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Mr DEPUTY SPEAKER—Allow me to welcome you all to the first meeting of the Main Committee of the 39th Parliament.

AUSTRALIAN RADIATION PROTECTION AND NUCLEAR SAFETY BILL 1998

Cognate bills:

AUSTRALIAN RADIATION PROTECTION AND NUCLEAR SAFETY (LICENCE CHARGES) BILL 1998

AUSTRALIAN RADIATION PROTECTION AND NUCLEAR SAFETY (CONSEQUENTIAL AMENDMENTS) BILL 1998

Second Reading

Debate resumed.

Ms MACKLIN (Jagajaga) (3.30 p.m.)—Thank you, Mr Deputy Speaker, and I congratulate you on your election to the deputy speakership.

The Australian Radiation Protection and Nuclear Safety Bill 1998, the Australian Radiation Protection and Nuclear Safety (Consequential Amendments) Bill 1998 and the Australian Radiation Protection and Nuclear Safety (Licence Charges) Bill 1998 establish the Australian Radiation Protection and Nuclear Safety Agency, ARPANSA, covering all Commonwealth agencies that undertake activities which raise radiation protection or nuclear safety issues. Given that we are debating them together, I will address all the issues at the one time.

It was the previous Labor government that actually initiated the process to establish a satisfactory system for nuclear regulation in Australia and I am very pleased today to see that this process is finally coming to completion. The legislation also has roots in the Senate Select Committee on the Dangers of Radioactive Waste whose April 1996 report was entitled *No time to waste*.

These bills are of current importance because of two key decisions that Australia faces about the development of nuclear facilities. The first is the overdue decision on future provision of nuclear materials for medical and industrial purposes. The Lucas Heights reactor is reaching the end of its useful life and should cease operation by 2005. Whether a new reactor is built on the existing site or on a new site, or whether an alternative strategy is followed for production of nuclear materials, is a major issue. It is one on which the public has every reason to be concerned and a right to demand the fullest public debate.

The second is the resolution of a site to store Australia's own radioactive wastes in a secure and acceptable manner. Whilst a framework has been developed, there is a lot of detail to be resolved. Australia has in the past relied on overseas facilities for a permanent solution to the problem of nuclear waste, but increasingly we are likely to find that these will not be available.

It is critical that both these decisions are made within a regulatory framework that is soundly based on international best practice and that commands public respect. It will be no good if the government establishes a new agency but fails to take the necessary steps to ensure that the agency is credible. There is the need to be credible not just to the scientific and medical community, but also to those in the general public who have serious concerns about the spread of nuclear facilities and the widening application of radiation in our daily lives.

I strongly support the establishment of a strong and credible national regulatory framework for the control of applications of radiation and nuclear materials for medical and scientific purposes. I believe the government and the opposition have similar views on most of the major issues and I do welcome the extent to which this bill has been improved since it was last debated.

For example, the inclusion of clause 83 requires that the powers to be given under the bill can be exercised only in accordance with prescribed international obligations. However, I have received representations on a number of issues. One is that the legislation is not sufficiently transparent to public scrutiny. Others are that the standards that will be required could be inadequate and that the make-up of the committees does not include consumer and environmental representatives and could become unbalanced or insular over time.

I am of the view that these concerns can best be addressed by amending the legislation in two areas to ensure that the new authority has credibility and independence. I would suggest that that could be done, firstly, by enshrining a requirement that the CEO have regard to best international practice in deciding whether to issue licences and, secondly,

by ensuring that there is representation for a person with a consumer and environmental perspective on the important issues before each of the three new bodies is established.

As far as best practice is concerned, the other major concerns that have been raised with me appear to be based on a worry that the authority will lag behind best practice in other countries and take refuge in less stringent standards adopted as part of international treaties. I have no doubt that the Australian public would wish our regulatory framework to be amongst the world's best and not be based on any 'lowest common denominator' standards.

At present the CEO's powers are very open-ended and subject only to regulation which could be changed readily by future governments. These powers are also capable of delegation under section 17. I therefore propose to the government for their consideration that the principle of best practice be built into the legislation, as it affects the issuing of licences by the CEO. In my view this could best be achieved by adding to both section 31(3) and section 32(3) the following words: 'and having regard to international best practice'. I understand at the moment that the Minister for Health and Aged Care is not inclined to agree to these words being inserted into the legislation but that he would consider inserting a similar provision into the regulations which the CEO is obliged to take into account. In my view this is not good enough, as the regulations may easily be changed. The wording of the bill even contemplates that the government may in fact not prescribe any regulations in relation to sections 31 and 32. I do not propose to move these amendments today, in order to assist the expedited consideration of the bill, but when the bill is debated in the Senate it may be appropriate to do so if discussions have not proceeded to a satisfactory outcome on this point.

The bill also gives the CEO very wide discretion to make decisions. It is vital that the appointment be of a person who is widely respected, as the credibility of the agency will depend on the personal authority of its head. The position should therefore be filled by a thorough process to obtain a world-class expert with the authority and judgment that the role requires, and I certainly understand that the government has that in mind.

On the second issue I have raised, which is representation of the interests of the public, I want to go through the processes that the bill sets in train and then some suggested improvements. The Radiation Health and Safety Advisory Council, as set out in the bill, will identify emerging issues, examine matters of public concern and advise on the recommendations from the other two committees. It also has the general power to advise the CEO on its own initiative or to look at things referred to it by the CEO.

The second committee, the Radiation Health Committee, is a specialist body for radiation protection, looking at national policies, codes and standards and the promotion of these policies. It can look at things only at the request of the chief executive or the council. The third committee, the Nuclear Safety Committee, has the parallel role in relation to matters of nuclear safety and is similarly restricted in what it can look at.

I note that the outline in the explanatory memorandum states that the Radiation Health and Safety Advisory Council will include, amongst others, consumer groups. However, this is not required in the bill. It also fails to give appropriate weight to the environmental issues, which ARPANSA will be responsible for.

Instead, we see that the minister has said that he will appoint a single person who will 'represent the public interest'. I would have thought that it was the purpose of the entire committee and all of its members to be committed to protecting the public interest. This language actually misses the point that the council and the two committees need to include people who represent those with different views. There is a need for debate between experts to ensure that our system for radiation protection and nuclear safety is first rate. We will not get that if the members are carefully selected to accord with the views of, say, the chief executive or of any established orthodoxy amongst the key players in the industry.

We in the Labor Party believe that it is very important that the advisory council has on it, by legislation, people who represent the broadest range of opinion in the community. The minister has indicated that he intends selecting people who do not come from a narrow group. However, there is always the prospect that some will feel excluded or, more likely, that a future minister may not abide by any understanding that is not reflected in the words of the legislation. I believe that the relevant three clauses should be amended so those selected by the minister to 'protect the public interest' are specifically people selected from nominations by national consumer and environmental groups. I have made these suggestions to the minister and I understand it may be possible to agree on new words that achieve this objective.

I am pleased that the government has agreed to an amendment proposed by the opposition in May when the bill was previously debated. This will ensure that someone from an area affected by a controlled facility is appointed to the Nuclear Safety Committee to represent local government. I also understand that, in the first instance, this will probably be a representative of the Sutherland Shire, which is the area surrounding the Lucas Heights facility. I have received representations from the Sutherland Shire and they have been very detailed and professional. I think they have lobbied on behalf of the residents of their area very effectively and certainly merit being directly represented on the Nuclear Safety Committee. I would appreciate hearing more from the minister about how he proposes to ensure that other areas with controlled facilities are to be represented.

As it happens, I represent the electorate where there is another facility—the Australian Radiation Laboratory—which has operated successfully for many years and has very good relations with its local community. It does an outstanding job in carrying out its functions. My view—and I put this to the minister—is that each facility should be proactive in engaging with its local community to ensure public confidence.

All that we are talking about today is not something that should be done on the cheap. If Australia is to ensure the application of radiation and nuclear technologies that are safe, well managed and get the public's support, we must ensure that we have the best expertise, a capability to do our own research and access to the latest techniques for measuring risks and monitoring the impact of radiation.

ARPANSA is intended to be self-funding and the Australian Radiation Protection and Nuclear Safety (Licence Charges) Bill 1998 provides for charges to be levied on the holders of source licences and facility licences. The bill makes no provision about how these charges are to be set. What I would seek from the minister is an assurance that the new agency will be given a budget which is adequate for it to properly fulfil its statutory role. It is essential that ARPANSA has the resources to enable it to be well informed about the best practice around the world in the management of risks from the use of radiation and nuclear materials.

I understand that the principal holders of licences will mainly be other Commonwealth agencies such as ANSTO. There is a major risk that pressure from these agencies will result in ARPANSA being given an inadequate budget and being left as a toothless tiger. There is also a risk that shortage of resources will result in lengthy delay in the development of the standards and codes that are foreshadowed. I would appreciate the minister's advice about how this is to be avoided.

As I said at the start, the opposition supports the establishment of a strong and credible national regulatory framework for the control of applications of radiation and nuclear materials for medical and scientific purposes. I recognise that the bill is to be given expedited passage, and I support this to make sure that the legislation becomes effective as soon as practicable. I trust that the minister will be able to provide the information that I have sought before the bill is debated in the Senate and that he will give consideration to any minor amendments arising from my comments today.

Mrs VALE (Hughes) (3.45 p.m)—Before I begin on this important legislation, I would like to point out to the member for Jagajaga that I note she has made some criticism of the phrase 'to represent the interests of the general public'. But it was actually her predecessor, the member for Dobell, who insisted on this phrase being inserted during the last parliament.

Also, I noted that the member for Jagajaga raised, in her concerns about this legislation, how the local council would perhaps be represented on the committees.

Ms Macklin—I said it was a good thing.

Mrs VALE—It was a good thing that it would be. Clause 26(d) of the legislation provides for a person to represent the local government or the local administration of an area affected by a matter relating to the safety of a controlled facility.

Ms Macklin—I am very happy about that.

Mrs VALE—Yes. Thank you very much. It is something that I think the people of Sutherland Shire are interested in seeing put into the legislation.

Mr Deputy Speaker, this is the second time this legislation has been presented in the Main Committee. As a member who has one of the 'controlled facilities' in my electorate, being the nuclear research reactor at Lucas Heights, I have a personal interest in ensuring the progress of this important legislation. I am grateful that our government is determined to act upon the recommendations of the research reactor review of 1993 to enact this important legislation.

Also, I think I noted that the member for Jagajaga actually said that the Labor Party had been working towards this type of legislation after the recommendations of that review. I must say we never saw—

Ms Macklin—No, we initiated the review.

Mrs VALE—Exactly. But there was no—

Mr DEPUTY SPEAKER (Mr Nehl)—The member for Jagajaga has had her opportunity.

Mrs VALE—That is all right. I am wanting to assist the Main Committee, Mr Deputy Speaker, just to clear it up. I do not want to verbal the member for Jagajaga.

Ms Macklin—That is not what I said. **Mrs VALE**—My understanding is that, despite the initial review being done during the Labor Party government in 1993, there did not appear to be any perception that any recommendations of that review actually had been put into force.

It is with great concern that this legislation does again come before the Main Committee. I acknowledge the work of the previous Parliamentary Secretary to the Minister for Health and Family Services, the member for Adelaide, and also acknowledge the Minister for Health and Aged Care for bringing this legislation again before the Main Committee today. I refer to my speech on 14 May this year when this matter was initially presented. I understand that perhaps I will have very little time to canvass many of the issues that I raised in that speech, Mr Deputy Speaker.

It is important for my constituents because, for the first time in 40 years since the establishment of the facility at Lucas Heights, they are going to have an oversight agency which will protect the people and the environment. This is an oversight agency and the Australian Radiation Protection and Nuclear Safety Agency will be responsible to the Minister for Health and Aged Care, not the minister for science. It will actually operate at arm's length from the activities of the Australian Nuclear Science and Technology Organisation and will reflect the world's best practice to have an independent regulatory agency that will act for the people and for the protection of the environment in our area and, indeed, Australia-wide.

The government is to be commended because it is acting in that regard. It gives me some satisfaction to welcome this legislation for an independent regulatory oversight agency, together with the enabling bills to cover the licensing charges and consequential amendments.

The nuclear research reactor at Lucas Heights has been in my electorate of Hughes for almost 40 years. It is important that the Main Committee is aware that this is a research reactor which operates at 10 megawatts whereas a power reactor operates at 3,000 megawatts. I just stipulate that because there often is some confusion regarding nuclear reactors and there are differences.

By way of history, the reactor was built in the Sutherland Shire in the mid-1950s and it was completed in 1958 when I was a child at Sylvania. The research reactor has been operating in my electorate for almost 40 years and, in that time—and most importantly in recent years—with a significant growth in world consciousness about scientific safety and environmental protection, the facility has established a sound safety record which it scrupulously maintains in accordance with community expectations. The facility employs between 800 and 900 local people, many of whom are my constituents. It has a policy of positive support for local businesses and tradespeople. It contributes almost \$50 million to the economy of my electorate. So it is a very important facility for the electorate of Hughes.

It also produces nuclear isotopes that are used in the delivery of diagnostic and therapeutic health services to thousands of Australians. As a matter of fact, the isotopes produced at Lucas Heights save many Australian lives and are depended upon by an increasing number of Australians as medical science expands its application of nuclear medicine.

However, it has long been a concern of mine and many other residents in the Sutherland Shire that, although the facility has been operating safely now for 40 years, its regulatory regime has been significantly inadequate, given the growing world consciousness regarding health and safety issues and the heightened awareness of our responsibility to our environment, especially in the last decade. It is amazing that the previous government never had the political will to provide the proper legislative base for the appropriate regulation of nuclear installations and radiation activities in Australia.

The facility was thought to operate under conditions laid down by the International Atomic Energy Agency, but this was dismissed by the research reactor review in 1993. This review found that, up to the present, ANSTO had operated under authorisation issued by its board to its executive director. As I pointed out in my earlier speech, the Nuclear Safety Bureau had referred to this as, amongst other things, a de facto licence. Minutes from meetings of the Safety Review Committee show that, in certain areas of operation, there has been regular confusion between the Nuclear Safety Bureau and ANSTO as to who has jurisdiction in certain areas of operation. Although the International Atomic Energy Agency has set the ground rules for independent regulation of the nuclear industry, by which most countries abide, the previous government had allowed the situation to drift along. The research reactor review in 1993 concluded that this state of affairs could no longer be allowed to continue.

It has been of immense personal concern to me, since my election as the member for Hughes, to ensure that appropriate regulation comes to fruition. It is with great satisfaction that I have been able to successfully lobby the government and the cabinet to take these actions necessary to put into legislation the recommendations of the research reactor review in this regard.

There is wide support from the various sections of the community for this legislation. The New South Wales state Minister for the Environment, Pam Allan, has stated that the Environment Protection Authority, which administers the

radiation control act in New South Wales, confirms its support for a national uniform approach to the control of radiation. The Mayor of Sutherland Shire Council, Mr Kevin Schreiber, stated:

Council supports this bill and hopes that it will enjoy the confidence of the Senate and it will be passed as soon as possible.

The council also supported the establishment of the oversight agency in submissions to the research reactor review in 1993 and more recently in the Senate inquiry.

The prime object of these bills is to protect the health and safety of the people of Australia and to protect the unique Australian environment. These bills give effect to the cabinet decision to enact the legislation to provide this protection by the regulation of all its Commonwealth radiation and nuclear activities, and to provide the statutory base for the regulatory safety agency to be called the Australian Radiation Protection and Nuclear Safety Agency or ARPANSA. As directed by cabinet, the resources and expertise of the Australian Radiation Laboratory—the ARL—and the Nuclear Safety Bureau—the NSB—to form the Australian Radiation Protection and Nuclear Safety Agency come within the health and family services portfolios.

ARPANSA will establish a regulatory scheme to oversee the operation of the Lucas Heights facility and the management of radiation sources, including ionised material and apparatus and non-ionising apparatus, where such activities are undertaken by the Commonwealth, Commonwealth entities and all those who do business with such entities. This legislation will provide a complete, independent oversight body for the better protection and assurance of all my constituents. Most importantly for my constituents, a Radiation Health and Safety Advisory Council will be established under the legislation and there will be capacity within the working groups for local representation. Again, I mention the legislation for local council representation on the Nuclear Safety Committee. Clause 26(1)(d) provides for: . . . a person to represent the local government or the local administration of an area affected by a matter related to the safety of a controlled facility.

It will be a direction of the CEO of this agency that matters to which he must give consideration will include consideration of world's best practice. These directions will be listed, as appropriate, in the regulations.

The direction will apply to corporate bodies of the Commonwealth like ANSTO and the Commonwealth Scientific and Industrial Research Organisation and Commonwealth business enterprises like Australian Isotopes. It will also apply to non-Commonwealth contractors who work under contract to one of the aforementioned entities.

This legislation will also impose regulatory controls on the operation and decommissioning of ANSTO's research reactor and the disposition of spent fuel. It will regulate and license each stage of the life of the replacement research reactor. ARPANSA will also regulate the establishment of a national nuclear surface radioactive waste repository. This national repository will provide for low and intermediate level waste suitable for shallow ground burial and will arrange for the safe storage of material not suitable for disposal in other ways. Mr Deputy Speaker, the waste generated from nuclear reactor operation is a real problem. The storage of waste, especially in the repository up at Lucas Heights in my electorate, has been of great concern to my constituents for many years.

It is with significant interest and appreciation that we welcome this government's announcement of its selection of a designated site for this purpose in South Australia. This government is committed to the health and wellbeing of the Australian people and the Australian environment. Its actions in implementing the recommendations of the Senate Select Committee on the Dangers of Radioactive Waste show that commitment, as does the implementation of this legislation.

Dr WOOLDRIDGE (Casey—Minister for Health and Aged Care) (3.56 p.m.)—I will just sum up, as I understand that this debate is to be adjourned, and I would like to thank honourable members for their contribution. The Labor Party raises a number of points that I am happy to take on board. The first point relates to the nature of representation on the Radiation Health and Safety Advisory Council. I am happy to look at a form of words around that. I point out that what the shadow minister is seeking to amend was a Labor Party proposal in the first place. While we are happy to look at it, I point out that consumers in this area are physicians in nuclear medicine. I would prefer that organisations had the opportunity to put names forward and that I make a choice after receiving those.

The opposition raises a point on international best practice: this is sensible and we are happy to take it up. The opposition raises a third point regarding the CEO. Naturally, we would follow the practices that are well established over the last 15 to 20 years of government for doing that.

On the issue of a representative of local government, I am very mindful of this. The member for Hughes was a very forceful advocate for this prior to the last election and, clearly, given that ANSTO resides in her electorate, the Sutherland Shire Council will have a specific interest. I will be mindful of that when making appointments.

This bill has been delayed as it was one that did not get through the Senate. Clearly, it is important that we have some nuclear regulatory framework in Australia, so I look forward to its speedy passage. Finally, in terms of the point about funding that I understand the shadow minister raised, section 55 of the bill does allow funding. In fact, the

Commonwealth funding for this will continue. The issue of cost recovery is only if the organisation, ARPANSA, wishes to supplement its funding over and above the current budgetary appropriation.

I thank honourable members for their contribution.

Debate (on motion by **Mrs Elson**) adjourned.

AUSTRALIAN RADIATION PROTECTION AND NUCLEAR SAFETY (LICENCE CHARGES) BILL 1998

Second Reading

Consideration resumed.

Mr DEPUTY SPEAKER (Mr Nehl)—The question is that the bill be now read a second time. Question resolved in the affirmative.

Bill read a second time.

Mr DEPUTY SPEAKER—If no member wishes to consider the bill in detail, I will put the report question forthwith. The question is that the bill be reported to the House without amendment.

Question resolved in the affirmative.

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