made available to the person who pawned the goods. Thus, pawnbrokers comply with the legislation and yet defeat its intention. The bill resolves this problem by providing that if goods are sold at public auction but the purchase price is not recovered in accordance with the sale contract, the sale is invalidated and the licensee is required to submit the goods to a further auction.

The bill also amends a show cause provision in the Pawnbrokers and Second-hand Dealers Act. The amendment extends one of the grounds upon which the Director-General of the Department of Fair Trading may serve a notice on a licensee, requiring the licensee to show cause why his licence should not be revoked. Section 34(1)(b) of the Act currently states that the director-general may serve a notice to show cause on a licensee who, in the opinion of the director-general, obtained a licence by means of statements that were false or misleading.

The bill extends this ground to provide that the director-general may also serve a notice to show cause on a licensee if, in the opinion of the director-general, the licensee made false or misleading statements in, or in connection with, the licensee's application for a licence or for the renewal of a licence. This additional ground is important in light of proposed amendments to the Pawnbrokers and Second-hand Dealers Regulation 1997, which will exempt existing small scale second-hand dealers from a condition which will attach to all licences issued or renewed on or after 1 January 1999 requiring licensees to keep computer records. The exemption will be granted, on a yearly basis, to second-hand dealers who held a second-hand dealers licence immediately prior to the introduction of the Pawnbrokers and Second-hand Dealers Act, if the gross receipts of their business relating to all second-hand goods totalled \$150,000 or less in the previous financial year. An application for an exemption must be made at the time a licence application or renewal is made, and must be supported by prescribed documentary evidence which substantiates the licensee's level of gross receipts for the previous financial year.

If the required documentation relating to the previous financial year is not available at the time the licensee makes the licence application, the licensee is able to produce documentation for the financial year before the previous financial year in support of the request for an exemption. Accordingly, as a result of the amendment to the show cause provisions of the principal Act, if a licensee provides to the director-general any statement that is false or misleading for the purpose of gaining an exemption from the licence condition imposing computerisation, the licensee may be served with a notice to show cause as to why his licence should not be revoked.

With the advent of the requirement to create and maintain records in a computer format, when certain licences are issued or renewed on or after 1 January 1999, it will not be possible for section 28(3) of the principal Act to be complied with.

This section currently provides that no pawn pledge is validly made unless the person pawning the goods signs the original record. As the original record will be on computer, it will not be possible for this record to be signed. Accordingly, the bill addresses this problem by amending the section to allow a person who pawns goods to sign a hard copy of any electronic record of the pledge. The bill also strengthens the provisions of the Act which relate to the documentary evidence which licensees must obtain from customers before accepting goods for pawn or sale from those customers. The bill empowers the Governor to make regulations requiring any person who offers goods to a licensee for pawn or sale to provide further evidence of his or her identity than that which is presently required.

A secondary purpose of the bill is to provide clarification in regard to a number of provisions of the Pawnbrokers and Second-hand Dealers Act. The bill amends section 10 of the Act to make it clear that, when a person makes an application to the Director-General of the Department of Fair Trading for the renewal of a licence, the director-general must either grant the application for renewal or refuse to grant the renewal. Currently, section 10(5) of the Act provides that an application for the renewal of a licence must be made before expiry of the current licence or within such further time as the director-general may allow. The bill amends this subsection to make it explicit that a licence that is proposed to be renewed, and for which an extension of the period in which to renew the licence has been granted, continues in force until that renewal is granted or refused.

The bill also provides that if an application for the renewal of a licence is made before the licence is due to expire, the licence is taken to continue in force from the day that the licence would have otherwise expired, until the day that the applicant is notified that the renewal application has either been granted or refused. This will ensure that licensees who have made a licence renewal application before the expiry of their current licence are not considered to be trading illegally if the Department of Fair Trading does not process their application and notify them that their application has either been granted or refused before their current licence expires. The amendment will not apply to a licence which is the subject of an application for renewal, if the licensee is precluded under section 36 of the Pawnbrokers and Second-hand Dealers Act 1996 from holding a licence.

I am confident that the amendments contained in this bill will strengthen the provisions of the Pawnbrokers and Second-hand Dealers Act for the purposes of assisting in the reduction of property crime. I take this opportunity to advise the House that it is proposed that amendments be made to the Pawnbrokers and Second-hand Dealers Regulation 1997. In particular, it is proposed to amend the clause 6 definition of "second-hand goods" to exclude certain categories of goods, including furniture and copper, non-ferrous metal and metal alloys. These amendments are being made because it is considered that such goods are either not at high risk of theft or that their coverage by the legislation is creating unwarranted administrative burdens for industry.

In response to concerns which have been expressed by the Privacy Committee, the amended regulation will also require licensees to display a warning that any information provided to them by customers may be given to the police. In addition, the amendments to the regulation will prescribe a standard form of statement about the ownership of goods to be provided by customers, require licensees to obtain date of birth details from their customer and prescribe the time and manner by which licensees must furnish records to the police.

The proposed changes to the regulation have been the subject of detailed consultation with the pawnbroking and second-hand dealing industries and other interested parties. During this consultation process a number of somewhat minor issues have been raised by industry representatives regarding the proposed amendments. These issues are currently being given careful consideration and will be resolved in the near future. It is anticipated that both the bill and the regulations will commence on the same date. I commend this bill to the House.

**The Hon. HELEN SHAM-HO** [9.11 p.m.]: The Opposition does not oppose the Pawnbrokers and Second-hand Dealers Amendment Bill. The bill will amend the Pawnbrokers and Second-hand Dealers Act 1996. The object of the 1996 Act was to prevent stolen goods being syphoned through pawnbrokers, and to enable victims of theft to reclaim their property. I took part in the debate on the 1996 bill. The process to enact the Pawnbrokers and Second-hand Dealers Act was started by the former coalition Government in about 1993-94. For a couple of years extensive consultation took place with industry representatives. I am pleased that the Labor Government saw fit to enact the legislation following the discussion process. However, it should be noted that the Government has been virtually forced by the Opposition into making these amendments because of lack of consultation in the first place.

Had the Government consulted with the industry, as the Opposition has done, it would have put appropriate legislation in place the first time. Instead, the Government's backdown has wasted Parliament's time and taxpayers' money. It is a shame that the industry was not given an opportunity by the Government to examine the fine print of this bill before it was presented to this House and to the other place. The Government must consult with members of the industry so they can raise objections or suggest any necessary finetuning. This will produce effective and workable legislation that will not need amendment every year.

I put on record some of the amendments contained in schedule 1 to the bill. Proposed section 9 deals with how licence applications are to be made. Section 10 describes the process by which the director-general is to determine the applications. New section 10A deals with the renewal of licences and makes it clear that the director-general must renew licences if they are not refused. If the director-general grants an extension of time in which to make an application for renewal, the licence will continue in force until the application is determined. The addition to section 11 will impose conditions on the grant or renewal of a licence.

Under proposed sections 12 and 12A licensees must nominate the location of their places of business and, if the locations change, they must inform the director-general within 14 days of relocating. Failure to do so will attract a penalty of 50 penalty units. Business must be carried out only at the premises nominated under the licence. However, a licensee may operate at an alternative premises for up to 14 days if he informs the director-general within that period. This will enable the department to keep track of dealers of second-hand goods and pawnbrokers so that the industry can be regulated effectively.

Under the new provisions in proposed section 15 the licensee may be required to obtain additional information to prove the identity of the person offering goods for pawn. At present identification containing one's name and address is required. This may be extended to include documentary or oral evidence of identity, such as date of birth. This will ensure that the initial vendors are bona fide and the legal owners of the goods. Proposed section 16(5A) will require licensees to pass on all records to the police if the regulations so stipulate.

The amendments to subsections (2) and (3) of section 21 will extend the time that goods must be held by the pawnbroker or second-hand dealer pending criminal investigation and investigations as to ownership from a maximum 42 days to 112 days. Section 22 of the Act will be amended to extend the right for an automatic holding of goods when a civil claim of ownership is lodged to include criminal actions. If any criminal proceedings commence, the licensee will be obliged to retain goods until the proceedings are concluded. This will give victims of theft a better chance of recovering their goods. Schedule 1[11] amends section 28(3) to allow a person who pawns goods to sign a hard copy of any electronic record of the pledge. Previously the original had to be signed.

Schedule 1[14] amends section 30(1) by stipulating that goods that are forfeited must be sold by public auction if the amount of the principal lent on the goods was greater than \$50. The amendment makes it clear that this amount is the principal lent on the goods and not any interest. The proposed subsections (1A) and (1B) of section 30 will also prevent the practice of selling unredeemed items at fraudulent auction sales designed to change the item from an unredeemed pawn pledge to second-hand goods, which do not have to be sold at auction. This will be done by requiring the licensee to hold a further auction if the purchase price is not recovered in accordance with the sale contract at the initial public auction.

Finally, an amendment to section 34 of the Act will allow the director-general to require a licensee to show cause as to why his licence should not be revoked if he makes a false or misleading statement. This will prevent licensees from avoiding the use of computers by claiming they have a turnover of less than \$150,000. Licensees are required to computerise their businesses to help stop criminal activities if their turnover is more than \$150,000. The Opposition will not oppose the bill.

**The Hon. J. F. RYAN** [9.19 p.m.]: I wish to report on activity undertaken by the Regulation Review Committee, which has been examining one of the provisions of the bill relating to regulation-making powers. The bill empowers the Governor to make regulations requiring any person who offers goods to a licensee for pawn or sale to provide further evidence of his or her identity than that presently required. It also contains other enabling powers for regulation, including details relating to the forwarding of electronic records to the police. The Regulation Review Committee has been examining the regulations that are to attach to this legislation. Only last week it conducted consultations involving the Department of Fair Trading, pawnbrokers and the police. The committee hearings were incredibly instructive. Pawnbrokers made significant comments that the Government should take into consideration when it constructs the regulations to be made under this legislation.

The forthcoming regulations will require pawnbrokers and second-hand traders to update their records to the police every day. That may not be possible for several reasons. It may not be possible because on a Saturday a trader wants to close up his or her practice reasonably quickly and enjoy the weekend. It is not unreasonable that details may not be updated on that day. It may be that the network on which records are to be updated is off line, meaning that the immediate update of details may not be possible. It is true that the forthcoming regulations will allow some flexibility on the part of the Commissioner of Police but it is disappointing that daily updating is set as a benchmark with which people may be expected to comply. The pawnbrokers and second-hand dealers made an excellent point and put forward the reasonable proposal that a period of three days or even a week be allowed.

At present traders are required to forward details to the police within 14 days and they are required to keep the goods for 14 days. Surely there is no necessity for a stringent regulatory requirement for daily updating. Additionally, the Privacy Committee has expressed reservations in relation to

some of the other records to be passed on to police. It appears that there is the potential for practical problems. Among the details to be passed on to police is a description of goods. It was demonstrated to the committee that sometimes a description of goods may not be all that useful. A witness showed committee members what I would call a chalice but what other people might call a goblet, a cup or a piece of silverware.

**The Hon. R. S. L. Jones:** It could be standardised.

**The Hon. J. F. RYAN:** Standardised is difficult. Once the police have made checks to determine that an item has been sold, they would obviously need to make further inquiries. It seems to me that if a computer database is to be established, it should contain the details that police would need to investigate quickly. Other details that they would necessarily and reasonably obtain from a second-hand dealer or pawnbroker by way of a telephone conversation or a visit could be reasonably kept at the shop. A second-hand dealer may, for example, purchase 24 CDs and sell them to 24 different owners. One can imagine the complications of trying to convey on the database the details of 24 owners, when all the police would be interested in would be the identity of the person who sold the CDs and where the CDs are. That information could be obtained easily through details relating to where the CDs were originally traded and the dealer who dealt with them. The dealer could hold records detailing where the CDs went.

One can well imagine the embarrassment of police if, as a result of taking details from the computer database—details that could have been transferred inaccurately—they go to the wrong place and accuse the wrong person of possessing stolen goods. That would not be good use of police time and it would not present a good image of the police. Some of the records required under the new regulatory regime should be limited to the details that will be helpful to the police. Other details, which would rightly be the subject of further inquiries, ought to be kept at the shop. I do not expect the Minister to reply in this debate to the issues I have raised. I simply record that these issues were raised fairly and reasonably before the Regulation Review Committee. There is a need for further consultation.

Many compliments were paid to the Department of Fair Trading and the way in which it had advanced the consultation process. The Police Service is the most important group that needs to answer more questions. It is not unreasonable that

the Police Service be asked to reconsider some of the requirements being placed on business. Everybody wants to achieve the same objective, but there is absolutely no reason to make this regulation more onerous than it has to be. I compliment my colleagues on the Regulation Review Committee, who, by way of a few hours of committee hearings, exposed the issues and brought the parties together. If reason prevails, the regulations will be improved. I thank the House for the opportunity to bring these issues to the attention of the Minister.

**The Hon. ELISABETH KIRKBY** [9.25 p.m.]: Much of what I wanted to say about this bill has already been said very fluently by the Hon. J. F. Ryan. After the Pawnbrokers and Second-hand Dealers Act 1996 was passed, I, along with many other honourable members, received a great deal of correspondence from people who were concerned that they may be in breach of its provisions. Those people were second-hand dealers, not specifically pawnbrokers, who were running small businesses. They were concerned because, as their businesses were very small, they did not keep computer records. They were very happy for the police to have access to their records, but they were unable to set up a computer program because the cost was too great. Those people feared that they would be in breach of the law. The Government has taken most of those concerns on board and has introduced this amending bill. It has been made perfectly clear—as a result of the work described by the Hon. J. F. Ryan—that it will not be necessary for second-hand dealers to complete such extremely detailed computer records as previously envisaged.

The problem has been recognised and addressed by the Government. The amendments before the House bring the legislation into line with what is possible. I am certain that it will be possible for the police to ensure that stolen goods are not put through pawnbrokers or second-hand dealers without their knowledge and that they have sufficient information to trace stolen goods, so that people who have goods stolen from them have the opportunity to reclaim those goods before they are sold on to another person. With those remarks, I am happy to support this bill, which has addressed some of the problems that exist in the 1996 legislation. I hope that it will be possible for all parties to be satisfied—not only the person who pawns goods but also the person who buys goods and, in particular, the person who is in possession of goods and has the ability to sell goods because they have been left with him or her and have not been redeemed.

**Reverend the Hon. F. J. NILE** [9.29 p.m.]: The Christian Democratic Party is pleased to support the bill. The Government is to be commended for its

effort to update the Pawnbrokers and Second-hand Dealers Act by this amending bill. The purpose of the bill is to curtail the trade in stolen goods through pawnbroker and second-hand dealer outlets. During a lot of house break-ins television sets and video recorders are stolen. In recent days we have seen on television young teenagers who carry a stone in their pocket or pick up a stone and efficiently smash a car window, usually with one throw. They then reach into the car and remove the mobile phone or whatever is lying on the seat. Recently, Alan Jones had his car broken into. Car break-ins are occurring increasingly in the city and other areas. If people can easily sell stolen goods through pawnbrokers and second-hand dealers they will be encouraged to steal goods. At the moment the pawnbrokers' records of pledges are sent to the police, which is the only form of co-ordinated information.

Stolen items are sometimes pawned in exchange for quick cash; and because they are stolen, they are not redeemed. Under the present system the police take a great deal of time and trouble to link up reports of stolen items with the items purchased by pawnbrokers and second-hand dealers. Under the bill dealers will be required to set up a computer system link-up with the police computer operated police system—COPS—to transfer information about pawned items on a 24-hour basis. I note that previous speakers have been critical of that provision and have said that it is not practical. I also note that in the other place the Minister for Community Services, Mrs Lo Po', gave an assurance that the Police Service is specifically designing a computer system that will be able to process and cope with high-volume data.

The cross-checking of computerised records of pawn and second-hand dealing with police records of stolen property will achieve maximum results. That process will occur only if all electronically recorded licensee transactions are transmitted to the Police Service. Yesterday the Minister admitted that the software specifications are still being developed. However, I assume that they will be in place when the legislation takes effect on 1 January 1999. The Minister also gave an assurance that further consultation with the pawnbroking and second-hand dealing industry will occur. The concerns of the industry should be satisfied as it will be consulted on the computerisation specifications at meetings to take place within a few weeks. I hope that between the second-hand dealers, the pawnbrokers and the police, and with the Government's co-ordination, an efficient system will be in place.

If the requirement to send computerised records every 24 hours is too onerous, I am sure it can be reviewed. That requirement is not applicable

to all second-hand dealers and pawnbrokers but only to those whose gross receipts for the previous financial year totalled \$150,000 or less. However, people are debating whether \$150,000 is a realistic figure and it may need to be reviewed. Some pawnbrokers say it should be as low as \$10,000 or \$20,000 and others are not so certain. The Christian Democratic Party supports the bill. The Government is on the right track and something needs to be done. Another related problem is drug addicts, particularly those addicted to heroin, who steal goods to get a quick supply of cash to buy drugs. Our policy has always been not to water down current laws, as has been suggested recently by Dr Wodak in his articles and by others in authority. I believe Dr Wodak is going in the wrong direction, which will lead to increased social problems. The bill deals in a practical way with the large amount of stealing that occurs and I trust it will help to reduce it.

**The Hon. R. S. L. JONES** [9.36 p.m.]: I support the bill and I congratulate the Hon. Brian Langton for introducing it when he was Minister. I have a personal interest in pawnbrokers: I have had to buy back goods that were stolen from my house from several pawnbrokers. Recently the person next door to my Manly house had to buy back his compact disks that were stolen. My stepdaughter had to buy back her CDs that were stolen. For many years pawnbrokers have been clearing houses for stolen goods—and there is no doubt that they still are.

I support the tightening up of the system, something about which I urged the Hon. Ted Pickering some years ago. A gradual tightening up has occurred. A number of sting operations have shown that pawnbrokers and second-hand dealers are indeed clearing houses. If no market existed for stolen goods people would have no reason to steal goods. Clearly when the market is being provided by pawnbrokers and second-hand dealers many people, particularly young people who are addicted to heroin, as Reverend the Hon. F. J. Nile said, will break into people's homes, steal their goods and fence them through pawnbrokers. The tighter the legislation the less people will have to fear that their homes will be broken into.

Photo identification may be appropriate for people who pawn goods over a certain value. Such a provision could be included in the regulations. In addition, a polaroid system could be used to photograph the items brought into the pawnbroker. It would be simple to scan such photographs into the computer and e-mail them to the police, if necessary. If it were not possible to e-mail the photo, the original could be sent to the police.

The people who stole the goods from me were so befuddled on heroin that they actually gave their correct address and were tracked down and arrested. The same thing happened to the people next door to me in Manly: they identified the goods, the people who pawned them gave their correct address, they were arrested and they are now in Long Bay Gaol. The same thing happened with my step-daughter: the offenders gave their correct address and were arrested. On the three occasions on which I have had a brush with pawnbrokers, through various friends and relatives, the perpetrators of the crimes have been arrested.

Many times people are not arrested, but the more often they are arrested and put away the happier my neighbours and I will be. My neighbours on both sides have been broken into three times over the past few months. I am fortunate that my fortress has not been broken into yet; no doubt my time will come, again. I urge the Minister to look at the provisions of the bill and ensure that the regulations are tight. I ask the Minister to consider a photo identification system for both the sellers and the goods. I ask the Minister, in his reply, to let me know whether that is possible.

**The Hon. J. W. SHAW** (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.40 p.m.], in reply: I thank honourable members for their contributions to the debate. All of their ideas will be taken on board by the department. I regret that I am not in a position to respond immediately to the suggestions of the Hon. R. S. L. Jones. I will consider them rather than attempt an *ex tempore* response. I thank honourable members for their support for the bill.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

### **MARKETING OF PRIMARY PRODUCTS (MURRAY VALLEY WINE GRAPE INDUSTRY) SPECIAL PROVISIONS BILL**

#### **Second Reading**

**The Hon. R. D. DYER** (Minister for Public Works and Services) [9.41 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

**Leave granted.**

The matter addressed by this bill is procedural and straight forward. The House is being asked to extend for a further twelve months the current life of the Murray Valley (New South Wales) Wine Grape Industry Marketing Order 1994 without the need for any steps to be taken or procedures to be followed under the Marketing of Primary Products Act 1983. The issue is the same as was addressed by the Marketing of Primary Products Amendment Act 1996, which extended the MIA Citrus Fruit Promotion Marketing Order 1989 as an interim measure while a competition policy review was completed.

I am pleased to inform the House that following that competition policy review and a successful poll of citrus growers in March 1998 a new order has since been made. The new order continues the role of the MIA Citrus Fruit Promotion Marketing Committee as a provider of various services to citrus growers in the Murrumbidgee Irrigation Area. The Murray Valley (New South Wales) Wine Grape Industry Marketing Order 1994 is made under the Marketing of Primary Products Act 1983 and relates to the Murray Valley (New South Wales) Wine Grape Industry Development Committee. The development committee provides various services to wine grape growers in the Murray Valley region of New South Wales and administers the order.

The order, as was the case with the MIA Citrus Fruit Promotion Marketing Order 1989, is approaching a "sunset" date. In particular, the order will lapse on 2 June 1998 unless action is taken to extend it. Under the Marketing of Primary Products Act 1983, the order cannot be extended unless certain steps are taken, including the holding of a poll of wine grape growers which demonstrates the necessary support for the order's continuation. Representatives of the Murray Valley wine grape industry have already indicated a desire for the order to continue. However, the order is the subject of a competition policy review, which will ultimately determine its fate some time after June 1998.

Commonsense decrees that the order should be extended for a further 12 months to allow the competition policy review to be completed. If the review supports the continuation of the arrangement, wine grape growers may then be polled on the question of whether they support the continuing arrangement. In this situation, the growers will be able to vote in the certain knowledge that the order, with the necessary support, may continue for a further period. Under the provisions of the Marketing of Primary Products Act 1983, the only way in which this situation can be accommodated is by what is being proposed in the bill. To complement the proposed extension of the order, the bill provides for the extension of the term of office of the current members of the development committee. The bill also seeks to correct a minor omission in the published version of a proclamation relating to the initial constitution of the development committee. I commend the bill to the House.

**The Hon. R. T. M. BULL** (Deputy Leader of the Opposition) [9.43 p.m.]: The Opposition supports this simple legislation that will enable the Murray Valley Wine Grape Industry Marketing Order to remain in place for another 12 months under prevailing conditions. This will allow the Hilmer review process to proceed and give the Murray Valley wine grape industry an extra 12 months to operate under its marketing order. Honourable members would know that marketing orders are available under the Marketing of Primary Products Act, which enables groups of producers in any given

area to have a committee to look after marketing and promotional activities, and the development of the industry. This marketing order has to be approved by the majority of growers. It has been useful to a number of commodity groups over the years. The Murray Valley wine grape growers have benefited from this marketing order, and will continue to do so.

A number of primary industries are undergoing a review into their regulatory position under the accord of the Hilmer agreement entered into by all Australian governments in April 1995 at the meeting of the Council of Australian Governments. One agreement provided for all governments to review their current regulatory legislation and regimes in which practices might be seen to be prohibitive; some have already done so. The Marketing of Primary Products Act with respect to the Murray Valley Industry Marketing Order is one such regulation.

This simple legislation will enable the order to continue for another 12 months, which will allow the competition policy review to be completed. I expect that the order will prevail, as has occurred with most competition policy reviews. The most recent case involved the dairy industry, which will be dealt with shortly in this House. On that occasion the Government decided to leave in place the regulatory arrangements which, of course, were the milk quotas. The Opposition is pleased to support the legislation. It wishes those growers well on their 12-month extension. We keenly await the result of their competition policy review.

**The Hon. R. S. L. JONES** [9.45 p.m.]: I am happy to support the legislation. My policy adviser, Jeni Emblem, contacted the Murray Valley Winegrape Industry Development Committee and was told by Grieg Greenwood that the committee was happy with this legislation. Today I read that there might be a severe shortage of champagne within a couple of years. I hope that champagne will be produced for the year 2000 celebrations.

**The Hon. R. T. M. Bull:** There is no champagne left in Australia.

**The Hon. R. S. L. JONES:** No, it is not called champagne; it is white bubbly. I hope there is enough bubbly white to celebrate the year 2000.

**Reverend the Hon. F. J. NILE** [9.46 p.m.]: The Christian Democratic Party supports the Marketing of Primary Products (Murray Valley Wine Grape Industry) Special Provisions Bill. This legislation is similar to the Murrumbidgee Irrigation Area Citrus Fruit Promotion Marketing Order 1989, because it is affected by the competition policy that now governs the whole of Australia, including many aspects of government. The legislation is required to

provide for an extension to the order that related to the operation of the Murray Valley Winegrape Industry Development Committee which would have expired on 2 June. The bill provides a 12-month extension.

I am concerned about the way in which competition provides positive values, and about the complaints that I get. In recent visits to the Murray Valley, Mildura and Riverina areas primary producers have complained to me, particularly those involved in the fruit juice market. They told me that in Mildura supermarkets fruit juices imported from South America are sold for less than the juice of the local fruit. This raises the question of whether that is fair competition. I know there is an ongoing debate about tariffs, but farmers are so fed up that they are bulldozing their orchards of citrus trees.

The same thing could happen in the wine grape area industry if we are not careful. It could be that other countries, such as those in South America, deliberately sell their products cheaper—they are losing money—to cause the Australian industry to fail. That failure would be permanent because farmers could not recreate that industry overnight. If it could, overseas prices might come back to a comparative price against Australian products. I hope that strategy is not followed by other countries. It seems incredible that a product imported from Bolivia, with high transportation costs, can be sold cheaper in Mildura than a local product. In my opinion there is something radically wrong with our primary industry.

**The Hon. R. D. DYER** (Minister for Public Works and Services) [9.49 p.m.], in reply: I thank honourable members who have spoken in this debate, and I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

### MARKETING OF PRIMARY PRODUCTS AMENDMENT (RICE MARKETING BOARD) BILL

#### Second Reading

**The Hon. R. D. DYER** (Minister for Public Works and Services) [9.51 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

**Leave granted.**

The provisions of the bill relate specifically to the Rice Marketing Board for the State of New South Wales and how the board operates under the Marketing of Primary Products Act 1983. The Rice Marketing Board was the first marketing board to be constituted under the original Marketing of Primary Products Act 1927. It was officially constituted by proclamation on 9 November 1928. By any comparison, the board has proven itself to be one of the most successful, if not the most successful, statutory marketing authorities to have been established. This position was most clearly demonstrated in the late 1995 review of the board conducted under the then recently introduced competition policy guidelines.

This review concluded that the board was generating significant net public benefits and that those benefits were expected to grow. While the fact that the board is able to generate a net public benefit is significant in itself, it is more significant to see that outcome as a result of evolution and the board's adaptation to the changing environment in which it operates. This process of adaptation is active and ongoing, and I will have more to say on this theme in my further statements of support for the proposed legislation. The amendments which it is now proposed to be made to the Marketing of Primary Products Act in respect of the Rice Marketing Board have three main purposes:

- to put contractual arrangements between the Rice Marketing Board and any bodies or persons which it appoints as authorised agents and/or buyers onto a more normal commercial basis. Provision is being made for such appointments to be for periods of up to four years, and those appointments cannot be revoked during their term without the approval of the Minister for Agriculture;
- to apply a parallel provision to any exemptions from vesting made by the board under section 57 of the Marketing of Primary Products Act; and
- to ensure that the current Marketing of Primary Products Act exemption from the provisions of Part IV of the Commonwealth Trade Practices Act continues in respect of the activities of the Rice Marketing Board after 21 July 1998 when amendments to the Trade Practices Act come into full force.

There are two features of the rice industry which make these amendments necessary. Firstly, rice production requires an infrastructure of drying and storage facilities which need to be provided on a collective basis to realise economies of size and thereby contain costs. Whoever provides such facilities is making a commitment to significant investment expenditure and would reasonably expect to enter into a commercial agreement for such facilities to be used under contract for at least an initial period of a few years. Secondly, as a manifestation of the previous point, it is necessary to recognise the industry rationalisation which occurred in the mid 1980s and which resulted in the current relationship between the Rice Marketing Board and the organisation now known as the Rice Growers Co-operative Limited.

In the implementation of its decision to extend the vesting power of the Rice Marketing Board and to preserve existing arrangements within the industry, the Government has significantly adapted its legislation to a competitive framework and will continue to do so. The proclamation of the extension to the board's vesting power of 5 December 1997 was quite different in form to the proclamation which it replaced. Ownership of all rice is now vested in the board, with the board having the sole right to determine whether to grant any exemptions from vesting under its powers under section 57 of the Marketing of Primary Products Act.

These amendments which I now put before the House enable commercial contractual arrangements between the board and any authorised agent and/or buyer appointed by the board. The board may make appointments of authorised agents and buyers for periods of up to four years on a rolling basis. This bill and the vesting proclamation make these provisions generic, but at the same time they effectively support the existing arrangement between the Rice Marketing Board and the Rice Growers Co-operative. The onus and accountability for any arrangement entered into now will rest squarely with the Rice Marketing Board and that is the way it should be. Thus, while the Rice Marketing Board has been shown to generate a net public benefit, it is also apparent that competition policy is impacting on the way in which the board performs its functions.

However, competition policy is only one of a number of recent impacts on the board. Other significant impacts include the changing world trade environment, changes in water policy, changed policy on land ownership in the Murrumbidgee irrigation area and the need to further develop sustainable farming practices. It is the concern of the Minister for Agriculture that as the operating environment of the board changes, we do not impose change at such a rate that the board becomes dysfunctional. In this context of a changing environment I should also point out that a further effect of the proposed legislation will be to bring forward to 2000 the next competition policy review of the board.

Assuming the board fully uses the proposed power to enter into rolling four-year agreements, it will be necessary for the Government to decide in 2000 any further policy changes with which the board will have to comply from 2004 onwards. I have spoken very favourably of the Rice Marketing Board and its adaptiveness to change. It is appropriate that I should have done so. The legislation now proposed is the culmination of an extended period of consultation with rice industry leaders on the implementation of this Government's decision on the 1995 competition policy review of the board. It retains the integrity of the Government's decision announced in early 1996 to maintain the existing industry arrangements within the rice industry.

At the same time, it has recast key provisions relating to the operations of the board so that the relevant provisions reflect a competitive marketplace and do not necessarily lock up a single arrangement. This change to legislation has also been made in such a way as to accommodate contractual arrangements which enable an authorised agent or buyer of the board to have a normal commercial security of supply as a foundation upon which that agent and/or buyer might reasonably undertake any necessary investment in infrastructure to support the industry. I commend the bill to the House.

**The Hon. R. T. M. BULL** (Deputy Leader of the Opposition) [9.51 p.m.]: The Opposition supports this bill. For some time the Rice Growers Association and the Rice Marketing Board have been negotiating with the Government for amendments to the Marketing of Primary Products Act. Honourable members will know that the recently completed competition policy review determined that the rice industry be allowed to continue with its current regulatory arrangements. Those with knowledge of the rice industry know that the Rice Marketing Board has total vesting powers

over all rice grown in New South Wales. That means that all rice grown in New South Wales goes to the Rice Marketing Board, which has exclusive contractual arrangements with the Rice Growers Co-operative, which in turn mills the rice for the market.

Although the rice industry is heavily regulated, it did well to survive the Hilmer review process. The final decision was based on the most important consideration of any Hilmer review, that is, what is in the public interest. Obviously, the review decided that it was in the public interest for the rice industry to continue to be regulated. I am sure rice growers are especially grateful for that decision. The rice industry is perhaps one of the best industries to hold up in terms of a high level of production and skills, which range from the growers to the marketing board and the Rice Growers Co-operative. That brilliant co-operative has done extraordinarily well in terms of overseas sales. Indeed, it now exports 25,000 tonnes of rice to Japan, which is no mean feat. The co-operative relies heavily on export markets and presently exports some 80 per cent of rice grown in New South Wales. That shows that the rice industry is an important primary industry in New South Wales.

This bill puts in place regulatory arrangements that will allow the rice industry to be exempt from certain provisions of the Trade Practices Act and amends the contractual arrangements between the Rice Marketing Board and any other bodies or persons which it appoints as authorised agents or buyers. The marketing board has been keen to extend its contractual arrangements over four years rather than one year, and that is provided in this bill. That means that authorised agents and buyers will have security of supply over a reasonable period.

Considerable costs and infrastructure expenditure are associated with the contractual arrangements. The rice industry has been keen to gain a parallel provision to any exemption from vesting, that is, an exemption from part IV of the Trade Practices Act, and that is provided in this bill. The Opposition supports this bill, which will ensure, amongst other things, that the current regulatory regime continues and that the industry's much-lauded success as a rural industry in New South Wales continues.

**The Hon. ELISABETH KIRKBY** [9.56 p.m.]: I support the remarks of the shadow minister for agriculture. Anyone who has seen the way the Rice Marketing Board operates and the sophisticated way in which it markets its product, and who understands that this corporation is making great

inroads into export markets and is exporting quality product in a sophisticated manner will fully support this bill. The Rice Marketing Board is a success story in the export of primary products. Certainly, any intention to change the method of marketing at this time would not be in the best interests of rice growers, the rice industry or, indeed, Australia. New South Wales is the largest rice producer in Australia. The Government has made a wise decision which must be supported. I am happy to support this bill.

**The Hon. R. S. L. JONES** [9.57 p.m.]: I support the legislation. My policy adviser, Jenni Emblem, contacted rice growers in relation to the legislation. The Rice Marketing Board is happy with this bill. As the Hon. Elisabeth Kirkby said, the rice industry is one success story in New South Wales. I hope that it will further penetrate the Japanese market—bust it wide open. I am sure that the industry will soon export sufficient product.

**Reverend the Hon. F. J. NILE** [9.58 p.m.]: The Christian Democratic Party supports the Marketing of Primary Products Amendment (Rice Marketing Board) Bill, which will allow the board to be even more efficient. Like other honourable members, we have been impressed with the marketing activities of the board, which has been able to sell Australian-grown rice overseas, particularly rice from New South Wales. That is a great mark of success. A number of people think of South-East Asia as the original rice bowl of the Asian nations. The people involved in breaking into that market should be congratulated. I am pleased to support this bill.

**The Hon. R. D. DYER** (Minister for Public Works and Services) [10.00 p.m.]: I thank honourable members for their support for this bill and I commend it to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## ROADS AND TRAFFIC LEGISLATION AMENDMENT (LOAD RESTRAINT) BILL

### Second Reading

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.01 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

### Leave granted.

The purpose of the bill before the House is to confer new powers on enforcement officers to reduce incidents of unsafe loading of vehicles and to introduce additional offences with stringent penalties for unsafe loading practices. Obligations to safely restrain loads on motor vehicles have been in place in the motor traffic regulations for many years. However, these obligations were not comprehensive and were difficult to enforce unless a load had already fallen from a vehicle. To remedy these defects, it was agreed nationally to prepare a set of comprehensive guidelines. This includes performance standards to facilitate safe load restraint systems and practices.

Even though the national guidelines developed to deal with the safe restraint of loads were introduced by the Government into New South Wales law in 1995, the expected level of compliance has not been achieved. Deaths of innocent road users, property damage and general public inconvenience have been caused by loads falling off vehicles, particularly trucks. Since February 1997 there have been four fatal accidents in New South Wales, caused by either loads falling from vehicles or shifting forward into the driver's cabin. As a result, the Government has decided that further measures need to be taken to deal with this serious safety issue.

The bill enables officers of the Roads and Traffic Authority and councils, as well as police officers, to stop vehicles and give directions to persons in charge of vehicles with unstable or unsafe loads not to drive until the loads are safely secured. A serious issue raised by drivers was that they were being asked to move potentially unstable loads but were not being supplied with adequate load restraining equipment. The risk that a vehicle with an improperly restrained load will be grounded will build in an incentive for vehicle owners to supply their drivers with proper restraint equipment. The proposed new offences relate to the use of vehicles that are loaded unsafely resulting in death or personal injury or damage to property.

Penalties of up to \$5,500 and 12 months in prison can be imposed on individuals who engage in unsafe loading practices which cause death, injury or property damage. Corporations are liable to penalties of up to \$11,000. Directors and managers of corporations owning vehicles loaded unsafely which cause death, injury or property damage can also be liable to financial penalties and imprisonment. Although the primary objective of the proposal is community safety, there are obvious savings to the community and Government by introducing proper load restraint practices. Safe loading practices will mean fewer accidents. This will mean less traffic disruption and less need for emergency response resources. The increased likelihood of goods arriving undamaged and on time will be a benefit to the road transport industry.

An important element of this package of measures will be to provide better education and training to vehicle owners and drivers as to the correct equipment to use and measures to take to safely secure loads. The Roads and Traffic Authority is preparing instructional leaflets for vehicle owners on how to comply with load restraint guidelines. The RTA will also work with industry to provide better training for drivers on load restraint practices. The bill will provide the incentive for transport operators and vehicle drivers to do the right thing and secure their loads properly. This will make our roads safer for all drivers. I commend the bill to the House.

**The Hon. Dr MARLENE GOLDSMITH** [10.02 p.m.]: I am sure all honourable members are aware that this bill will enable Roads and Traffic Authority officers, police officers and other authorised officers to give directions to heavy and commercial vehicle operators to ensure that their loads are safely secured. The bill will also empower enforcement officers to detain any vehicle until its load is safe. The bill proposes new offences of penalties of up to \$5,500 and 12 months imprisonment for individuals who load their vehicles unsafely and, as a direct result, cause death, injury or property damage. The bill will also make corporations liable for penalties of up to \$11,000. Directors and managers of corporations owning vehicles loaded unsafely which cause death, injury or property damage can also be liable to financial penalties and imprisonment.

Heavy vehicle and commercial operators have been subject to road restraint rules under the motor traffic regulations, rules which were difficult to construe and hard to enforce unless a load had already fallen from a vehicle. When New South Wales became party to moves to make road rules uniform throughout the country it was agreed nationally to prepare a set of comprehensive guidelines. The guidelines included performance standards to facilitate safe load restraint systems and practices.

A set of national guidelines was introduced by the Government into New South Wales law in 1995. However, the expected level of compliance has not been achieved. Deaths of innocent road users, property damage and general public inconvenience have been caused by loads falling off vehicles, particularly trucks. Since February 1997 there have been four fatal accidents in New South Wales caused by loads falling from vehicles or shifting forward into the driver's cabin.

The Opposition is strongly committed to safety in the commercial transport of goods in Australia and it is also strongly committed to national guidelines, something which is not only desirable but also essential in an industry that has so much traffic across State lines. However, the level of new penalties in this area is another example of revenue grabbing by the Carr Government. There have been many examples of this in recent months and years. It seems that every week the people of the State are confronting a new tax grab by the Carr Government or some sort of new revenue-raising gimmick that catches people unawares—and this from a government that I am sure honourable members will remember promised no new taxes. In this case, this revenue grab is hitting small business people, which

is what so many commercial vehicle operators are. With that reservation and objection the Opposition will not oppose the bill because of the other overriding factors I have already mentioned—road safety and the desirability of national guidelines.

**Reverend the Hon. F. J. NILE** [10.04 p.m.]: The Christian Democratic Party is pleased to support the Roads and Traffic Legislation Amendment (Load Restraint) Bill. We are concerned about the level of all types of accidents on our highways. We all remember the tragedy that occurred a few years ago when large wool bales fell off the back of a truck onto a car in the Orange area and the young lady in the car was killed. That brought to our attention the fact that there was a problem. Over the last few years the Government has attempted to deal with these problems. This legislation is a further move to improve the requirements under motor traffic regulations for the safe restraint of loads. In the past it was difficult to enforce these regulations unless a load had fallen off a vehicle. That is a bit like crying over spilled milk.

This bill will give various inspectors power to act when they inspect vehicles and find that the vehicle has been incorrectly loaded or that the load has not been restrained properly and it could cause an accident. Since February 1997 there have been four fatal accidents in New South Wales which apparently were due to incorrectly restrained loads on vehicles. In at least one case the driver was killed by the load crushing the driver's cabin. This legislation, which is in the interests of both drivers and the public who use the roads, will facilitate the inspection of loads by enforcing officers and enable them, where necessary, to implement directions for corrective action. It introduces heavy penalties for those responsible who knew, or ought to have known, that the method of securing the load was dangerous, and death, injury, or property damage could result. Corporations will face fines of up to \$11,000, with individuals facing penalties of up to \$5,500 dollars and/or 12 months imprisonment. The Christian Democratic Party is pleased to support the bill.

**The Hon. R. S. L. JONES:** [10.07 p.m.]: I support the legislation from the Minister for Transport, and Minister for Roads, who seems to excel in the art of introducing good legislation. Some years ago I was almost decapitated by a large piece of metal falling off the back of a truck. I accelerated out of it and it hit the back of my car and very nearly went through to the windscreen. That was a frightening experience. This legislation is in the interests of drivers, as some drivers are killed as a result of bad loading. The legislation is not just

in the interests of people like me or others travelling behind these vehicles; it is in the interests of all drivers. I hope this legislation will tighten up all these measures and that there will be fewer deaths in the next 12 months.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

**DAIRY INDUSTRY AMENDMENT (TRADE PRACTICES EXEMPTION) BILL**

**GAS PIPELINES ACCESS (NEW SOUTH WALES) BILL**

**STATE REVENUE LEGISLATION AMENDMENT BILL**

**JUDGES' PENSIONS AMENDMENT BILL**

**Bills received and, by leave, read a first time.**

**Suspension of standing orders agreed to.**

**TRAFFIC AMENDMENT (VARIABLE SPEED LIMITS) BILL**

**Second Reading**

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.10 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

**Leave granted.**

The purpose of this bill is to improve the traffic safety and traffic flow on the State's major roadways. It allows for the use of the latest speed management technology on New South Wales roads. This bill will allow for variable speed limit signs, that is electronic display speed signs that can be varied as conditions change. It is intended that the initial introduction of variable speed signs will be on the M4 motorway. Variable speed limit technology will improve the safety and efficiency of major motorways and freeways in a number of ways. Firstly, in the event of a major incident such as a traffic accident, or if weather conditions deteriorate, variable speed signs will enable speed limits to be adjusted to reflect those conditions and ensure a safe speed limit is maintained. In morning and afternoon peak congestion periods, speed limits will be adjusted to achieve the most efficient traffic flow.

In times of less congestion, the speed limit will be set at the maximum speed limit suitable for that zone. The Roads and Traffic Authority will ensure that the zones in which variable

speed limits operate will be clearly signposted. Underneath the electronic signs a smaller fixed speed limit sign will be attached and will operate in the case of failure of the electronic speed signs. Initially, the variable speed limits will be manually set. In the near future the variable speed limits will be set by computer at the Sydney Traffic Control Centre based on information sent by detectors and cameras along the motorways. The speed limit set by the variable message sign is binding upon motorists. Initially these speed limits will be enforced by police in the usual manner. It is intended that the limits will then be primarily enforced by speed cameras as this technology is progressively introduced. These cameras will imprint speed limit evidence on the photograph taken at the time of the offence.

I understand that, in another place, the Opposition expressed concerns about the size of the variable speed signs and the possibility that some motorists would miss the change in the speed limit and be liable for speeding. I understand that, in response, the Minister for Roads undertook to review the matter. I would like to emphasise that this is a road safety matter to ensure that speed limits better reflect road conditions. It is not an exercise to simply raise revenue. As part of the introduction of variable speed signs an information campaign will be run to inform motorists of the existence and effect of variable speed signs. The bill also contains an amendment in respect to the inspection of speed cameras. Currently the Traffic Act places a requirement to carry out an inspection of speed cameras on the day on which a particular photograph was taken.

The bill changes the required inspection and certification period to that for a red light camera which requires an inspection every 84-hour period. The Police Service has advised that extending the inspection period for speed cameras to an 84-hour period, in line with the period for red light cameras, will achieve more effective use of police resources. I am advised that the operational reliability of red light cameras is very high. I commend the bill to the House.

**The Hon. Dr MARLENE GOLDSMITH** [10.10 p.m.]: The Traffic Amendment (Variable Speed Limits) Bill amends the Traffic Act 1909 with respect to variable speed limits and certificate evidence of speeding offences. The three main objectives of the bill are to enable computer-based signs with variable speed limits to be applied at different times to major roads, such as motorways and freeways; to promote and facilitate traffic flow and road safety; to be able to use the location, time and displayed variable speed limit signs as *prima facie* evidence; and to enable speed cameras to be inspected within 84 hours prior to a possible speeding offence rather than on the day of the alleged offence. Variable speed limit signs will enable the Roads and Traffic Authority to alter speed limits in the event of difficult weather conditions or a traffic accident. The aim is to ensure a safe speed limit reflecting prevalent conditions. Another example is the regulation of congested areas during peak times by altering speed limits.

The areas are to be clearly signposted and smaller speed limit signs will be attached to the electronic speed signs in case of failure. Electronic variable speed signs will be initially set manually,

but in the near future they will be controlled by the Sydney Traffic Control Centre. The centre will operate on information provided by detectors and cameras along motorways. The change in inspecting speed cameras from every day to every 84 hours falls into line with the current period for inspecting red light cameras. At face value that seems to be a beneficial change to the law. It is certainly aimed at greater safety and will enable traffic authorities to respond to changed road conditions to the advantage of all road users.

The Opposition is concerned that these new changes should be used only as specified. The bill provides that areas using variable speed limits will be signposted, but how clearly are those areas to be signposted? How far will authorities take their authority to alter speed limits? Certainly when traffic conditions change—when there is ice on the roads or other dangerous weather conditions prevail, or when there is a traffic accident or traffic congestion—there would be clear justification for altering the speed limit. The Opposition is concerned that this proposal may degenerate into another revenue-raising exercise by the Carr Government. Variable speed limits should not be used as traps for the unwary by being used at times other than when they are genuinely needed. They must be sufficiently signposted for all motorists, particularly those who use the same road regularly. Congestion involves dealing with a great many drivers who use a particular road and are familiar with accompanying speed limit signs. It is crucial that the speed limit signs be clearly displayed. There should be no authoritarian attempts by traffic authorities and by the Government to extend the provisions of this legislation into areas in which it was purportedly not intended to be used. The Opposition will carefully monitor the implementation of this legislation. At this stage the Opposition does not oppose the bill.

**The Hon. R. S. L. JONES** [10.15 p.m.]: I support the Traffic Amendment (Variable Speed Limits) Bill. For some years I thought it rather odd that speed limits were fixed because at different times of the day different conditions applied, particularly during fog, when speed limits should have been lower. The Hon. Dr Marlene Goldsmith would be aware that the legislation provides for two signs: a fixed and an electronic sign. When the electronic sign is not working, the fixed sign becomes the applicable speed limit. Presumably the electronic sign will never display a higher speed limit than the fixed sign. If it does legal problems may result. Primarily, the idea is to reduce the speed limit at times of accidents, fog and other dangerous road conditions.

**The Hon. Dr Marlene Goldsmith:** That is a good idea, but motorists need to be aware of the limit. If they are not they may end up with a speeding fine.

**The Hon. R. S. L. JONES:** That could be a problem. I assume the electronic sign will be more visible because it will be illuminated. I hope it will also flash. If the speed limit is to be reduced from 80 kilometres per hour to 60, 50 or 40 kilometres per hour, it will be because of an approaching hazard and motorists will be advised beforehand through the electronic sign to slow down. The same system should be introduced into other streets, including suburban streets, so that at times of low visibility, or at certain times of the year, speed limits could be reduced to as low as 30 kilometres per hour. That could perhaps be done on Christmas night, on Christmas morning or at other times when people may be under the influence of alcohol and the weather is bad. It may be possible to change the speed limits through electronic speed limit signs in an endeavour to save lives at times of high risk. It is a good idea and I hope it will be extended into other areas.

**The Hon. ELISABETH KIRKBY** [10.17 p.m.]: I support the Traffic Amendment (Variable Speed Limits) Bill. The Government's stated purpose is to enable variable speed limit signs—that is, electronic display signs—to be used to promote road safety and to facilitate traffic flow. The Roads and Traffic Authority has been testing signs at various locations, including the Princes Highway. At present these signs warn of impending fog or other hazards on the road. This bill will enable these signs to be used to vary speed limits on certain sections of road by overriding the signposted speed limit. The bill attracts many arguments in its favour. The road toll is a constant blight on modern society and any reasonable measures that will reduce the carnage must be supported. Although at the moment a great deal of television advertising advises that in times of heavy rain all motorists should reduce their speed by at least 10 kilometres an hour, regrettably many motorists do not heed that advice. In another place the Opposition said this bill was a revenue raiser. That is an extremely churlish and totally ill-informed argument.

It often does not enter motorists' minds that traffic should slow down in adverse weather conditions such as rain or fog. The Roads and Traffic Authority will be able to enforce motorists to slow down by the use of electronic variable speed signs, which will override the signposted speed limit. Many members of this House do a lot of

country driving, as I do, and they would be aware of the hazards of driving in fog and very heavy rain, often on uneven road surfaces. Country drivers also face the problem of sharing narrow roads with heavy road transport, and in some areas native animals, possibly a kangaroo, on the road can cause a serious accident. The provisions in the bill to enable the enforcement of variable speed limits in adverse conditions are valuable. I hope that the bill will save many lives; I know that it will prevent many serious accidents. I am happy to support the bill on behalf of the Australian Democrats.

**Reverend the Hon. F. J. NILE** [10.21 p.m.]: The Christian Democratic Party is pleased to support the Traffic Amendment (Variable Speed Limits) Bill. The purpose of the bill is to enable variable speed limit signs, activated by a computer-controlled system, to determine the speed limits that are to apply at different times on certain major roads, such as motorways and freeways, in order to promote road safety and facilitate traffic flow. The bill also enables prima facie evidence to be given by a certificate issuable by an authorised officer as to the location of variable speed limit signs, the speed limits displayed and the time they were displayed. It will also enable speed cameras to be inspected every 84 hours rather than every 24 hours.

I regularly use the freeway from Sydney to Gerroa, near Nowra, where an electronic sign displays fog warnings and a suggested speed limit. For the past 12 months an electronic sign that is situated at the commencement of the major freeway from Wollongong to Sydney has displayed an incorrect speed limit. The electronic sign shows a speed limit of 100 kilometres per hour, while a signpost shows 110 kilometres per hour, which is the correct speed. That discrepancy raises a concern about the accuracy of electronic speed signs. Regular inspections will need to be carried out, or police officers in the course of their duties could ensure that the electronic signs are working efficiently and display the correct speed limit.

A member of Parliament has been in trouble over speed limit signs. Because of road repairs the speed limit was dramatically reduced, but that was not clear to drivers. To prevent serious problems, whatever equipment is used to adjust speed limits must be so obvious that drivers cannot miss it. It is no use reducing the speed limit if drivers in traffic, perhaps following semitrailers, cannot see the signs. I do not know whether they should be erected above vehicles or on the side of the road. It is not always easy to see signs on the side of the road. I urge the Minister to make sure that the signs work efficiently and cannot be missed by drivers who are travelling

in heavy traffic. Signs will need to be illuminated in a fog so that drivers are aware of changed speed limits. We are pleased to support the bill, but the Minister needs to be aware of those practical matters.

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.25 p.m.], in reply: I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

### **ROAD TRANSPORT (VEHICLE REGISTRATION) AMENDMENT BILL**

#### **Second Reading**

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.26 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

#### **Leave granted.**

The purpose of the bill before the House is to amend the Road Transport (Vehicle Registration) Act 1997 to enable transfer of some regulation making powers from the Traffic Act 1909 and to make some minor amendments of a machinery nature. In December 1997, honourable members supported the introduction of the national registration scheme in NSW. The basic model for this scheme is the Commonwealth Parliament's Road Transport Reform (Heavy Vehicle Registration) Act 1997 developed with this Government's support by the National Road Transport Commission. This scheme is designed to improve road safety and transport efficiency and to reduce the costs of the administration of road transport. These minor amendments will enable the legislation already supported to operate more effectively.

The amendments proposed are the transfer of some regulation making powers from the Traffic Act 1909 and some minor alterations of a machinery nature. It is proposed to transfer the vehicle standards and inspection regulation making powers from the Traffic Act to ensure that all registration-related legislation is encompassed in the Road Transport (Vehicle Registration) Act 1997 and not just the areas covered by the basic Commonwealth model. This will integrate vehicle registration provisions in the one Act and regulations. The Act also includes a minor expansion of regulation making powers to cater for existing anomalies like the power to amend an error in the register and deeming notices of service as being served.

The other machinery amendments in the bill are minor in nature. For instance, minor amendments are proposed to include the ability to suspend the exemption provisions

provided in the regulations. Other amendments include replicating the requirement in the Traffic Legislation Amendment Act for the Minister to consult before excluding areas from the application of the Act and an amendment to assist the operation of the written off vehicle identification scheme. In addition, the opportunity has been taken to improve the operation of the Motor Accidents Act 1988. At the moment, that Act allows cancellation of the compulsory third party insurance policy covering a vehicle the registration of which has been cancelled.

Because the national registration scheme provides for a period during which a registration must be suspended before it can be cancelled, it is now proposed that insurers should warn operators whose premium cheques have been dishonoured that suspension is imminent and that, unless payment is made, cancellation will follow. It is also necessary to introduce new terminology, taken from the national scheme, into the definition of "owner" in the Motor Accidents Act. The term will include both registered operators and owners. The result will be that both will enjoy full cover under the compulsory third party policy. The amendments, together with the registration regulations to be made, will enable the national registration scheme for heavy vehicles and the light vehicle registration scheme, which is similar to the national scheme, to commence shortly. I commend the bill to the House.

**The Hon. JENNIFER GARDINER** [10.26 p.m.]: I speak to the Road Transport (Vehicle Registration) Amendment Bill. This bill transfers some regulation-making powers from the Traffic Act 1909, namely the Vehicles Standards and Inspection Regulation, so that regulations related to legislation are encompassed in the Road Transport (Vehicle Registration) Act 1997. This will mean the vehicle registration laws will be bundled into one Act and regulation. The bill also allows for a small expansion in the power to regulate, such as the power to amend an error in the register, and it will also allow deeming notices of service as having been served. There are also some machinery amendments, including the ability to suspend the exemption provisions provided in the register.

The passage of this bill will also mean that the Minister must consult before excluding areas from the application of the Act. There is one amendment to assist the operation of the written-off vehicle identification scheme. As well, the bill aims to improve the operations of the Motor Accidents Act 1988. At the moment that Act allows cancellation of the compulsory third party insurance policy covering a vehicle which is unregistered. The national registration scheme provides for a period during which a registration must be suspended before it can be cancelled. So this bill will mean that insurers should warn operators whose premium cheques have been dishonoured that their suspension is imminent. They must be warned that unless payment is made cancellation will surely follow. There are some other minor amendments which bring definitions in the legislation into line with those in the national registration scheme. These amendments and

subsequent regulations that will flow from them will allow the national registration scheme for heavy vehicles and the light vehicle registration scheme to proceed in the near future.

**Reverend the Hon. F. J. NILE** [10.30 p.m.]: The Christian Democratic Party supports the Road Transport (Vehicle Registration) Amendment Bill. The main purpose of the bill is to amend the Road Transport (Vehicle Registration) Act 1997 to enable transfer of some regulation-making powers from the Traffic Act 1909, and to make some minor amendments of a machinery nature. In December we supported the introduction of the national registration scheme in New South Wales. The basic model for that scheme was the Commonwealth Road Transport Reform (Heavy Vehicles Registration) Act 1997. That was developed by the National Road Transport Commission. The scheme has been designed to improve road safety and transport efficiency, and to reduce the costs of the administration of road transport. For those reasons we support the bill.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

#### ADJOURNMENT

**The Hon. M. R. EGAN** (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.31 p.m.]: I move:

That this House do now adjourn.

#### LAND TAX

**The Hon. Dr MARLENE GOLDSMITH** [10.31 p.m.]: I wish to draw to the attention of the House the contents of a letter sent to me by Jane and Ellen Gardner of Woolwich. The letter was recently published in their local newspaper and it states:

Dear Sir,

May I point out the Carr/Egan land tax on residential property is actually worse than burglaries by common thieves.

There are four main reasons for this—

1. The burglar may invade your home once or perhaps not at all. The land tax comes back each year and extracts hard earned dollars out of your home at an increasing rate until you die!
2. The burglars will take out of your home only what they can carry. The land tax, like a cancer, will eat away at the value of your home until it's gone.

3. The long-term anxiety land tax causes is worse than the intrusion of a burglar. For a retired couple the tax is an annual, unplanned for, after tax, second bite from a family without an income.
4. The Carr/Egan government uses the force of the law to extract land tax from the community each year. Burglars don't have this kind of organisation at their disposal.

Many people unfortunately think because their land is valued at less than a million dollars they are exempt.

This is a tragically short sighted and optimistic view.

The letter is signed by Gerard M. Lane of Hunters Hill. It certainly sums up the feelings of anger and bitterness in the community about this tax and how it is hitting disadvantaged people, of which many, if not all, honourable members have become aware. One of those disadvantaged people is Mrs Hillary Calwell. Her annual income is \$10,000 pension and her annual land tax bill is over \$17,000. She is a widow 87 years old, and lives in the home she has lived in all her married life, since she was a young woman. Her husband's ashes are buried in the backyard.

The way the system is set up Mrs Calwell cannot even get a waiver of her land tax. She can get a deferral, which is, of course, as the letter from Mr Lane points out, very clearly a death tax because sooner or later the Government gets the home. Jane and Ellen Gardner have attended the public hearing days of Joint Purpose Standing Committee No. 1 and they found the evidence of the officers from Treasury, the Office of State Revenue and the Valuer-General particularly distressing. They look forward to hearing the committee's findings. They state:

We look forward to hearing the committee's findings, however we realise that probably the only hope for families like ours is in the ballot box next March and this is also very frightening.

The letter concludes:

On behalf of all families who will be destroyed by this tax, thank you very much for your efforts.

The sad thing is that the tax is hitting so many people who are not silvertails, who are not rich, and who have done nothing but live in houses that have appreciated under them over a long period and who now face eviction from their own homes or the gradual take-over of the homes by the State Government. That is a death tax.

#### MANNING VALLEY METHADONE CLINIC

**The Hon. ELISABETH KIRKBY** [10.35 p.m.]: For many weeks I have been carrying around

the following question which I have not yet had the opportunity to ask of the Minister representing the Minister for Health:

Is the Minister aware that methadone dispensing pharmacists in the Manning River area have been audited for alleged illegal activities such as re-using bottles for each patient's own refills? Is the Minister aware that such audits are unprecedented? Are these audits by bureaucrats of the Department of Health an indication that the department is no longer anxious to provide the methadone maintenance program for drug addicts? If so, why?

Yesterday I received from Dr Andrew Byrne, who is in general practice and who is also a drug and alcohol counsellor, a letter in these terms:

I was surprised to hear the comments of the honourable member—

Reverend the Hon. F. J. Nile—

on this subject. His views are not shared by the medical or academic community where methadone treatment in New South Wales is held up as an exemplary public health measure. It is partly responsible for the low incidence of HIV among injectors which is approximately 1% in NSW, compared with in excess of 20% in almost every city in the US and Europe, while it is over 50% in some of these places. I do not need to remind the house how much it costs to treat just one case of HIV and the terrible toll of the individual, family and associates.

The cost of methadone is modest at around \$2000 per patient per year. It is one of the cheapest and most cost effective measures funded by the health authorities. It has been estimated that for every dollar the government spends on methadone, \$7 flow back into the system in benefits.

Mr Nile's figure of 240 deaths due to methadone could not be substantiated and is inconsistent with several reports of such deaths. It has been shown in numerous studies in Australia and overseas that methadone treatment reduces the incidence of overdose and other complications of viral and blood borne infections to very low levels. Over 800 young Australians died last year alone from opiates, mostly heroin in combination. Methadone is the only measure which has been proven to reduce this terrible toll. There are still long waiting lists for this simple treatment in most regions. Over 600 GPs and 1400 pharmacies prescribe and dispense this drug which nearly always results in substantial and immediate benefits for the patient and their associates.

Methadone is never used as a first line agent and all patients must have tried serious attempts at detoxification previously. But for those who are not yet willing or able to persevere with abstinence, methadone treatment may be needed for between 6 and 18 months during which time they learn about coping skills and they can continue education, working or raising families.

Injection of illicit drugs reduced by more than 90 per cent, crime dropped similarly, and the outcomes have been found to be beneficial in every research project which looked at these important issues, for up to 30 years. Far from being something to retreat

from, the recent positive independent reviews obtained by the New South Wales Health Department described methadone as a public health miracle. So, rather than being concerned and staggered, Reverend the Hon. F. J. Nile should be congratulating successive administrations for presiding over a successful intervention which benefits the whole of society. This is based on scientific analysis and not on journalism in the *Readers Digest*.

### BURMA DEMOCRATIC ELECTIONS ANNIVERSARY

**The Hon. JANELLE SAFFIN** [10.40 p.m.]: Today is the eighth anniversary of the democratic elections held in Burma when the people voted overwhelmingly for a democratic form of government—an auspicious occasion for the people of Burma. To all those representatives elected on 27 May 1990, including the National Coalition Government of the Union of Burma led by Dr Sein Win, to U Daniel Aung, MP elect for the Mong Ping constituency, and U Tin Tut, MP elect for the Einme constituency, I extend felicitations and continued support in their democratic aspirations to have the election results honoured. The National League for Democracy, the NLD, the general secretary of which is Daw Aung San Suu Kyi, won 392 seats out of a total of 485 seats, and it did not field candidates in all 485 seats. The military dictatorship-backed National Unity Party won 10 seats. Major political parties the world over would covet such a mandate. The military was stunned.

Daw Aung San Suu Kyi and the then chairman and current deputy chairman of the NLD, U Tin Oo, were under arrest when the elections were held and many candidates were harassed and had their freedoms severely curtailed. However, they campaigned and won. One would have thought that the NLD would have formed a government. This was not to be. The generals would not allow the people's representatives to form a government. They deliberately thwarted the people's desire. They then created a scenario that the election was really to elect representatives to prepare a new constitution. The military dictatorship—like dictatorships everywhere—rules by orders, decrees, and whimsy, it could be called. It was order No. 1/90 which the then State Law and Order Restoration Council—now the State Peace and Development Council—issued that denied the people their desire.

The situation of elected members is really a travesty. Some are in prison for the so-called

"crime" of political activism. Some have been imprisoned and released, some have been imprisoned and died there. Some have resigned because of pressure brought to bear on them and their families by the authorities. Of course, the public reason for the resignations is not because of such pressure. They say it is because of ill health or that they do not wish to be active any longer.

A recent example is that of a Karen woman MP called Naing Khin Twe Myint. She was arrested on Union Day, 12 February. She was going to Rangoon to celebrate Union Day with Daw Aung San Suu Kyi and other NLD members. Honourable members who attended the function held here would know that Union Day celebrates the beginning of the union of Burma, when the Burmese ethnic nationalities and other ethnic groups signed an agreement called the Panglong Agreement. This woman was on her way to that celebration and was stopped and searched by the authorities. That is quite common in Burma, and many people are searched. Her baggage was searched. She was bringing some Karen textiles to sell on Union Day. After the search she found some of her things were missing. She questioned the authorities and an argument ensued. She was then arrested. We think that the grounds of her arrest were that she was disturbing an official while he was discharging his duties. She was arrested, tried and sentenced within two days and gaoled for two years. Her family thought she was still celebrating Union Day in Rangoon. People tried to get legal representation to her, but that was impossible.

I will now return to order No. 1/90 as the then State Law and Order Restoration Council decided that it would convene a national convention to facilitate the elected representatives organising the constitution. The problem was and still is that only 99 of those elected were chosen by the Generals to participate in the national convention out of a total of 702 hand-picked delegates. I shall finish with the words of Daw Aung San Suu Kyi when she addressed the United Nations Commission on Human Rights. I have a video transcript of the fifty-fourth session. She said she would like to remind the international community that democratic elections were held in 1990, eight years ago, and that the people of Burma had the courage and the integrity to vote for the kind of government they wanted. Those elections were free and fair, but the run-up to the elections did not occur in conditions one would expect in democracies. History will rule in favour of the democracy forces led by Daw Aung San Suu Kyi and ethnic nationality leaders.

**DEPARTMENT OF COMMUNITY SERVICES  
FOSTER PARENTS**

**The Hon. PATRICIA FORSYTHE** [10.45 p.m.]: I want to draw to the attention of the House the appalling way the Department of Community Services has treated certain foster parents in the Blue Mountains region. In providing some details of this case I do so against the background that within the past two weeks I have received substantial complaints from foster parents in the Illawarra, the central coast and the Hunter Valley. Foster parents provide an essential role in the care of children outside their family homes. Without foster parents, substitute care in New South Wales would break down. Foster parents are a valuable community asset, yet a philosophy pervades the Department of Community Services at the moment that results in foster parents being treated almost as second-class citizens who cannot speak up without retribution and who must conform to a narrow set of mores set by the department.

In the interests of fostering, it is time the Carr Government recognised it has serious problems with the interaction between some departmental staff and some foster parents. Money should be made available to the Community Services Commission for an inquiry into fostering, which would set benchmarks for an effective system. I shall describe the Blue Mountains example. A woman I shall call Mrs A, who had been a foster mother for 19 years, was given care of a newborn baby, Baby O. Mrs A asked that rather than her usual short-term placements she be able to have the baby on a long-term basis. This was agreed to. On that basis Mrs A took Baby O. She was concerned that the baby not be moved from pillar to post, as often happened.

When Baby O was 3½ months old, the department, despite its commitment to Mrs A, moved the baby to family B. Mrs B had been a foster carer for more than seven years. In placing Baby O the department again indicated that it would be a long-term placement. In seven years Mrs B had cared for more than 50 children. Mrs B commenced planning the child's long-term care, including booking the child into an independent school in her area. For reasons not immediately given to Mrs B, at eight months Baby O was again taken from her foster family and placed with a third family. One must ask whether the removal had anything to do with the decision by Mrs B to plan schooling for Baby O in a quality independent school.

Baby O was then given to a family that, in addition to their own three children, was caring for four of Baby O's half-siblings. The department's

reason apparently was that Baby O had not bonded with Mrs B, which was the department's advice to the Community Services Tribunal when Mrs B appealed the case. In preparing for the case, Mrs B asked the Katoomba office of the Department of Community Services if she could review her file. Mrs B was shown her file, which showed no evidence of her fostering role beyond her original application form. The department's computer record was only marginally better, with just a few children noted. Mrs B's niece took up the case and wrote to the current Minister.

I am advised that this led to an investigation of the files of the fostering system at the Katoomba office. Is it a fact that unregistered carers were identified and the file system in general found to be a shambles? Mrs A remained involved in the issue of the care of Baby O and spoke up about Mrs B's treatment. The result is that Mrs A has now found herself the victim of the department's nasty vindictiveness and has been told that despite 19 years as a foster carer, she cannot be given another child for 12 months because in the eyes of the department she became too attached to Baby O. Mrs B is still allowed to have access visits with Baby O, but because she spoke out last week her access visit became a supervised visit in the presence of two departmental district officers. There is a massive backlog in the department yet two staff are now required to spend their valuable time supervising those visits. I call on the Minister for Community Services, the Hon. Faye Lo Po', to rule out that she was responsible for this decision. It is very difficult to find suitable foster parents, and the reasons are sadly obvious when one learns what these families and many others like them have experienced. It is time for a thorough review of fostering by the Department of Community Services.

**DRUG LAW REFORM**

**The Hon. I. COHEN** [10.50 p.m.]: On Friday, 21 May, I attended the first meeting of the Australian Parliamentary Group for Drug Law Reform since the Prime Minister banned the heroin trial in 1997 and since the safe injecting rooms inquiry of the New South Wales Parliament turned the clock back on reform. The meeting was held in the Australian Capital Territory. The group reaffirmed its commitment to the charter for drug law reform and to its campaign on drug issues. In 1995 there were 778 drug-related deaths in Australia. Drug deaths now approach 1,000 per year—1,000 mostly young Australians. The group is alarmed at the epidemic of drug deaths. It has called on the Prime Minister and other politicians to rethink zero tolerance as an approach to the drug

issue and to work to protect the community, protect public health and stop drug deaths.

As a member of Parliament, I have been informed of the issue regarding illicit drugs and the despair created by addiction and drug abuse in our society. Few strategies have adequately addressed this modern-day tragedy in a way that assists the addict and, just as important, assists relatives, who are invariably devastated by the situation. As a member of the Joint Select Committee into Safe Injecting Rooms, I was part of the minority report which, I believe, progressed a reform agenda which would help to save lives and reduce the misery surrounding this growing social and health problem. The strategy of harm minimisation has great support in the medical, legal and policing agencies. It is obvious that solutions lie in the hands of the community.

One community initiative is the family drug support project developed by the Damien Trimmingham Foundation, which fills a glaring gap in community care and casts a light in a field of so much despair. I wholeheartedly support the aims and ideals of the family drug support project and look forward to working with the foundation on such projects in the future. The project is a positive initiative that will go a long way towards alleviating the suffering of drug and alcohol addiction. If given adequate support, the project will help. I have here a letter from Mr Tony Trimmingham, whose son Damien died of a heroin overdose. The foundation is named in memory of Damien. Mr Trimmingham's letter refers to the family drug support project and states:

Since the commencement of our 24 hour Telephone Support Service at the beginning of March we have received numerous calls from distressed family members. [Staffed] by trained volunteers the service operates from [a free phone call] which allows callers to ring from any part of Australia for the price of a local call. Many of the calls received have lasted over an hour or more with most people just needing someone to listen and understand.

Mr Trimmingham asks for support for the Damien Trimmingham Foundation. He describes the

foundation as one that acknowledges that interpersonal, family, social and political factors need to be considered when planning drug use and abuse prevention and treatment strategies. He states:

We believe that real change occurs only when individuals, families and the community participate in the process.

Our philosophy is to strengthen and develop the harm reduction approach to alcohol and drug issues.

We believe education, health promotion and treatment activities linked to a continuum of service provision will provide a coherent and inter-related range of services.

Our aim is to ensure education and treatment promote improved outcomes for users, their family, the community.

The aims of the project are as follows:

To provide support to families and friends of drug users in the most appropriate way to meet their needs

To assist families to deal with drug issues in a way that strengthens relationships and achieves positive outcomes

To provide a safe nurturing and confidential environment for clients to address alcohol and drug issues

To maximise resources in the drug and alcohol field through regular networking, liaison and information sharing

To contribute to the development and skills of volunteers

To work in partnerships with governments and other agencies to effectively achieve these objectives

As I have said, the family drug support scheme is an initiative of the Damien Trimmingham Foundation. It is an initiative that flies in the face of much of the zero-tolerance attitudes and the very draconian attitudes taken by certain sections of society, which, I believe, are not succeeding in their so-called war against drugs. It is important that we support such organisations and move towards a more humane approach to dealing with the very complex and difficult issue of reduction of drugs and safety in our society.

**Motion agreed to.**

**House adjourned at 10.55 p.m.**