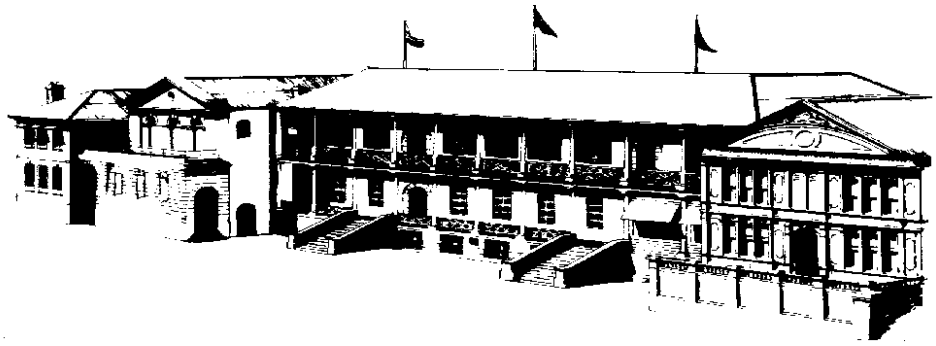
NEW SOUTH WALES



Legislative Assembly

PARLIAMENTARY DEBATES

(HANSARD)

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SECOND SESSION

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Wednesday, 14 October 1998

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THE PARLIAMENT OF NEW SOUTH WALES

LEGISLATIVE ASSEMBLY

Wednesday, 14 October 1998

Mr Speaker (The Hon. John Henry Murray) took the chair at 10.00 a.m.

Mr Speaker offered the Prayer.

HOME INVASION (OCCUPANTS PROTECTION) BILL

Second Reading

Debate resumed from 13 October.

Ms MEAGHER (Cabramatta) [10.00 a.m.]: I support the Government's Home Invasion (Occupants Protection) Bill. I am pleased that the Government has chosen to amend the law to clarify the right of citizens to protect their families and homes from criminals who threaten their safety and property. The bill is the result of a consultative process between the Government and the Hon. John Tingle. I commend the honourable member for his pursuit of this matter and the Minister for Police for ensuring its success. Honourable members have heard on several previous occasions details of the violent and traumatic circumstances to which victims of home invasions have been subjected. There has also been considerable publicity regarding home invasions, particularly amongst the Vietnamese community in south-western Sydney.

I am particularly pleased that this legislation will highlight the right of occupants to defend themselves and their property from criminals. Home invasions usually involve violent assaults that leave victims with a sense of helplessness and insecurity. The trauma of a home invasion is a lingering one. One's home is usually considered to be the safest place to be. We all take it for granted that amongst our families and within the walls of our homes we are safe from violent crime. It is for these reasons that the Government believes the community will be better served by a clarification of the laws of self-defence and the defence of others.

The bill provides that where a simple test of self-defence of one's home is satisfied there can be no finding of criminality against a victim of a home invasion who seeks to protect his or her family and home against an intruder. This legislation will not allow people to act as vigilantes, because it includes a requirement whereby self-defence of property and the occupants of such property is contingent on the belief on reasonable grounds that the degree of force used in self-defence was necessary. The reasonable grounds requirement is to be interpreted with reference to the victim of the home invasion. No legislation could possibly attempt to do otherwise, as each situation and circumstance is unique and must ultimately be judged individually. This does not alter the current law of self-defence or defence of others that applies to occupants of dwellings, but converts the current common law of self-defence or defence of others to a statutory form applicable to occupants of dwellings.

Home invasion is a real and continued threat that is especially intimidating for families who, for whatever reason, be it distance or language, feel isolated from their neighbours or the police. The bill clarifies the law by clearly preserving the right of people to feel safe and secure within their homes. People have the right to protect themselves and their loved ones. They have the right to believe that their home is their castle and that they are safe from violent crime. The bill is important because it takes judge-made law and codifies it in line with community expectations. It will ensure that a legal system becomes a justice system. I therefore commend the bill to the House.

Mr MacCARTHY (Strathfield) [10.03 a.m.]: The Opposition supports the bill but wishes to place on record the Government's opportunism in introducing this bill. Three years ago a similar bill was introduced in the upper House by the Hon. John Tingle, and a bill with similar intentions, the Home-Owners Defence Bill, was introduced in this House by the honourable member for Gosford. That bill was debated in September, October and November 1996, but debate was quashed by the Government and since that time it has been left to languish on the business paper. The Government and the Minister for Police have introduced this legislation as if it were a Government initiative. It is typical of the Government and the Minister to take advantage of the initiative of others. Having initially objected to the legislation, voted against it and taken every step possible to prevent it from becoming law, it now claims the bill as a Government initiative.

Honourable members will recall that two years ago the honourable member for Vaucluse sought to introduce the Traffic Amendment (Street Racing) Bill. The Government opposed the bill, but soon after introduced its own bill, the Traffic Amendment (Street and Illegal Drag Racing) Bill—90 per cent of which was identical to the original bill—and claimed the legislation as its own. I could cite numerous examples to demonstrate that the Opposition and the crossbenchers in this Parliament are setting the agenda on these sorts of issues. The Government should hang its head in shame that it is not guiding the agenda.

The bill has several objects. First, it declares that it is the public policy of the State that New South Wales citizens within their homes have a right to enjoy absolute safety from attack by intruders. Second, it sanctions the use of physical force by an occupant in defence against an intruder if the occupant believes on reasonable grounds that such force is necessary. Third, it provides immunity to occupants from criminal and civil liability arising from anything done by them that is sanctioned under the proposed Act.

The community is sick and tired of crime, and home invasions in particular. Approximately 382 home invasions were recorded in Sydney between 1995 and 1997. That is an average of 130 per year. That figure may not seem high in proportion to the number of residents of this city, but it is the nature of the crime that makes the figure so serious and worries the community so much. As the honourable member for Cabramatta said, an Australian's home should be his castle, just as the proverbial Englishman's home is his castle, and home invasions strike at that assurance that people have a right to expect. Currently citizens rights are set down in common law, but they are not commonly understood and previous speakers have drawn attention to that fact. When outlining his bill on the same topic on 26 September 1996, the honourable member for Gosford stated:

> Ordinary citizens in this State are in urgent need of a simple legislative process that lays down their right to self-defence. At the present time their rights are not stated in statute law. They are reflected in court decisions that have evolved over hundreds of years, but that is no longer tenable. The public need to know where they stand when confronted with danger when their property or their family is under attack, when trespassers are upon their property or when they are being unlawfully confined by the aggression of another.

In saying that the honourable member for Gosford was addressing his bill, the provisions of which were more comprehensive than those contained in the bill currently before the House. However, as has been said, this bill is an attempt to set down in plain words a simple test of self-defence, a simple test of defence of others and defence of property. This legislation sanctions the use of force by an occupant of a dwelling house if he or she believes on reasonable grounds that it is necessary to use such force against an intruder. Clause 7 provides that an occupant of a dwelling house may also act in defence of any other person in the dwelling house against an intruder if the occupant believes on reasonable grounds that it is necessary to do so. Clause 8 provides that an occupant of a dwelling house may act in defence of any property of, or within, the dwelling house against an intruder if the occupant believes on reasonable grounds that it is necessary to do so.

The bill also positions the onus in the right place. Clause 9 provides that what constitutes reasonable grounds for the purposes of clauses 6, 7 or 8 is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be and not coldly and clinically many months after the event. I believe that is an important inclusion. It makes it abundantly clear that those considering the matter have to put themselves in the position of the person who was confronted and examine the circumstances as the occupant perceived them to be.

I will not read clauses 10, 11 and 12, but they also give a very clear message that the legislation is designed to protect the occupant. It espouses the occupant's viewpoint. That is important and worthwhile. I had a problem with the wording of the bill in that it states that the occupant may act in self-defence if he or she believes there are reasonable grounds to do so. I am not a lawyer and I am not sure whether that encompasses the action and the extent of the action. However I note the Minister's explanation of this in his second reading speech. He believes that this wording covers both situations: that the degree of force used was necessary and that there were reasonable grounds for doing so. I trust that my reservations about that are unfounded, and I will accept the Minister's word for that.

The bill is a reasonable attempt to improve the law. It is a step in the right direction and it certainly should be supported. However, I want to contrast this bill with a bill that is still on the notice paper, the Home-Owners Defence Bill which was introduced by the honourable member for Gosford. The wording of that bill is more precise. For example, it excludes those who inflict intentional death or grievous body harm when defending property. It makes a distinction in that instance and it contains a number of other provisions. The bill introduced by the honourable member for Gosford

bestows the right to self-defence on a person, not merely on an occupant. The omission of a similar provision is a serious failing in the bill before the House. I hope the Minister will address that in Committee.

This bill refers to an occupant, but what constitutes an occupant is not defined. One would have to refer to the dictionary which suggests that in my house I am an occupant and I can defend myself and my family against an intruder. However, on my reading of the bill someone who is a guest in my home is not an occupant of my home, and that person cannot defend me against an intruder. The bill fails in that respect. The bill's reference to the occupant of the home does not include someone visiting from time to time; it means the person who dwells in the home. There may be some obscure legal meaning that encompasses that, but that aspect needs to be addressed.

The provisions of the bill introduced by the honourable member for Gosford are not restricted to the dwelling, but cover a wider range of situations. I cannot understand why the Government has sought to codify the common law in respect of a person's home but will not seek to codify the common law in respect of a person's workplace. The provisions of the bill do not cover a service station owner, a chemist, a liquor store owner, a shopkeeper, a taxidriver or anyone else in the workplace. The legislation proposed by the honourable member for Gosford gives a far better coverage.

I look forward to amendments to this bill that will bring an improvement in that regard. One can only speculate on the Government's motives. After three years of stonewalling on this issue it has suddenly brought forward this bill. One suspects an election is in the wind. Why did the Government not support the bill proposed by the honourable member for Gosford, which has been on the notice paper for two years? If the Government had reservations about any of its provisions, why did it not seek to amend them? For two years the provisions of that bill could have been law.

Having said that, I believe a better solution is available for the Government to take up. I welcome this bill and I welcome the Minister's conversion on this issue, like Paul on the road to Damascus. Half a loaf is better than none. However, I express the hope that the Government will support amendments to the legislation so that it will not be restricted to the home. I hope the Government will at least give me an assurance about the meaning of the term "occupant". Perhaps a more obvious example would be that of a passer-by who witnesses a home invasion in progress. If I am walking down the street, look through a window and see something happening, can I go to the defence of the person involved? What are my rights as a citizen if I seek to defend a person who is being attacked in his own home, if I am not an occupant of that home?

The bill is inadequate. As I said, the Government stonewalled and rejected the idea for three years, but with an election less than six months away now says it has to do something about law and order. It has suddenly introduced this bill when a better solution was available all this time. I congratulate the Hon. J. S. Tingle in the other place and the honourable member for Gosford for their efforts. They have pushed this concept for three years and have finally shamed the Government into doing something. As I said, half a loaf is better than none.

Mr E. T. Page: That is original. Did you just think that up?

Mr MacCARTHY: No, I did not just think it up. I thought a fairly trite statement might suit this Government. The bill is a step in the right direction but it is nowhere near adequate. There is a better solution on the notice paper which the Government, if it was fair dinkum, would take up and run with. It is clear that the Opposition is driving the legislative agenda on law and order. If the Opposition had not been pushing this matter for so long, as in so many other cases, the Government would still be sitting on its hands. To the extent that it has actually extracted the digit and started to do something, the Opposition welcomes the bill.

Mr TRIPODI (Fairfield) [10.16 a.m.]: I do not understand why honourable members insist on dragging things out when they have nothing good to say. The honourable member for Strathfield should have said simply that the Opposition agrees with the bill and supports it, and that would have been the end of it. However, he seems to have discovered reasons not to support it but nonetheless continued to speak for the entire time available to him. During the late 1980s and early 1990s home invasion crimes started to occur in the suburbs of Sydney and in rural communities. During that period we saw inactivity by the coalition Government, even though a new type of crime had developed and was becoming prevalent. That Government did not have a solution or any reaction to what was a developing phenomenon.

I agree with previous speakers to the debate that an enormous sigh of relief was heard in the suburbs of Sydney and the rural communities of

New South Wales when this bill was brought before the House. It addressed what had become a common urban myth. People I met at functions or in the street often said to me that they believed they had no right to defend themselves or their families, or to protect their property, when intruders came into their homes. Even though I would explain to them that under the common law they had the right to protect themselves, it was difficult for them to accept that it was the law. Earlier this year in Queensland a person who was protecting his home shot an intruder—and I think killed that person—and was not charged with an offence. From that point people began to appreciate that they actually did have the right to defend themselves.

This bill consolidates that belief and continues that process of education. The bill's introduction resulted in a substantial amount of relief in the community because it clarified that issue. Another myth that needs to be addressed is the suggestion that if an intruder injures himself on someone's property the occupants or the owners of the property are liable. I have attempted to explain the common law relating to negligence, but many people believe they are vulnerable and can be made to account for such injury. That is something that also needs to be clarified and in good time this House should put something on the statute books to clarify the situation.

The area I represent has been subjected to an enormous number of home invasions. The fact that the offence is usually committed by members of particular ethnic communities only serves to compound the fear that people experience, and rightly so. Home invasion is a particularly unpleasant offence. Unlike a break and enter or burglary that occurs in one's absence, the householder suffers not only the aftermath but also the trauma of the whole event. Only recently in the neighbouring electorate of Smithfield a person was killed in a home invasion. A lot of people, particularly the elderly, are too scared to leave their doors open during the day. This bill will bring enormous relief to householders because it will empower them to protect themselves.

The legislation has been well received and is one of the most popular reforms of the Government. It is a shame the community had to wait until the election of a Labor Government for this legislation to be brought to the fore. The legislation will enable householders, as a matter of right, to protect themselves, their families and their properties by clarifying the law of self-defence in the home. But, more importantly, the legislation will make permanent the right of self-defence in the home. That is the advantage of taking self-defence from judge-made law or common law and putting it onto the statutes. A number of people were uncertain about their rights because they knew that if they appeared before a judge a new precedent could be created and they would be the guinea pig.

Although the right of self-defence existed at common law, the risk remained that the law could change and that some person who protected himself would become the victim of a new precedent. That risk will be eliminated, and the right of self-defence in the home will be permanently enshrined in the statute books. It will be subject to interpretation, but not to change. The bill will ensure that a simple test of self-defence will apply to the householder. If the test is satisfied there can be no finding of criminality on the part of a victim of a home invasion.

Clause 6 codifies the existing law of self-defence of an occupant of a dwelling house against intruders. It provides that the person asserting self-defence must honestly believe, on reasonable grounds, that the act done in self-defence was necessary. That is balanced in two ways. First, the individual relying on the self-defence argument must have believed that the degree of force used was necessary. Second, the belief must have been based on reasonable grounds. Those two components create the crucial legal concept of proportionality, which is an important part of the common law. It is a subjective, rather than an objective, test. It is what the occupant believed at the time, not what a reasonable person might believe in the circumstances. That is important because some people can be more afraid in a particular circumstance than others.

If an objective test were to be applied, the consideration would be what a reasonable person would have done in the circumstances. Instead, the consideration is how a particular person felt when confronted with a situation and whether he or she had reasonable grounds for that feeling. For example, if a person who might be easily scared—such as an elderly person or a very young person—believed the force he was using was reasonable and necessary to achieve that self-defence, he can rely on the statutory defence of self-defence. Such a test will protect the householder or the occupant in those situations.

The force used must be proportional to the circumstances. If one were to see someone crossing the front lawn, but did not feel a genuine fear, one could not get out a gun and shoot. It is a very important common law concept that has been developed over many years, and I am pleased to see

its sentiments reflected in the bill. Clause 7 requires the application of an identical test to acts undertaken in defence of others. I am pleased that this defence has been extended to family members. The honourable member for Strathfield suggested that a person who did not live in the home being invaded could not rely on the statutory right of self-defence. On my reading of the bill I cannot see how any occupant, regardless of whether he lives in the home, would be unable to defend himself.

Nothing in the definition limits the definition of "occupant". The definition seems quite broad. A person living or staying in a home, regardless of whether it is his home, who finds himself in a home invasion situation, can rely upon the statutory defence of self-defence. Clause 8 extends the defence to property. The common law in this area has been unclear. Those who have relied on it have always been involved in using an uncertain and changing precedent. The test for property is the same as the two previous statutory defences. Provided that the occupant believed, on reasonable grounds, that it was necessary to do what he did, he can rely on the statutory defence of self-defence. The defendant must have believed that the degree of force used was necessary.

Clause 9 codifies the interpretation placed on the element of reasonable grounds. It states that the reasonable grounds requirement should be interpreted with reference to the position and perception of the defendant and not with regard to some completely objective analysis. Once again, clause 9 relies on the subjective test, which makes it stronger as well as protecting the occupant and his right to protect property. Clause 10 deals with the onus of proof. The prosecution bears the onus of disproving the defence beyond reasonable doubt, once it has been raised by the defendant. It empowers the occupant to protect himself.

The burden of proof on the prosecution derives from the fact that the intruder should never have been in the home in the first place. Had the intruder not been in the home the situation would not have arisen, the occupant would not be in such a situation and he would not have to rely on the statutory defence of self-defence. Clause 12 details immunity from civil liability. This immunity is ensured, provided that the defendant acted lawfully in self-defence, defence of others or his property. There would not be much joy in the legislation for an occupant if he were not liable criminally, but liable civilly. The statutory exclusion of civil liability is important because it protects the innocent person who is trying to protect himself, his family or his property.

This bill is highly celebrated in the community. The law is being clarified. As I have already said, the bill makes the right for occupants to defend themselves against invaders of their dwelling houses permanent. Judges will not be able to change that provision; it will be enshrined in statute and people will always be able to rely on it. A person facing a court case after having defended himself or herself from a home invasion will not run the risk that the court will set a new precedent and in some manner dilute his or her right. This bill makes it clear that if an intruder comes onto one's property and places one, one's family or one's property at risk then one can defend oneself knowing that the law is on one's side. This principle has been celebrated, particularly in my community of Fairfield, where the offence of home invasion is common. Probably no other law and order initiative has been celebrated more than this. I congratulate the Minister on introducing this bill, and I reiterate my support for this legislation.

Mr ELLIS (South Coast) [10.31 a.m.]: I support the intention of this bill, which makes clear the right of the owner or occupant of a dwelling house to protect himself or herself and others in the house from home invasion and its consequences. The honourable member for Fairfield referred to comments made by another honourable member about who has the right to protect property and people within a dwelling. Clause 8 states:

> An occupant of a dwelling-house may act in defence of any property of, or within, the dwelling-house against an intruder if the occupant believes on reasonable grounds that it is necessary to do so.

Mention was made of a person who may be at a house as a visitor or on legal business, for example. It has been said that if an intruder invaded the home at that time then the visitor would have the ability to be treated as the resident. I question that. Clause 5 states:

> Parliament expressly declares that it is the public policy of the State of New South Wales that its citizens have a right to enjoy absolute safety from attack within their dwelling-houses from intruders.

Clause 5 makes it clear that citizens have a right to enjoy that absolute safety within their dwelling houses. The honourable member for Fairfield has said that under clause 8 a visitor would be able to stand in the place of the owner or the resident of a dwelling, but that does not appear to be the case. I query also whether the bill makes provision for shopping hours. Many paper shops, for example, are connected to residences. It would appear that when the shop is open a person acting in defence of his or

her property may not be covered by an occupant's immunity from criminal and civil liability because it could be argued that the business person or property was being attacked rather than the resident whose dwelling was attached to the business.

It seems that the bill has been the subject of a somewhat urbanised approach. No specific provision is made for buildings outside of a residence. In urban areas it is likely that the garage of a dwelling is attached to the house. Someone who heard an intruder in his or her garage would be able to open the connecting door from the house in order to protect his or her property, perhaps a car. A garage that is not connected to one's house is an outbuilding. Someone may hear an intruder in his or her garage that is not attached to the dwelling—and in some rural areas the garage could easily be 100 yards from the house. On inspection it could be discovered that an intruder is attempting to steal the car or business tools. Does the owner have the right to defend his or her private property? There are many grey areas and questions that need to be answered.

The right of an owner to protect his or her property, be it inside or outside a dwelling, is an issue in need of particular attention. In Sydney one's garage or storage area may well be connected to one's dwelling, but in rural areas storage areas are often located in outbuildings. There are many market gardens on the outskirts of Sydney. Those are businesses, many of which have a residence on the land. Some storage areas at those businesses will contain private property and some will contain business equipment. What right does an owner have to protect his or her business equipment from invasion as compared to the right to protect private property? This bill needs to include businesses and business equipment.

The concerns I have raised need to be addressed in order to make this legislation workable. It would appear that the legislation will be unworkable because of the many grey areas that are evident. Seemingly, there are many areas under which an owner's right to protect property will not be protected. Revision of these provisions is necessary for the benefit of those in rural and country New South Wales.

Mr HARRISON (Kiama) [10.36 a.m.]: I support this bill, which has been enthusiastically received and supported by every person with whom I have come in contact since the announcement of this legislation. It is a pity that Opposition members have become involved in carping criticism of the bill and its alleged shortcomings. Opposition members have been mouthing off about what they would do for shopkeepers, taxi drivers and other members of the community, yet during their seven years in government they did absolutely nothing other than turn bungee jumping into a crime. The credibility of Opposition members, after seven years of inaction on law and order, is seriously suspect.

This legislation, another action taken by the present Government, follows tough laws that have been passed in relation to the carrying and use of knives and the ability of police to break up youth gangs and move youths along. It follows the outcome of the Wood royal commission into paedophilia, a royal commission opposed by the coalition when it was in office. Had coalition members had their way, the royal commission would not have taken place. Opposition members are not able to point to any great philosophy or set of achievements on law and order. It does them no credit to come out with such carping criticism.

The honourable member for Gosford made one of the most bizarre speeches I have ever heard, referring to himself throughout as "the member for Gosford". I was left wondering whether the honourable member had picked up someone else's speech and then been unable to depart from it. He did not seem to realise that it was himself he was talking about. This bill makes consistent reference to reasonable grounds and to self-defence. The words "reasonable force" do not appear in the bill but it is clear that the bill is based on a person's common law rights, which are being codified in legislation.

What are reasonable grounds? What do the words "reasonable force" mean? What might appear to be reasonable in the circumstances that exist at the time a person finds that someone has entered his or her home for an illegal purpose or someone has violated his or her privacy? I give as an example a man who wakes up to find that someone has come into his home and has either bashed his aged mother and father to within an inch of their lives or is in the process of bashing or sexually assaulting his children. I do not think that person would stop to think what might be reasonable in the circumstances or what might be considered reasonable force. Anything that that person does in defence of his family, his property or himself would seem to me to be reasonable.

Clauses 11 and 12 in part 3 of the bill grant an occupant immunity from criminal and civil liability resulting from his or her acts. These days civil libertarians talk about the rights of everyone other than those who have been aggrieved in one way or another—citizens who have been set upon by

perverts, hooligans or criminals of one sort or another. In my opinion—and I make no apologies for this—when someone violates another person's home he foregoes any rights that he may have. All the rights exist with the home owner, the home occupant or the person being set upon by another person intent on an illegal purpose. It was stated earlier in debate that 382 break and enters occurred over a three-year period. That sort of activity, which has been going on for the last 10 or 12 years, seems to be on the increase.

Regardless of any of the provisions in the bill, that activity will continue. Those who break into another citizen's home, either to violate the home or to bash aged people or children, represent the dark side of humanity. It is enough to reduce one to tears when one sees old ladies and gentlemen being interviewed on television or one reads in the newspapers about and sees graphic photos of people in their late eighties or nineties who have been bashed to within an inch of their lives. Those bashings might not result in their immediate death but it takes away the quality of their lives and, within a short period, could result in their death because of their experiences. There is no excuse for that sort of behaviour and no protection should be given to anyone contemplating such an action. All the rights are with the people who are being aggrieved, the home owner, the home occupant or the family member. I refer now to clauses 5 to 10 of the bill. Clause 5 states:

> Parliament expressly declares that it is the public policy of the State of New South Wales that its citizens have a right to enjoy absolute safety from attack within their dwelling-houses from intruders.

Clause 6 enables an occupant "on reasonable grounds" to act in self-defence against an intruder. Clause 7 enables an occupant, again on reasonable grounds, to act in defence of another person. Clause 8 enables an occupant, again on reasonable grounds, to act in defence of his property. It goes without saying that it is reasonable for a person to do anything to defend himself, his family or any other occupant of the home in which he lives. That has been spelled out in the bill. People who act in defence of their property, themselves or their families will now be immune from criminal and civil liability. That is a big step forward. Take the case I mentioned earlier of someone in his or her late eighties or nineties or a small child who has been bashed. In the case of a child reasonable force does not come into the equation. Children do not have the physical ability to defend themselves. All the laws in the world could determine that children have the right to do this or that, but they do not have the physical ability to defend themselves. Whilst this bill is welcomed it will not offer children much assistance.

In addition to introducing a bill to give people a right to defend themselves, this Government introduced legislation to increase the maximum penalty for home invasion to 20 years imprisonment. I am not sure whether that should not be a minimum sentence. There is no excuse at all for anyone to enter another person's home and to in any way intimidate that person or cause him hurt. There are two places that one has the right to go into and remain in without being intimidated or stood over in any way: one's home and one's place of work. One has to go to home because that is where one lives and one has to go to work because that is where one obtains a livelihood. No-one should be intimidated in either of those circumstances.

If someone goes into a pub, gets into a fight and gets done over, it might be his fault as he should not have been there in the first place or he might have picked the wrong company to be with. The Government will not accept any excuses for someone going into another person's home and bashing, robbing or causing that person discomfort. I support this bill. It does not legalise serious assault outside the home situation or the property. As I said earlier, the legislation should apply not only to the residence but also to the curtilage. The Minister might be able to explain that provision in the bill. However, at least the bill enshrines a citizen's right in his or her home to take such action as is necessary to protect himself or herself. I unhesitatingly and unequivocally support the bill and commend its passage in this House.

Mr DEBNAM (Vaucluse) [10.47 a.m.]: I am delighted to speak to the Home Invasion (Occupants Protection) Bill. I am concerned about some aspects of this legislation but, as was mentioned earlier, the Opposition generally supports the thrust of the bill. I will quickly address my concerns. I refer to my speech on 14 November 1996, almost two years ago, on this topic. I suppose that my fundamental concern is that this legislation is purely an election stunt. That is of the greatest concern to the New South Wales community.

Mr E. T. Page: Vote against it. Record your name against it and we'll see where you stand.

Mr DEBNAM: It will be of great concern to the community in the Minister's electorate when I point out over the next few months what the Government is doing with this legislation. Generally, the thrust of this legislation is correct. This much-needed legislation has been required for some

time. It is interesting to refer to a Parliamentary Library briefing paper in which has been included statistics on home invasion which has been defined as "armed robbery in the home". The paper makes the point that there have not been many incidents of home invasion—between 100 and 200—over recent years. The next paragraph of that briefing paper refers to the number of break and enters. In the period that this Government has been in office the number of break and enters in New South Wales has swelled from 61,000 to almost 80,000. In Sydney the figure has swelled from 43,000 to 56,500. That is of huge concern to the community.

Not many people who are woken suddenly in the middle of the night—say at 2.00 a.m. or 3.00 a.m.—would differentiate between the library's definitions of "home invasion" and "break and enter". They are simply aware of the presence of an intruder in their home, perhaps in their bedroom, and are obviously extremely concerned. Over the past 10 years I have had two personal incidents of intruders. One incident was when I arrived home early in the evening to find an intruder had broken into my house. He heard me coming in the front door and was quickly out the back door before I could catch him. The other incident, which I do not believe is covered by this legislation, occurred when I was staying in a motel. I awoke at 2.00 a.m. or 3.00 a.m. to find a man had climbed through the window of the motel room and was standing 10 feet away from my wife and me.

As I said on 14 November 1996, one of the concerns of the Opposition with this legislation is that the Government trivialises this whole topic. It is of real concern to the community. If the Minister does not know that, he should hold a public meeting and ask community members what they think about the Government's two-year delay in implementing this legislation. He should ask all the people who have experienced home invasions over the past two years about the Government's decision to hold back on this legislation. The Government held it back simply to use it as an election stunt. That is why the community holds this Labor Government in such contempt.

I can go anywhere in Sydney, whether in public housing estates or other communities, and the first thing people do is invite me into their homes. The second thing they do is tell me of their passionate contempt for the Premier. That opinion is held by people right across Sydney and New South Wales. It is because of stunts like this that the community holds the Government in utter contempt. I am concerned that this legislation does not cover intruder situations in motels and hotels. Clearly, this bill has been rushed through just prior to an election. With more forethought—and the Government has had two to three years to think about it—all the aspects could have been covered. I ask the Minister in his reply to respond to my concerns, such as intruder situations in hotels and motels.

Another issue of concern is the definition of "intruder". The legislation defines "intruder" as a person who makes an unlawful entry into a home and has either committed or is in the process of committing an offence. I will not give an intruder who is standing in my bedroom the benefit of the doubt, and neither will the rest of the community. If home occupants are woken at 2.00 a.m. by an unknown person entering their house it is unlawful entry. They do not know what the intruder will do and they will not give him the benefit of the doubt. This legislation should protect homeowners, occupants and people staying in hotels and motels in such situations.

The real concern that the community has with this legislation is that it ties in with everything the Government has done—or rather has not done—in its four years in office. The few pieces of so-called reform that the Government has introduced—and this Minister has been involved in several of them—have been absolutely farcical. The community can see straight through the Government's strategy. It has monitored this Government, whose members have sat in office for 3½ years and done absolutely nothing but fought amongst themselves. Then in the last five months of its term of office it introduces legislation that will not have any benefit for the people of New South Wales. The legislation has achieved a headline in one or two newspapers, and a few people will applaud it until they examine the legislation.

The legislation has not been properly considered. Given the two to three years notice that the Government had the bill should have been given proper consideration. From March next year the coalition will have the opportunity to clean up and improve this legislation. The coalition members who contributed to this debate indicated that the Opposition will look at extending the legislation to cover people in businesses, particularly retail premises. I ask the Minister to respond to concerns about hotels and motels and the definition of "intruder". People do not want to determine in the middle of the night whether an intruder has also committed or is in the process of committing an offence other than the offence of unlawful entry. As far as the Opposition is concerned, it is unlawful entry into the home. People must be allowed to react as they see fit in the circumstances and must be

covered from criminal and civil liability proceedings. A number of elements of this legislation need to be improved.

Pursuant to resolution business interrupted.

SENATE VACANCY

Joint Sitting

At 10.55 a.m. the House proceeded to the Legislative Council Chamber to attend a joint sitting to choose a Senator in the place of Belinda Jane Neal, resigned.

At 11.14 a.m. the House reassembled.

Mr SPEAKER: I report that at a joint sitting of both Houses this day for the purpose of electing a person to fill the seat in the Senate vacated by Senator Belinda Jane Neal, Stephen Patrick Hutchins was duly elected.

HOME INVASION (OCCUPANTS PROTECTION) BILL

Second Reading

Debate called on, and adjourned on motion by Mr Gaudry.

POLICE SERVICE AMENDMENT (SPECIAL RISK BENEFIT) BILL

Bill introduced and read a first time.

Second Reading

Mr WHELAN (Ashfield—Minister for Police) [11.14 a.m.]: I move:

That this bill be now read a second time.

Policing can be a dangerous occupation. Police officers are required by legislation to protect people from injury or death and to protect property from damage. This means that at times they have to put themselves in the way of danger in order to carry out their duties. Police officers and their families live with this risk. This Government believes that the police officers and their families should be properly compensated when an officer dies or is seriously injured as a result of this risk. Furthermore, all police officers should be treated equally in those circumstances. Changes to superannuation and workers compensation legislation have meant that police officers who joined the Police Service at different times have different workers compensation entitlements. This creates an inequity which I have been determined to remove.

In May 1996, I established the working party on workers compensation for police officers to address this issue. The working party's terms of reference were to examine and make recommendations on benefits for officers who are medically discharged, including special risk benefit and the adequacy of sick leave entitlements for officers injured on duty. The overall objective of the working party was to develop proposals to ensure fair workers compensation arrangements for police officers irrespective of the time they joined the Police Service. The working party included representatives of the Police Association of New South Wales, the Commissioned Police Officers Association, WorkCover Authority, Treasury, the Police Service and the Ministry for Police.

I am pleased that the President of the Police Association of New South Wales, Mark Burgess, and the Secretary, Peter Remfrey, are in the gallery while I am making this important second reading speech. The working party submitted its report to me in May this year. That same month I announced at the Police Association's biennial conference that the Government would implement the report in full. Several of the working party's recommendations require changes to the Police Service Act. This bill implements those changes. In order to put the bill in perspective, I should explain the background to the working party. On 31 March 1988 the Police Superannuation Fund was closed.

For officers who joined the service before 1 April 1988, workers compensation provisions are included in their superannuation scheme. The legislation governing that scheme was tailored to the realities of police work. Officers who joined the service after 1 April 1988 are covered by the same workers compensation legislation that now applies to all other employees. This means that police officers working side by side and injured in the same incident may receive different workers compensation benefits depending on when they joined the service. This is obviously unacceptable. The issue of different benefits available to police officers has been of concern to the Police Association for a number of years. It has also been highlighted by the tragic deaths of several police officers.

The Government believes that when an officer is killed on duty the family of the officer should be looked after. When police officers are partially or totally incapacitated for work by injuries resulting from the risks of police work, they should be properly compensated. The working party found that

there are two important areas of workers compensation where special provisions need to be made for police officers who joined after April 1988 in order to make their compensation benefits equivalent to those of officers who joined before that date. The first area is special risk benefit, which is the subject of this bill. The second area is salary maintenance for officers who have a compensable injury and are unable to return to policing duties for a lengthy period.

A special risk benefit is already provided for in section 216 of the Police Service Act. The benefit is only available to police officers who are injured in circumstances of risk to which the police are exposed, but which are not a part of the environment of the general work force. The maximum amount of the benefit is currently 24 months salary. The working party found that this was not comparable with the equivalent benefit available to officers in the old Police Superannuation Fund. The bill therefore increases the maximum benefit based on a capitalisation factor provided by regulation. The method of calculation of the benefit will also change to make it fairer and more in tune with the realities of life. Currently the amount paid is based on the degree of risk in which injury is incurred.

The working party considered that this was somewhat arbitrary and took no account of the impact of the injury on the officer's life. The bill provides that the amount of benefit will depend on three factors: salary at the time of the injury, loss of income-earning capacity, and actuarially determined life expectancy at the time of the injury. In the case of death or total and permanent incapacity for paid employment resulting from the injury, the benefit will be paid in full. Officers who cannot be redeployed and are discharged with a partial loss of income-earning capacity will receive a proportion of the maximum available benefit. Of course, this payment is made in addition to the normal workers compensation benefits.

This will mean that the special risk benefit truly compensates an officer for the consequences of the injury, or, in the case of a death, compensates the officer's family. The bill also makes provision for an appeal to the Compensation Court in relation to decisions of the Commissioner of Police on special risk benefit. This brings it into line with appeal rights for other compensation-related benefits. As I mentioned before, the second area of workers compensation which the working party identified as needing reform is that of salary maintenance. The Workers Compensation Act provides for a period of 26 weeks of recovery and rehabilitation during which an employee will receive full salary. After that period, a statutory rate is paid which is considerably lower than the average police salary.

Whilst the 26-week period is fair and reasonable in the case of the general work force, it does not take into account the reality of injuries and rehabilitation for police. As I mentioned before, police officers are a special case: they are sworn to undertake duties that carry the risk of death or injury. For this reason police officers are more subject to serious injury than the average employee; and they are more likely to suffer an accumulation of injuries, which may require more extensive rehabilitation. The reality of this situation has already been acknowledged in a memorandum of understanding signed in 1996 by me, the Police Association and the Commissioner of Police. This memorandum of understanding provides for the topping up of the salary of officers who have exceeded the 26-week period to ensure that they continue to receive full salary for the period of their rehabilitation.

The agreement also brings benefits for post-1988 officers into line with those available to their colleagues, who are entitled to full pay for as long as they are on sick leave. The memorandum of understanding has been an interim measure pending the outcome of the working party. To date, the provisions of the memorandum of understanding have been paid for out of the funds made available by the termination of the old cashing in of leave scheme. The working party has recommended that the practice of topping up of salaries should continue and that an alternative source of funding should be identified. It is proposed that the entitlement to topping up of salary will be implemented by way of inclusion in the award by a consent variation.

That brings me to the matter of funding the implementation of the recommendations of the working party, including the provisions of the bill. I am pleased to advise that the Government has agreed to provide additional funds to the Police Service to pay both the special risk benefit and topping up of salary. I should also draw attention to one other key recommendation of the working party. That recommendation was that the Police Service's rehabilitation and redeployment policy for post-1988 officers should be reviewed. This is to ensure that police officers are given every opportunity and encouragement to undertake rehabilitation and, if necessary, redeployment to positions appropriate to their abilities. Implementation of an effective rehabilitation and redeployment policy will ensure that any payments made for special risk benefit and topping up of salary are minimised and, where

possible, police officers can continue to have useful and successful careers in the Police Service, or elsewhere in the public or private sector.

I have asked the commissioner to undertake this review immediately. Finally, I must note the contribution of the members of the working party in resolving this matter. Representatives of the Police Association, the Commissioned Police Officers Association, WorkCover, Treasury, the Police Service and the Ministry for Police have all worked hard over a long period to identify a solution that will restore equity to workers compensation for all police officers and will give officers and their families the security of knowing they will be looked after in relation to death or serious injury. In particular, I thank the Police Association for its commitment to this process and the professional approach it has adopted throughout. I commend the bill to the House.

Debate adjourned on motion by Mr Tink.

OLYMPIC ROADS AND TRANSPORT AUTHORITY BILL

Bill introduced and read a first time.

Second Reading

Mr KNIGHT (Campbelltown—Minister for the Olympics) [11.26 a.m.]: I move:

That this bill be now read a second time.

The Government's preparations for the Sydney 2000 Olympic and Paralympic Games have won national and international praise. Groups such as the International Olympic Committee, business leaders, and media commentators have endorsed our planning and our progress. Areas singled out for praise have included our construction program, our financial arrangements and our transport planning. As members would be aware, the final of these categories, transport, is one of the greatest challenges associated with staging the Olympic Games. The transport requirements of the Games place enormous demands on the host city—on the organising committee, on the Government, and on the community.

While much work remains to be done on transport for the Games, significant progress has been made. With a little under two years to go, our level of preparedness has been favourably compared with that of other host cities at a similar stage. The preparation and introduction of this bill represents another step in the Government's planning to meet the challenges of Olympic transport. Arising out of experiences at the 1996 Olympic Games in Atlanta, the Government identified the need for a single body to co-ordinate the planning and delivery of Olympic and Paralympic transport services.

On 4 March 1997 the Premier announced the Government's decision to establish the Olympic Roads and Transport Authority, ORTA, to carry out this important role. ORTA was formally created by the Public Sector Management (Olympic Roads and Transport Authority) Order 1997, gazetted on 9 May 1997. ORTA is a unique transport body in that it combines Olympic accountability and government authority. ORTA plans and manages transport for two clients. ORTA is responsible to the State Government for the co-ordination of public transport associated with Games-related movements such as for spectators, as well as non-Games related public transport such as the movement of commuters to and from work. ORTA is also responsible to SOCOG—the Sydney Organising Committee for the Olympic Games—for planning and co-ordinating transport for members of the Olympic and Paralympic family, including athletes, officials and accredited media.

These services must meet SOCOG's legally binding obligations to both the International Olympic Committee and the International Paralympic Committee under the host city contracts. Transport services will be provided, under ORTA's co-ordination, by the State's public and private sector transport bodies—including the State Rail Authority, the State Transit Authority, the Roads and Traffic Authority, the Department of Transport, the Bus and Coach Association of New South Wales and the taxi industry. However, ORTA's responsibilities to SOCOG will mean that ORTA will be directly responsible for the employment of a significant number of casual and temporary staff in the lead-up to, and during, the Games.

In establishing ORTA the Government recognised the fundamental importance of being able to physically test the Olympic transport system and of progressively re-evaluating planning for the Games. The 1998 Royal Easter Show at Homebush Bay in April this year was the first Olympic transport test event. The show was the first movement of large numbers of people to Olympic Park, and Sydney's biggest ever public transport operation for a special event. It involved a transport operation with a level of integration never before attempted in Sydney. The show transport operation also confirmed the wisdom of the Government's decision to establish ORTA as a specialist body with a co-ordinating role.

In requiring ORTA to regularly test and reassess transport planning for the Games, the Government gave it a responsibility to review the State's transport-related legislation to determine what, if any, legislative and/or regulatory changes are required for the successful implementation of Olympic and Paralympic transport. This role was outlined publicly in ORTA's Sydney 2000 Olympic and Paralympic Games transport strategic plan, released in January this year. This bill reflects the first outcome of ORTA's legislative review. The bill is consistent with the Government's aims in establishing ORTA, and with the direction of ORTA's work to date. But it moves forward in planning Olympic and Paralympic transport by applying some of the lessons of ORTA's first 17 months of existence. The bill covers ORTA's role and structure, its powers, and its relationship with other transport and Olympic agencies.

The bill seeks to: constitute ORTA as a statutory authority; specify ORTA's functions; provide that in exercising its functions in relation to the Olympic and Paralympic Games ORTA will have certain statutory obligations; provide for the declaration of transport areas and give ORTA a power to direct government authorities, other than police, to exercise in a particular way certain of their functions in these areas; authorise government authorities to comply with ORTA's requests, directions or decisions under the bill; oblige transport authorities to co-operate with ORTA, comply with ORTA's command and control plan, provide resources and assistance to ORTA and notify ORTA of matters which may impact adversely on the exercise of ORTA's functions; provide a mechanism for resolution of disputes between ORTA and government authorities, and give ORTA a dispute resolution role in relation to disagreements between transport authorities; give ORTA other ancillary powers to conduct any business related to its functions; acquire, hold and dispose of property, make and enter into contracts, appoint agents and act as agents for others; and establish a sunset provision for ORTA which requires that it be wound up by 15 September 2001, following a review of the Act after the conclusion of the Paralympic Games and a report to the Parliament.

It should also be noted that in relation to all of ORTA's proposed functions and powers, the bill does not affect the functions and powers of the New South Wales Police Service. ORTA does not propose to duplicate the role of the Police Service in any way, and the special role of police established in both legislation and the common law is preserved. The success of the transport arrangements for this year's Royal Easter Show was a tremendous achievement. ORTA won universal praise for its efficient and effective co-ordination of public transport to the show. This included generous praise from the IOC Transport Working Group and International Olympic Committee Vice-President, Anita De-Frantz, and the head of the International Olympic Committee Co-ordination Commission, Dr Jacques Rogge.

The work of Ron Christie, Chief Executive Officer of ORTA, in conjunction with David Richmond, Chief Executive Officer of the Olympic Co-ordination Authority, and many other authorities—especially the team led by Simon Lane of the State Rail Authority—was outstanding. The transport arrangements for the show were flexible and adaptable and were superbly communicated to the general public through the "hop on a train, hop on a bus" media campaign. In fact, over 85 per cent of show patrons travelled to this year's show by public transport. The New South Wales police, the Roads and Traffic Authority, the Taxi Council and local councils all played their part. Eight new special Royal Easter Show regional bus routes were established and were well patronised.

This success relied on the goodwill of all those involved during the Royal Easter Show. The Government and ORTA believe that most of ORTA's transport co-ordination objectives can be achieved through co-operation and the voluntary participation of transport agencies. However, not all problems and disputes which may arise in conjunction with transport for the Games will be able to be resolved in a timely fashion by such informal means. The transport co-ordination task for the Olympic Games is much bigger than that of the Royal Easter Show, and carries significantly greater importance nationally and internationally.

There will be only one chance to get it right. While the best efforts will be made to plan for every contingency, it is not possible to foresee every problem which may be encountered. There may be occasions when it will not be possible to resolve each issue by collaborative and co-operative discussion from other transport agencies. ORTA must therefore have the ability, if and when required, to make decisions and respond to situations quickly and authoritatively. ORTA must have a residual authority which ultimately enables it to control the provision of transport services by transport agencies and to resolve problems and disputes. This approach is consistent with the Government's decision to create a central Olympic transport organisation.

The bill gives ORTA the statutory authority it requires to ensure the smooth co-ordination of the Olympic and Paralympic Games transport task. In relation to establishing ORTA as a statutory authority, it needs to be noted that while ORTA remains the body that will plan and co-ordinate transport during the Olympic and Paralympic Games, its role is no longer confined to those tasks. The decision of SOCOG to delegate its transport obligations in relation to the Games to ORTA means ORTA's role now also includes some aspects of direct service delivery. ORTA will be required to actually provide services to meet SOCOG's responsibility for transporting the various members of the Olympic movement.

This will involve the fleet management of athlete, official, media and sponsor vehicles; the provision of cars and drivers; and site transport co-ordinators at all venues as well as at hotels and airports. This necessitates ORTA being placed on the same footing as the State's other transport delivery agencies. In delivering transport services for the Games, ORTA will need to employ, on a casual basis and for short periods, large numbers of staff. Establishing ORTA as a statutory authority will give it the flexibility needed to do so.

Under the bill, ORTA's principal functions in relation to and during the Games will be to: ensure co-ordination across relevant transport agencies, SOCOG and the Olympic Co-ordination Authority in relation to the delivery of transport services; develop policies, strategies and plans and set the direction for the delivery of integrated roads and transport services; co-ordinate and manage the road network and motor vehicle traffic; co-ordinate, procure and manage the delivery of public transport services during the Games; establish a command structure for transport services; prepare and co-ordinate relevant budgets for ORTA's operations; prepare and implement a transport management strategy to moderate Sydney's overall transport demands during the Games; develop and implement an effective demand management and public information strategy to obtain community support and co-operation for the movement of people; and control communication and public information in relation to public transport and roads.

In exercising these functions, ORTA will have to satisfy SOCOG's obligations under the host city contract in relation to Games transport services and similarly the responsibilities of the Sydney Paralympic Organising Committee in its contract with the International Paralympics Committee. ORTA will be responsible for ensuring that Games transport services are provided within agreed budgets and ensure the involvement of all relevant State regulatory agencies in the provision of Games transport services.

ORTA will also have to liaise and consult with the Olympic Co-ordination Authority concerning functions and responsibilities in the context of whole-of-government Games planning. ORTA will be required to provide advice and information to the OCA to enable the OCA to carry out its Games co-ordination and reporting functions in accordance with section 11 of the Olympic Co-ordination Authority Act 1995. As I indicated earlier, the bill provides for the declaration of designated transport areas in which ORTA will have power to make decisions concerning Games transport and people movement issues which will be binding on other government agencies and local councils.

ORTA has made considerable progress over the past 17 months in planning transport for the Olympic and Paralympic Games. It has begun a crucial transport modelling project to provide a strategic overview of demand and system performance across all transport modes in Sydney for the Olympic period. ORTA has established a process for the acquisition and operation of Australia's biggest ever bus fleet, and conducted a significant amount of work to identify the routes which will be essential for road-based Olympic transport. It has begun the search for more than 30 park-and-ride locations in Sydney and surrounding regional areas, and identified other property needs.

ORTA is progressively developing recruitment, rostering and training strategies; addressing communication technology and infrastructure requirements; and working closely with other Olympic agencies on venue planning. Having successfully co-ordinated a transport operation to Homebush Bay, ORTA is now developing detailed plans for other crucial areas, including the central business district and Darling Harbour. Despite this progress, we cannot be in any way complacent about Olympic transport. It remains one of the most daunting tasks associated with the Games and much work is still to be done. This bill will help both the planning and the operation of Olympic transport. It will assist ORTA in its twin objectives of providing the best possible transport services for the Olympic and Paralympic Games, while minimising the impact on the people of Sydney. I commend the bill to the House.

Debate adjourned on motion by Mr Armstrong.

STATE REVENUE LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Bill introduced and read a first time.

Second Reading

Mr KNIGHT (Campbelltown—Minister for the Olympics) [11.42 a.m.]: I move:

That this bill be now read a second time.

The bill deals with amendments to the Pay-roll Tax Act 1971, the Duties Act 1997, the Accommodation Levy Act 1997, the Land Tax Act 1956, the Land Tax Management Act 1956, the Stamp Duties Act 1920 and the Taxation Administration Act 1996. The Government has an ongoing commitment to improving and simplifying revenue legislation to achieve an equitable taxation system in New South Wales. The bill will assist that objective as a number of proposals are a direct result of consultation with relevant industry bodies, peak interest groups and professional bodies. The primary purposes of the proposed amendments are to clarify legislation and to introduce or modify a number of exemptions and concessions from State taxes. The proposals also contain various housekeeping amendments to State revenue Acts. I will now deal with the amendments to each Act.

The Pay-roll Tax Act currently provides that wages paid to temporary staff provided through employment agents are taxable in the hands of the end user of the labour services. An administrative arrangement allows the agent to take responsibility for the tax but only if the end user agrees. Traditionally, the majority of temporary staff have been accepted as common law employees of the end user. Some are deemed to be employees under the relevant contract provisions. The relevant contract provisions are anti-avoidance provisions designed to bring to tax wages paid to persons who are, for all intents and purposes, performing duties similar to those of employees. Recent judicial pronouncements in other jurisdictions have confused the issue of liability to the point that employers and employment agents are unsure of their obligations. The uncertainty has prompted refund claims by employment agents which are likely to reach some $200 million in New South Wales alone. Those claims represent windfall gains for employment agents as the payroll tax would already have been passed on to the clients.

To secure the traditional tax base and make taxpayers obligations and point of liability absolutely clear, the bill introduces specific provisions relating to payments to workers engaged through employment agents. The agent will now be liable for payroll tax, bringing New South Wales into line with Victoria, Western Australia, South Australia and Queensland. The other jurisdictions do not have specific agency provisions. Concessions have been provided where the end user of the services is exempt, such as a public hospital or a charity and where the end user is under the payroll tax threshold. The provisions have been developed in collaboration with the major agency associations and have the support of small business and the accounting professions.

The bill amends the grouping provisions of the Pay-roll Tax Act by removing their application to joint ventures. Currently the provisions have application where a person or persons together have a 50 per cent or more interest in another business. The Chief Commissioner of State Revenue then has a discretion to exclude a group member where substantial independence can be established. The increased use of joint ventures to minimise the cost of business, even by natural marketplace competitors, has resulted in an increase in inappropriate groupings and the consequential requests for exclusion.

The bill introduces a true controlling interest test by changing the test to a more than 50 per cent interest. That is offset by the removal of the Chief Commissioner's discretion to exclude group members, providing greater certainty for entities engaged in joint business activities. The greater than 50 per cent test is in line with Western Australia and the Australian Capital Territory and the related corporations test under the Corporations Law. The amendments will reduce compliance costs by streamlining administration and will encourage business through the use of joint ventures.

The bill provides an exemption from payment of payroll tax for the Home Care Service of New South Wales to enable it to provide services to disadvantaged members of the community on the same basis as similar community-based home care organisations which are exempt from payroll tax. The Pay-roll Tax Act currently does not provide an exemption from tax for scholarship payments made by universities to students undertaking research as part of a full-time post-graduate course. The Commonwealth Income Tax Assessment Act exempts such payments. The bill amends the Pay-roll Tax Act 1971 to provide that scholarships received by full-time students which are exempt from income tax are exempt from payroll tax. The payroll tax exemption provided for wages paid to State Emergency Service volunteers is amended to

include wages paid to volunteers of all emergency service organisations as defined in the State Emergency and Rescue Management Act.

The bill amends the Duties Act 1997 by providing a number of concessions and exemptions. The bill partially defers the duty payable on purchases of realty off the plan. Following consultation with legal representatives of industry bodies the Government has identified a legislative harshness in agreements created by off-the-plan property purchases whereby purchasers are required to pay duty significantly in advance of taking possession of the property. Neither the liability to duty nor the obligation to lodge documents would be deferred, only the payment of duty. The liability for duty would still arise upon the agreement being entered into, with 5 per cent of the duty payable within three months of that date. The balance of the duty would be payable on whichever is the earliest of the following: completion of the agreement, assignment of the purchaser's interest or 12 months from the date of the agreement. The duty ultimately payable will be the same, with a revenue reduction from off-the-plan deferral in 1998-99 of less than $9 million.

The Stock Exchange of Newcastle, SXN, is a small regional exchange that has operated independently of the Australian Stock Exchange, ASX, for more than 60 years. The SXN is expanding its operations to conduct a stock market specialising in the securities of small and medium enterprises. Many of those enterprises are unable to list on the ASX as they do not meet its minimum listing requirements. It is proposed to provide the same duty rate to SXN transactions as that which applies to ASX transactions. That should assist the small to medium enterprises listed with the SXN to raise capital and expand their operations. However, that concession is limited to securities of companies incorporated in New South Wales, as investors on the SXN may otherwise be exposed to duty in more than one jurisdiction.

The bill also provides that a vesting by, or as a consequence of, a statute is not a dutiable transaction, effective from 1 July 1998. That removes an unintended liability to duty on some transactions. The bill exempts certain transactions in relation to liquor licences under the Liquor Act 1982, and the vesting of property as a consequence of certain orders under the Conveyancing Act 1919. Those amendments maintain the liability to duty that existed prior to 1 July 1998. The bill extends the exemption from duty on transfers between married or de facto partners of their principal place of residence to include the situation where a family member of one of the partners lives in and owns a fractional part of the subject property. The bill also closes a duty avoidance loophole in relation to intellectual property or goods. The amendments will ensure that any single arrangement relating to intellectual property and goodwill, or to goods and other dutiable property, will be subject to duty even if under separate transactions. Although the effect on revenue would be negligible, large amounts of duty on individual transactions could be avoided if this loophole is not closed.

The bill also clarifies the duty payable on share buybacks. As a result of a decision of the Victorian Court of Appeal the position under current New South Wales law became unclear. The amendments will ensure that the policy in relation to share buybacks is maintained. The bill clarifies a number of issues raised since the commencement of the Duties Act on 1 July 1998, as a result of a series of information seminars conducted across the State and continuing consultation with bodies such as the Law Society of New South Wales, the Taxation Institute of Australia, the Property Council of Australia and other State revenue offices.

These issues relate to interpretation of the new Act in respect of the liability to duty of partitions of property; the extent of an exemption for transfers of mortgages; the concession for managed investment schemes, the extent of liability to duty of marketable securities; the application of the mortgage duty provisions; the exemptions for charitable institutions, public hospitals and corporate reconstructions; the liability to duty of variations to dutiable transactions; and other minor matters in the nature of drafting adjustments.

The bill amends the Accommodation Levy Act 1997 to include the terms of agreements entered into between the Government, the Australian Hotels Association and the Sydney Organising Committee for the Olympic Games. The bill also clarifies the liability of clubs to ensure that accommodation provided to non-members is liable to the levy. Discussions between the Office of State Revenue and the Property Owners Association will continue to determine whether future amendments are required to clarify the position of very small operators at the lower end of the market.

The bill amends the Land Tax Act 1956 to remove the concession available to the State Superannuation Board—SAS Trustee Corporation—and the Sydney Cove Redevelopment Authority that provides a land tax threshold for each parcel of land owned by them. It is not appropriate for State authorities that are otherwise liable to taxes

to obtain a tax concession that is not available to private sector taxpayers. The Land Tax Management Act 1956 is amended to extend the tax concession relating to land used for more than one purpose, for example, as a shop and a residence.

Real time gross settlement—RTGS—is an initiative of the Reserve Bank of Australia, designed to reduce interbank settlement risk and to provide a more efficient means of clearing payments. The bill exempts from financial institutions duty—FID—certain RTGS transactions. Support for that Reserve Bank initiative will enhance New South Wales' predominant position in the financial sector. The Commonwealth Government has introduced the farm management deposit scheme to replace the income equalisation deposit scheme and farm management bonds. The scheme offers farmers a tax-linked savings mechanism to manage the risk to their businesses during economic downturns and drought.

The bill proposes to exempt from financial institutions duty credits to farm management deposit accounts as a result of transfers from the old schemes. Death duty was abolished in 1981, and the death duty legislation was repealed in 1991. However, it continues to apply to the estates of persons who died before 31 December 1981. The bill amends the Stamp Duties Act 1920 to remove any liability to death duty, or any entitlement to refund of that duty, from 31 December 1998. All outstanding matters held by the Office of State Revenue will be finalised by that date.

Representations have been made by the Law Society of New South Wales seeking to amend provisions in taxation Acts that limit the disclosure of information obtained in the course of administering those Acts. At present, if potential fraud or misconduct by solicitors is identified, the information cannot be disclosed to the Law Society Council, the Legal Services Commissioner or the Legal Services Tribunal, who are responsible for investigating, prosecuting and hearing complaints against solicitors. The bill amends the Taxation Administration Act to permit the Chief Commissioner of State Revenue to disclose information to those bodies.

The bill also amends the Legal Profession Act 1987 to allow the Law Society Council and the Legal Services Commissioner to disclose relevant information to the Chief Commissioner. The bill amends the provisions of the Taxation Administration Act to prevent taxpayers from objecting twice in relation to the same tax liability by objecting to a reassessment resulting from an objection decision. The right of a taxpayer to appeal to the Supreme Court will not be affected. I table detailed explanations of the bill for the assistance of honourable members, and seek leave to have them incorporated in *Hansard.*

Leave granted.

State Revenue Legislation (Miscellaneous Amendments) Bill 1998

Amendment of Accommodation Levy Act 1997

The Bill:

- extends the accommodation levy to accommodation provided at the club premises of registered clubs;
- exempts from this liability residential accommodation provided by a club to persons who are full members of the club;
- excludes from the levy residential accommodation provided on vessels;
- changes references to the "Treasurer" to references to the "Minister", to facilitate any future transfer of the administration of the Act;
- reduces the amount of the levy in respect of a place of accommodation that has, on or before 31 December 1997, signed a contract with SOCOG committing accommodation to the Olympic Games, or that was not presented with such a contract before that date. The reduced amounts are:
    - 5% (instead of 10%) for the period from 1 September 1997 to 31 March 1998, and
    - 7% (instead of 10%) for the period from 1 April 1998 to 31 August 1998;
- excludes certain charges from the determination of the amount paid or payable for residential accommodation for the purposes of the Act. The charges excluded are:
    - booking fees or commissions
    - amounts for residential accommodation provided in a dormitory that has communal or self-catering facilities
    - amounts for residential accommodation provided under the Homestay or Homehost programs for the Olympic Games
    - amounts for residential accommodation provided as overflow accommodation at the request of a welfare organisation;
- exempts from the levy amounts paid by the same person for accommodation that exceeds 28 consecutive days; and
- replaces the requirement for the lodgment of monthly returns by the managers of places of residential accommodation with a requirement that returns be lodged quarterly.

Amendment of Duties Act 1997

The Bill:

- exempts from the payment of transfer duty the vesting of dutiable property by or as a consequence of a statute;
- seeks to make it clear that a buy-back of shares is, for the purposes of the *Duties Act 1997*, a transfer of property;
- provides that any common arrangement relating to intellectual property and goodwill, or to goods and other dutiable property, is to be subject to transfer duty even if effected by separate transactions;
- seeks to ensure that the duty payable on a partition that includes property that is not dutiable property does not exceed the duty payable on a simple transfer of the dutiable property;
- deals with the effect, for the purposes of adjusting liability to transfer duty, of an extended range of circumstances that can result in the change in the purchase price of dutiable property after an agreement for the transfer of the property is entered into and before the property is transferred;
- provides a concession in relation to the payment of transfer duty for dutiable transactions involving marketable securities quoted on the market operated by the Stock Exchange of Newcastle;
- inserts the provisions that are to apply to the payment of transfer duty for purchases "off the plan";
- updates references to various provisions of the *Corporations Law*;
- provides for the payment of concessional duty of $10 on certain transfers of dutiable property in the administration of a managed investment scheme (being a managed investment scheme within the meaning of the *Corporations Law* that complies with Chapter 5C of that Law, and including a public unit trust scheme);
- clarifies the circumstances in which there is no change in the beneficial ownership of dutiable property in certain superannuation funds and trusts;
- extends the exemption from transfer duty for the transfer of a mortgage so as to include a transaction arising from a transfer of an interest in a mortgage and a transfer of a charge over property;
- exempts from transfer duty the vesting of dutiable property in a statutory trust as the consequence of the making of an order under section 66G of the *Conveyancing Act 1919*;
- exempts from the payment of transfer duty the transfer or vesting of a liquor licence in certain circumstances under section 41, 42 or 61 of the *Liquor Act 1982*;
- extends the exemption from duty on transfers between married couples or de facto partners of their principal place of residence;
- imposes duty on an on-market sale or purchase of marketable securities when it is put into SEATS in New South Wales if the order for the sale or purchase was not previously received in another Australian jurisdiction;
- seeks to clarify the liability to payment of the concessional duty on sales or purchases of marketable securities by a broker on behalf of another broker who is engaged in principal trading;
- clarifies the meaning of duty-free threshold in relation to the hire of goods;
- seeks to clarify the time at which liability for mortgage duty arises in respect of certain mortgages;
- removes an ineffective exemption from the payment of mortgage duty (section 222 (5) (b)) and provides an exemption for mortgages taken by the clearing houses of the Sydney Futures Exchange and the Australian Options Market that do not secure an advance;
- makes it clear that certain debentures and related instruments are only exempt from mortgage duty to the extent to which they secure particular debenture issues;
- clarifies the circumstances in which charitable institutions, public hospitals and corporate reconstructions are exempt from payment of duty;
- replaces references to the marking of instruments by the Chief Commissioner with references to the stamping of the instruments;
- makes a minor amendment to the definition of *associated person* in the Dictionary; and
- makes it clear that the transfer of a convertible note is exempt from duty.

Amendment of Land Tax Act 1956

Land tax liability of certain corporations

The Bill omits section 5 of the *Land Tax Act 1956*, which currently gives a land tax concession to certain corporations by allowing land tax to be calculated in relation to each parcel of land owned by them that is subject to taxation as if it were the only land owned.

Amendment of Land Tax Management Act 1956

Certain land tax concessions to continue for limited period on death of owner of land

Section 9C of the *Land Tax Management Act 1956* allows a reduction in land tax where land that is used for more than one purpose has the owner's principal place of residence situated on it. The Bill amends section 10A of that Act to ensure that the concession continues to apply for a limited period on the death of the owner.

Amendment of Legal Profession Act 1987

Disclosure of information to Chief Commissioner of State Revenue

The Bill enables the Legal Services Commissioner or a member of the Law Society to disclose information obtained in the administration of Part 10 (Complaints and discipline) of the *Legal Profession Act 1987* to the Chief Commissioner of State Revenue.

Amendment of Pay-roll Tax Act 1971

Employment agents

The Bill amends the *Pay-roll Tax Act 1971* to make employment agents, instead of the end-user, liable for pay-roll tax in respect of employment agency contracts, not being contracts of employment. An employment agent is not liable for pay-roll tax if:

- the contract worker is liable for pay-roll tax in respect of the wages paid for provision of the services, or
- the wages paid to the contract worker would be exempt from pay-roll tax if they had been paid to the contract worker by the end-user of the services, or
- the end-user of the services is not liable to pay pay-roll tax.

Grouping provisions

The Bill:

- amends the ownership/control test for grouping of commonly owned or controlled businesses to remove the application of the grouping provisions to 50/50 joint ventures and other arrangements where there is no more than 50% common ownership or control of a business, and
- removes the Chief Commissioner's discretion to exclude a member who is grouped if the grouping occurs due to more than 50% common ownership or control.

Exemptions from pay-roll tax

The Bill:

- exempts wages paid by the Home Care Service from pay-roll tax.

Other amendments;

- makes a minor amendment in relation to the liability to pay-roll tax, as wages, of certain superannuation benefits;
- updates an out-of-date reference.
- exempts from pay-roll tax:
    - wages (not including wages for recreation leave, annual leave, long service leave or sick leave) paid to State Emergency Service volunteers while taking part in providing emergency assistance under the *State Emergency and Rescue Management Act 1989*, and
    - wages that would be exempt from the payment of income tax by an employee under section 23 (z) of the Commonwealth *Income Tax Assessment Act 1936* (certain income derived by way of scholarship or other educational assistance by a full-time student at a tertiary educational institution).
- contains savings and transitional provisions arising from the amendments to the Act.

Amendment of Stamp Duties Act 1920

Exemption of certain receipts from financial institutions duty

The Bill:

- exempts from the payment of duty certain receipts in respect of accounts used by financial institutions solely for the purposes of clearing payments;
- exempts from the payment of duty a receipt to a farm management deposit as a result of the transfer by the Commonwealth Department of Primary Industry and Energy of an amount held in an income equalisation deposit or a farm management bond; and
- converts a reference to a bank cheque to a cheque that a financial institution draws on itself as a consequence of recent amendments to the Commonwealth *Cheques and Payment Orders Act 1986* that enable a financial institution to issue cheques.

Abolition of liability to pay death duty

The Bill abolishes existing liabilities to pay death duties.

Amendment of Taxation Administration Act 1996

Disclosure of information by tax officers to certain persons

The Bill enables a tax officer to disclose information obtained in the administration of the *Taxation Administration Act 1996* to the Legal Services Commissioner, a member of the Law Society Council or a trust account inspector or investigator appointed under the *Legal Profession Act 1987* to investigate the affairs of a solicitor.

Objections to Chief Commissioner of State Revenue

The Bill provides that a decision of the Chief Commissioner against which an objection may be lodged to the Chief Commissioner does not include a determination by the Chief Commissioner of an objection.

Mr KNIGHT: I commend the bill to the house.

Debate adjourned on motion by Mr. Phillips.

SENATE VACANCY

Joint Sitting

Mr ACTING-SPEAKER (Mr Gaudry): I lay upon the table the minutes of the proceedings of the joint sitting of both Houses held this day to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator Belinda Jane Neal.

Ordered to be printed.

COMMONWEALTH PLACES (MIRROR TAXES ADMINISTRATION) BILL

Bill introduced and read a first time.

Second Reading

Mr KNIGHT (Campbelltown—Minister for the Olympics) [11.57 a.m.]: I move:

That this bill be now read a second time.

The bill complements Commonwealth legislation in respect of the collection of State taxes in regard to activities at Commonwealth places. Examples of Commonwealth places are airports and office buildings owned by the Commonwealth. Section 52(i) of the Commonwealth Constitution provides that the Commonwealth has exclusive power to legislate with respect to all places acquired by the Commonwealth for public purposes. In 1996 the High Court in *Allders International Pty Ltd v Commissioner of State Revenue (Vic)* declared that a lease of a shop at Tullamarine airport was not subject to stamp duty imposed by a State because of section 52(i).

Counsel's advice indicated that a number of other taxes or duties could be at risk unless appropriate legislation was developed by the Commonwealth and the States to protect the revenue following the High Court's decision. At the request of the States, the Commonwealth has enacted a package of Acts to give effect to a scheme to protect the revenue of the States. A major objective of the legislative package was to ensure that when a taxpayer is liable to both Commonwealth and State taxes, because of operations on and off Commonwealth places, the calculation and payment of taxes that applied to each place should not involve the taxpayer in additional cost or effort.

For example, payroll tax in respect of wages paid to employees working at Sydney (Kingsford-Smith) Airport and employees working at other sites should not have to be broken up and paid separately by the employer to the Commonwealth and to New South Wales. On 6 October 1997 the Commonwealth Treasurer issued a press release stating that the Commonwealth would apply mirror State taxes to businesses located at Commonwealth places. He also suggested that taxpayers should continue to pay State taxes as if the State taxes applied directly and such payments would be credited against any Commonwealth liability.

In mid-1998, the Commonwealth passed the Commonwealth Places (Mirror Taxes) Act that will apply stamp duties, payroll tax, financial institutions duty and debits tax to transactions that are carried out on Commonwealth places to the extent that the State cannot impose them. The bill before the House is retrospective legislation that gives effect to the Commonwealth Treasurer's announcement and complements the Commonwealth legislation. An arrangement will be entered into between the Governor-General and the Governor of New South Wales after which taxes and duties collected by New South Wales in respect of Commonwealth places will be forwarded to the Commonwealth. That revenue will be returned ultimately to New South Wales. Where that amount of revenue cannot be accurately determined, suitable arrangements will be made by New South Wales and the Commonwealth for estimates to be made.

Legislation that complements the Commonwealth Acts is required by New South Wales to cover some administrative arrangements and to ensure that taxpayers do not pay more than 100 per cent of the tax that would have been payable before the High Court's decision. The bill now before the House provides for those arrangements. I must emphasise that this bill does not impose any additional tax burden on the people of New South Wales. It merely restores the level of revenue that the State received prior to the High Court's decision in *Allders International Pty Ltd v Commissioner of State Revenue (Vic)*. Other States will introduce similar legislation into their parliaments in due course. I table a summary of the bill for the assistance of honourable members and I seek leave to have it incorporated in *Hansard*.

Leave granted.

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SUMMARY OF THE BILL

Commonwealth Places (Mirror Taxes Administration) Bill 1998

Background

In *Allders International Pty Ltd v Commissioner for State Revenue*, the High Court declared that a lease of a shop at Tullamarine Airport was not subject to stamp duty imposed by a State because of section 52(i) of the Commonwealth Constitution.

Section 52(i) provides that the Commonwealth has exclusive power to legislate with respect to all places acquired by the Commonwealth for public places ("Commonwealth places"). The effect of section 52 (i) is that any State law that can be characterised as a law with respect to a Commonwealth place is, to that extent, inapplicable in Commonwealth places.

The decision has important ramifications for State revenue as other taxes imposed by States might similarly be inapplicable to the extent that they tax persons, property or things done in Commonwealth places.

At the request of the States, the Commonwealth has enacted a package of Acts to give effect to a scheme to protect the revenue of the States.

The Commonwealth Places (Mirror Taxes) Act 1998 ("the Commonwealth Act") applies State stamp duties, payroll taxes, financial institutions duty and debits taxes in Commonwealth places as Commonwealth taxes to the extent to which they cannot apply as State taxes in Commonwealth places because of section 52 (i) ("the mirror taxes").

The mirror taxes will apply according to the State taxation legislation but subject to any modifications made in accordance with section 8 of the Commonwealth Act.

A State will obtain the benefit of the applied laws Commonwealth Act only after an arrangement is entered as referred to in section 9 of the Commonwealth Act between the Governor General and the Governor of the State.

Under the mirror tax scheme, State officers will generally administer the mirror taxes in Commonwealth places in the same manner in which the mirrored State taxes are administered. Amounts that have been or are collected in respect of Commonwealth places in the State after 6 October 1997 (the date on which the Commonwealth Government announced the scheme) will be credited to the Commonwealth but will be returned to the States.

The objects of this bill are to enable the necessary arrangements to be entered into to give effect to the scheme and to make provision for the administration and operation of laws of New South Wales which are applied as Commonwealth laws in relation to Commonwealth places under the Commonwealth Places (Mirror Taxes) Act 1998 of the Commonwealth.

Summary

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act. The clause provides for the mirror taxes ("the applied laws") to operate with effect from 6 October 1997 once arrangements are in place under section 9 of Commonwealth Act and proposed section 5.

Clause 3 defines certain words and expressions used in the proposed Act, including ***State taxing law***, ***applied law*** and ***State authority***. The ***State taxing laws*** are the Debits Tax Act 1990, the Duties Act 1997, the Pay-roll Tax Act 1971 and the Stamp Duties Act 1920, any other State law that imposes a tax that is prescribed under the Commonwealth Act and any other State law (such as the Taxation Administration Act 1996) to the extent that it is relevant to the operation of one of those laws.

An ***applied law*** is the provisions of a State taxing law that apply in relation to a Commonwealth place in accordance with the Commonwealth Act.

A ***State authority*** is defined as the Governor, a Minister, a member of the Executive Council, a court, a member of a court, a body created by or under the law of the State and an officer or employee of the State or of such a body.

Clause 4 provides for the proposed Act to bind the Crown.

Part 2 Administration and operation of State taxing laws as applied laws in relation to Commonwealth places

Clause 5 enables the Governor to enter into an arrangement with the Governor-General under section 9 of the Commonwealth Act in relation to the exercise or performance of a power, duty or function (not being one involving the exercise of judicial power) by a State authority under an applied law and for the variation or revocation of such an arrangement. State taxing laws will only have effect as applied under the Commonwealth Act while such an arrangement is in force.

Clause 6 provides for a State authority to exercise or perform any power, duty or function that the Commonwealth Act requires or authorises it to exercise or perform despite any State law.

Clause 7 requires a State taxing law to be read and construed with such modifications as are necessary or convenient for the purpose of enabling the effective operation of the State taxing law, together with a corresponding applied law, as a single law applying in the State or to ensure that there is no change in the overall tax liability of a taxpayer who becomes liable to pay a Commonwealth mirror tax.

Part 3 Proceedings

Clause 8 requires proceedings commenced in a court of law under an applied law to be continued as if commenced under the corresponding State taxing law if the court is satisfied that the State taxing law is not excluded by section 52 (i) of the Commonwealth Constitution. This means that an action does not have to be restarted or any action taken redone when it has been commenced under an applied law under the mistaken belief that it related to a tax applying to a Commonwealth place.

Clause 9 prevents an objection to proceedings under a State taxing law merely on the ground that proceedings have been commenced or are pending under a corresponding applied law. It ensures that proceedings under a State taxing law that corresponds to an applied law are not frustrated because proceedings are also taken under the applied law. For example, if duplicate proceedings are instituted because the State taxing authority is unsure of the correct jurisdiction.

Clause 10 requires a court to deal with an appeal from a judgement, decree, order or sentence of court in proceedings under an applied law as though it was commenced under a State taxing law if the court is satisfied that the State taxing law is not excluded by section 52 (i) of the Commonwealth Constitution.

Clause 11 facilitates proof of interests in land when an issue arises in proceedings under a State taxing law as to whether a particular place is a Commonwealth place.

Part 4 Validation and saving

Clause 12 ensures that if an action is purportedly done under an applied law in relation to a place in the State that is not a Commonwealth place it will be taken to have been done under the State taxing law that corresponds to the applied law. The provision will, for example, validate the action of a State revenue authority who pursues as a single debt under an applied law a tax debt that relates partly to a business in a Commonwealth place and partly elsewhere in the State. It will ensure that if a taxpayer pays as Commonwealth mirror tax an amount which was properly due as State tax, the amount will be taken to have been paid as State tax so the taxpayer will not be entitled to a refund and the State revenue authority will not be required to pursue a separate payment of State tax.

Clause 13 is a savings provision to cover circumstances in which a place ceases to be a Commonwealth place. It has the effect that, in such circumstances, all rights, privileges, duties and liabilities that were acquired or created while the place was a Commonwealth place continue. Penalties can be imposed as if the mirror tax had continued to have effect and investigations, legal proceedings or remedies.

Clause 14 is a savings provision similar to clause 13 to cover circumstances in which a place becomes a Commonwealth place.

Part 5 Miscellaneous

Clause 15 provides for references to an applied law in an instrument or other writing to be read as a reference to the corresponding State taxing law if the State taxing law is not excluded by section 52 (i) of the Commonwealth Constitution. This ensures the validity of such documents and negates the need for new documents to specify the State taxing laws.

Clause 16 provides for appropriation of the Consolidated Fund to meet the State's liabilities under the mirror tax scheme.

Clause 17 provides for the making of regulations.

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Mr KNIGHT: I commend the bill to the House.

Debate adjourned on motion by Mr Phillips.

APPROPRIATION (1997-98 BUDGET VARIATIONS) BILL (No 2)

PUBLIC FINANCE AND AUDIT AMENDMENT (STATE ACCOUNTS) BILL

Bills introduced and read a first time.

Second Reading

Mr KNIGHT (Campbelltown—Minister for the Olympics) [12.02 p.m.]: I move:

That these bills be now read a second time.

The Government has a strong commitment to accountability in financial management. Shortly after taking office the Government initiated the passage of the General Government Debt Elimination Act 1995. The Act, for the first time, set out fiscal targets and fiscal principles against which the Government's financial management performance can be judged. The Act provided for the State budget to be extended to cover the whole general government sector as defined by the Australian Bureau of Statistics. It also prescribed that the budget is to be presented in both a presentation that accords with government finance statistics principles and an accrual presentation that accords with generally accepted accounting principles and Australian accounting standards.

The Act also prescribes the content of the budget papers and the requirements for monthly and annual financial reporting for the general government sector. In addition, it requires the Government to provide a half-yearly update of its economic projections and budget projections made when the budget was presented. To further enhance the financial management framework within New South Wales, the Government has embarked on a fundamental review of the State's financial and annual reporting legislation. The aim is to consolidate and update the range of Acts governing financial management to keep abreast of the significant financial management reforms initiated by this and previous governments.

The need for the legislation now before the House is in large part due to the existing legislation not providing the flexibility necessary to cater for financial management practices that have developed following the introduction of accrual accounting and net appropriations. Section 45 of the Constitution Act and section 21 of the Public Finance and Audit Act specify that expenditure from the Consolidated Fund must be authorised by an Act of Parliament. The annual Appropriation Act makes appropriations from the Consolidated Fund for the recurrent services and the capital works and services programs within each Minister's portfolio. Expenditures in excess of the 1997-98 appropriations can be authorised through a subsequent Appropriation Act, an interprogram transfer of savings authorised under section 28 of the Appropriation Act 1997 or by a determination made by the Treasurer, with the approval of the Governor, under section 22 of the Public Finance and Audit Act.

Provision is also made under section 24 of the Public Finance and Audit Act to enable the Treasurer to make a determination that appropriations may be transferred between agencies where responsibility for a service or function is transferred. A further mechanism for dealing with unforeseen expenditure is the Treasurer's advance, which is appropriated in the annual Appropriation Act. Under longstanding practice followed by successive governments, expenditures by agencies against their appropriations are monitored by Treasury throughout a financial year. To the maximum extent possible, Treasury seeks to offset overexpenditures on programs against savings from underexpenditures on other programs.

Resort is had to the other mechanisms established by Parliament for authorising expenditures in excess of annual appropriations to programs only after it becomes apparent, usually towards the end of a financial year, that payments in excess of available appropriations will need to be made from the Consolidated Fund. As a consequence of that practice it has usually been the case that many of the required approvals are not

obtained until after the end of a financial year. When reporting to Parliament in recent years the Auditor-General has drawn attention to the desirability of reducing the incidence of expenditures not properly authorised prior to 30 June. In response to the Auditor-General's concerns, the Government has introduced the practice over the last two years of seeking Parliament's approval to subsequent appropriation bills.

The attention of agencies has also been drawn to the need to have their Ministers formally approve of interprogram transfers under delegations from the Treasurer. The Government has also embarked on a fundamental review of the State's financial and annual reporting legislation and the existing legislative provisions governing the authorisation of expenditure will be updated to reflect modern financial management practices. Already there has been extensive consultation with the Audit Office on the nature of revisions to the legislation. With the full implementation of accrual accounting in the 1998-99 budget, appropriations are now made at an agency level and are no longer made at a program level. That will, in future, eliminate the need to obtain approvals for variations in expenditures under individual programs.

Notwithstanding these measures taken by the Government, the Auditor-General notified the Government that he intended to qualify the 1997-98 financial statements of 69 agencies and the State public accounts because of breaches of the statutory provisions. The primary cause of the breaches is the timing of necessary approvals. As a consequence, payments of $85.032 million charged against the Treasurer's advance, capital payments of $17.820 million approved by the Treasurer on the basis of offsetting savings under other programs, transfers of $3,126 million approved under section 24 of the Public Finance and Audit Act, and various interprogram transfers effected by agencies are technically invalid and the expenditure involved not properly authorised.

The large amounts transferred via section 24 relate to the merger of various departments to form the new Department of Education and Training. The Appropriation (1997-98 Budget Variations) Bill (No 2) seeks authorisation of expenditures in excess of parliamentary appropriations. In all cases the intention was that these additional expenditures be met from savings on other programs through recourse to the mechanisms provided under sections 28 and 29 of the Appropriation Act 1997 or section 24 of the Public Finance and Audit Act 1983. The bill also seeks an adjustment of the 1997-98 advance to the Treasurer. That is normally included in the first Appropriation Bill following the end of the financial year. The bill validates any liability incurred by an officer in relation to the additional payments to be authorised under the bill.

It also allows a further 28 days from the date of assent for the submission of annual reports, as their preparation has been delayed by the need to seek the authorisation of additional payments. The Public Finance and Audit Amendment (State Accounts) Bill is cognate with the Appropriation (1997-98 Budget Variations) Bill (No 2). Since 1988 New South Wales has published whole-of-government accrual financial statements which have been independently audited by the Auditor-General. However, there is currently no statutory requirement to produce these financial statements, to have them audited or to submit them to Parliament. The implementation of a new financial information system in the Treasury has made it possible to produce the whole-of-government consolidated financial statements—referred to in the bill as the total State sector accounts—at the same time as the public accounts.

Therefore, it was intended to combine the two sets of statements in one comprehensive report on the State's finances. The existing Act gives no recognition to total State sector accounts, and section 6 of the Act is worded so narrowly that the proposed combined presentation is not currently lawful. The amendment bill will allow the proposed presentation, which will not in any way diminish the level of information provided. However, it will be less confusing to users of the statements, who at present must refer to two separate sets of financial statements which are produced some months apart. The proposed form of presentation has the support of the Auditor-General. The bill will also codify requirements to prepare the total State sector accounts for the timing of their preparation, to have them independently audited and for them to be submitted to Parliament. The measures contained in these bills will enhance accountability and should be supported by all members. I commend the bills to the House.

Debate adjourned on motion by Mr Phillips.

HOME INVASION (OCCUPANTS PROTECTION) BILL

Second Reading

Debate resumed from an earlier hour.

Mr HAZZARD (Wakehurst) [12.12 p.m.]: The Opposition does not oppose the Home Invasion

(Occupants Protection) Bill because it recognises the high level of community concern about the impact on each and every one of us from an intruder breaking into our homes, assaulting us or members of our family, or damaging property. There is nothing more intrusive, more designed to worry people, than the possibility of an intruder breaking into their home. Little children learn that their home is supposed to be the most secure place. Yet for some years there has been an unacceptable rate of home invasions in Sydney and New South Wales, which has caused a high level of concern in the general community. I believe that everyone has contemplated the possibility of having someone break into their home, assaulting them or damaging their property.

This bill was originally introduced in another place by the Hon. J. S. Tingle. For many years the community and perhaps the legal fraternity have had difficulty trying to work out what rights people should be given to deal with intruders within their own homes. The common law has developed its position over the years. But, to a great extent, the common law position does not appear to have sent the message to potential home invaders that they are at any great risk. I do not know that I actually agree with that. As a lawyer I think that there are issues about the adequacy of the common law. As a fundamental tenet, no clear message has been sent out that offenders will be in deep trouble if they invade peoples' homes.

The problem is that we, as members of the community, have been led to believe that we cannot do much if someone breaks into our house and seeks to use force. We constantly hear warnings from various sources that if we were to take action to protect ourselves, our family, our friends and our property that we would end up on the receiving end of criminal proceedings. We have all felt sympathy for victims of crime who have taken defensive action against an intruder who has broken into their home or shop and then, as we see in the media, are investigated by the police for potential criminal proceedings. In other words, the very act of self-defence has led them to possibly being charged and convicted of a criminal offence.

I remember an incident in a country town not so long ago when an offender who broke into a shop was shot. The broad community was concerned that this event occurred at all, that the young person had been killed and also about the impact on the shopkeeper. As I understand it, the shopkeeper was a long-term resident of the town and had provided services from his shop for donkeys years. He knew all the local people, and they were concerned for him. That is the sort of issue we need to address. I am not utterly convinced that this legislation will very much change the present situation. Currently, if someone breaks into a home and seeks to injure an occupant or occupants, reasonable force can be used to defend oneself or one's family. That point seems to have been lost on the Premier, perhaps because he is more interested in selling the politics rather than the substance of the situation.

At the moment self-defence at common law operates to excuse from liability a person who has been proven to have committed an assault or a murder. In other words, when the doctrine of self-defence is found to apply an acquittal results. A man who has taken action to defend himself can rely on the defence of self-defence, provided certain limitations are considered. Once the defence of self-defence is raised in the trial, once evidence is given that the act was carried out in the course of defending himself or his family, then the onus shifts to the Crown to prove that he acted beyond what would be considered reasonable in the circumstances. In determining whether a particular act of self-defence is reasonable, a number of court decisions have led us down the path of taking into consideration subjective and objective factors. That is contrary to what the Premier said in September, just over a month ago.

Mr O'Farrell: Does it surprise you that the Premier told an untruth?

Mr HAZZARD: It does not surprise me that the Premier told an untruth because the hallmark of this Government under this Premier has been a series of untruths, misrepresentations and broken promises. Unfortunately, this is another one. The honourable member for Northcott raises a pertinent point. Whenever a crime issue is raised—and obviously crime is an important issue for the people of New South Wales; we are all concerned about our safety—the Premier walks into this Chamber and beats his chest.

Mr Fraser: He struts in here.

Mr HAZZARD: As the honourable member for Coffs Harbour said, the Premier struts in here, beats his chest, looks up at the camera and does a five-second grab saying, "I will fix this problem for the people of New South Wales. We will do such and such." All honourable members will remember Anna Wood, who came from my area. Her death was a terrible tragedy and her family suffered immensely. What did the Premier do? He added to the tragedy by walking in here and saying, "My Government will close the Phoenician Club." What

did he do? Nothing! And 18 months later the Phoenician Club is still operating. Whether there were rights or wrongs about the Phoenician Club being closed is irrelevant.

I am making the point that the Premier is prepared to make absolutely stupid statements so long as he gets a five-second grab on the television. The media fall for it hook, line and sinker, day after day, week after week—although they appear to be waking up, thank heavens. Perhaps the media will tell the people of New South Wales that most of what the Premier says is absolute tripe and garbage, and that he operates at a superficial level. On 8 September the Premier said that it was the Government's intention to "make the law of self-defence in the home clear and simple". It can be argued that this bill does not do that; it can be argued that it confuses the issue. At the moment we rely on the common law to determine what can be done.

However, the common law is inadequate because individuals should be able to protect themselves, their family, their friends and their property. If people seek to come into our homes, to intrude on what should be our bastion, our space, our protection, we should be able to do something about it and know that the law is on our side. I am not sure whether this legislation achieves that. On 8 September the Premier said:

> The Government will introduce amendments to the Bill [the Home Invasion (Occupant's Protection) Bill 1995], with the support of the Hon J S Tingle, who has been negotiating with the aid of the Attorney General, that will result in a simple test of self-defence being applied in these cases. If the test is satisfied, there can be no finding of criminality on the part of a victim of home invasion. Put simply, a victim of home invasion who reasonably believes he is in danger can defend himself . . . Let us be clear on this point: the Government is not giving people the right to act as vigilantes . . .

No honourable member would support the concept of people acting as vigilantes. However, the coalition supports the concept of individuals acting reasonably in their homes. We do not want individuals who act reasonably to be subject to possible legal action. Obviously, the Premier did not understand the first thing about the current legal principles when he made those statements. My guess is that he had not sought a briefing on the matter, let alone analysed it. He was again operating at the skin-deep level. Currently any victim of home invasion who reasonably believes he is in danger can defend himself.

His actions are evaluated on a reasonable basis and on an objective basis, and to that extent the Premier is once again right off beam. This bill will amend the current state of the law. The Opposition will not oppose the bill because it wants the people of New South Wales to know that this place wants people to be able to reasonably defend themselves. However, I have some serious questions about whether this bill gives them greater rights or whether it restricts them. It almost looks like the Premier wrote this bill on the back of one of his history books—probably on the fly page. It contains 2½ pages of waffle.

Mrs Lo Po': I am waiting to hear your solutions. Talk about waffle!

Mr HAZZARD: The Minister for Community Services wants to know about waffle. If she listens to the Premier during question time today she will hear all the waffle she ever wanted to hear. He is a graduate in waffle. If he is not looking at Etruscan sculpture, he is going on in this place with absolute waffle and drivel. She will receive a masters degree in waffle if she listens to the Premier for just 10 minutes.

Mr ACTING-SPEAKER (Mr Clough): Order! The member for Wakehurst will return to the substance of the bill.

Mr HAZZARD: This legislation refers only—and this is a crucial point—to an occupant of a dwelling house acting in self-defence. Clause 7 provides:

> An occupant of a dwelling-house may act in defence of any other person in the dwelling-house against an intruder if the occupant believes on reasonable grounds that it is necessary to do so.

Clause 6 provides:

> An occupant of a dwelling-house may act in self-defence against an intruder if the occupant believes on reasonable grounds that it is necessary to do so

Clause 8 deals with property. The legislation refers only to an occupant. If someone has a friend staying the night, is that person an occupant? I would suspect not. Does that mean this legislation is seeking to set up different groups of people who can defend themselves? Does it mean that if a person happens to be visiting a house and needs to defend himself he does not get the benefit, if there is any, of this legislation? I suspect that is the case. The legislation makes the clear delineation between an occupant and any other person. This reeks of a simplistic effort by a draftsman who has been pushed into drafting something he did not want to draft.

The legislation is now before the House because the Premier wants to make some political statements. The bill contains a host of inconsistencies, which I do not have time to go through. The New South Wales Opposition supports people's capacity to protect themselves in their own homes. The coalition will seek to amend the legislation after the 27 March 1999 election. The coalition will re-examine the legislation that the Government manages to muck up and will try to make things better for the people of New South Wales.

Mr KINROSS (Gordon) [12.27 p.m.]: On 14 November 1996 I spoke to legislation similar to the Home Invasion (Occupants Protection) Bill. At that time I spoke about the concern I had in relation to a recent interpretation by the High Court of a judgment arising from the use of mace in connection with the self-defence of a female who had been attacked. The relevant provision of the High Court judgment was a majority judgment of Chief Justice Brennan and Justices Toohey, McHugh and Gummow, who said self-defence was neither a reasonable excuse nor a lawful purpose. Since that time—and indeed before then—there has been much concern about the application of the common law in relation to matters concerning the protection of property and the rights that occupants of property can use to defend themselves and their person.

I welcome the legislation because it goes some way—as statute law does—to codify and to give clarity and certainty to the common law. Members of the public generally do not understand their legal rights and do not have the resources to analyse where the answers lie in the common law. When this legislation was introduced a month ago, the Premier opportunistically took the pressure from the honourable member for Gosford. I recall that the honourable member for Gosford featured on the first item of the Channel 10 news and on the ABC news that day because he highlighted the inconsistency and hypocrisy of the Labor Party in introducing this legislation when he had introduced it in 1995 following the moves of the Hon. J. S. Tingle to introduce it in another place. Nevertheless, concerns were expressed by commentators. For example, Stephen Odgers, a senior member of the Bar and former commissioner of the Australian Law Reform Commission who has published on the law of evidence, said on radio—I think his statements in the press were to the same effect—that the legislation did not make any change to the legal position as it currently applied in courts in New South Wales. However, clause 9 states:

> Whether grounds are reasonable grounds for the purposes of section 6, 7 or 8 is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be.

The honourable member for Wakehurst referred to objective versus subjective tests. Clearly, courts will now have to apply a subjective test. Provisions in the law, especially the criminal law, lack clarity and, accordingly, they are always interpreted by an objective standard. That is, the judge will ask the jury members to use their understanding of what is reasonable—in this case, whether they would accept that the force that is applied is reasonable force. However, the bill refers to the state of mind of the occupant at the time of the event, based on the circumstances as the occupant perceives them to be, if there is any doubt. I take that to be a subjective test.

The honourable member for Gosford also sought clarification on this point more than two years ago. The honourable member for Wakehurst referred to different classes of people to whom we are offering protection in the bill. Different classes of protection will be provided according to where people live or where they are at the time. Some workers sleep in their houses during the day. People may be at a shop or somewhere else. The honourable member for Gosford stated that his bill would offer protection and a codification of self-defence in relation to property where an event occurs. The omission of this protection in this bill will be raised in the continuing debate on the legislation.

The Government opposed the bills introduced by the Hon. J. S. Tingle and the honourable member for Gosford. They have languished for two years. In May 1997 the bill of the Hon. J. S. Tingle passed the Legislative Council with the Government voting against it. In the few remaining days of the Carr Government no doubt a few more sweetheart deals will be made with certain Independents in the upper House. Clauses 11 and 12 in part 3 create immunity from civil and criminal liability. The honourable member for Dubbo is a well known legal practitioner in his local area. We want to stop abuse of the system by criminals who have reasonable force applied against them in a home they are invading. They should not be able to claim against the Victims Compensation Fund for injuries that they sustain when they have unlawfully entered premises and are met with reasonable force.

In my view they should not be entitled to any benefit whatsoever: if they have unlawfully entered a house they should not receive any benefit. The bill does not address this issue. I trust that the Minister

for Community Services, who is at the table, will address this point in replying to the second reading debate. Criminals should not receive compensation when they are in the wrong, committing crimes. The public will just not put up with this. It is a total farce which is against the principle of people being made responsible for their actions. People should be able to use force in self-defence and in defence of their property. I ask the Minister and the Attorney General to take on board and address that concern.

Mr PEACOCKE (Dubbo) [12.35 p.m.]: I support the bill but with some reluctance. It does not change the common law; it really is a codification of part of the common law. To that extent it is of value because the average layman would not comprehend the common law. In simple terms the bill at least gives the average person an idea of his rights in this regard. The bill is deficient in some areas. It defines the right of occupants of dwelling houses to act in self-defence, in defence of other persons and in defence of their property. It does not define in any way—I suppose it is difficult to do so—the extent to which force can be used reasonably. It simply applies a subjective test virtually to the state of mind of an occupant of a house faced with a home invasion in defending himself, the other occupants of the house or the property. Nowhere is the amount of reasonable force to be used defined. That question falls back into the common law and will be decided by the courts.

The bill is useful as a succinct way of explaining to people certain of their rights. The legislation contains novel provisions in respect of the defence of property but it has defects in my view in that it gives protection only in relation to dwelling houses and gives rights only to occupants of dwelling houses. A large body of people who are subject almost daily to invasion of business premises are not protected by similar legislation. That is a fairly gross defect in the bill, if we accept that such legislation is necessary.

Another factor is the confining of the rights to the occupants of the dwelling house rather than other persons who may be in the dwelling house. That leaves at large the question of what might happen if you or I were in a particular dwelling house which was invaded by a person with an unlawful intent. What would be our position if we attempted to defend ourselves or to defend the occupants of the dwelling house? We have similar common law rights to those expressed in this bill but the difference is that the bill contains a subjective test. But that is a test which is already available in common law following various decisions, specifically the Zecevic case in Victoria.

I support the bill. I do not believe that it warrants the fanfare that it received in the media and from the Premier. It is not a huge leap forward; it is simply a codification. To that extent it is worthwhile. The legislation ought to be looked at very closely over the next six months or so to see how it works. If it works satisfactorily I will be as pleased as anyone in this State. If it is successful, as I think it may well be, it should be extended to cover the situation of people operating businesses.

To that end I draw the attention of the House to the fact that people who run 24-hour-a-day supermarkets and who are constantly under threat of attack from thieves are advised by police that if attempts are made to rob them, they should hand over the cash, comply with the intruders' demands, and not try to defend themselves. The risks involved in running a business 24 hours a day causes the owners much trauma. Also, their businesses are rendered almost worthless because of those risks. That is not extraneous to the bill, but demonstrates the necessity to encompass within the legislation a measure to allow for a subjective test to be made of the state of mind of victims when under attack.

Clauses 11 and 12 of the bill provide immunity from criminal and civil liability in certain circumstances. Though the immunity is limited, the measure will assure defenders that they will not be liable to be sued if they injure someone in the course of an invasion. Although the bill is entitled the Home Invasion (Occupants Protection) Bill, it does not contain a definition of "home invasion". The meaning of those words is left at large, and under the common law will require further consideration. For some years the Opposition has sought to introduce stronger legislation and it is pleasing that at long last the Government has taken some action, though it does not deserve the credit given to it by the media.

In that respect I thank the people of New South Wales who, on 11 May, in 76 towns in this State, had the courage to stand up for what they believe is right on law and order issues. That action gave considerable impetus to this legislation. I hope that as the criminal law evolves as a consequence of public pressure we can legislate above party politics. I would be pleased if the Government and the Opposition together were able to review the whole of the criminal law so that legislation of real value is put in place for the people of this State, though I doubt that will happen. It would be a pity if we descended into the pit of making law and order issues into political stunts.

Mr MERTON (Baulkham Hills) [12.43 p.m.]: For some time home invasions, home defenders and

citizens' rights to defend themselves against intruders in their homes or places of business have been debated in this Parliament. Some time ago the Hon. J. S. Tingle in another place and the honourable member for Gosford introduced similar legislation. I spoke to the bill introduced by the honourable member for Gosford in October 1996. However, two years later the Parliament is still debating the issue. I wonder how many people in New South Wales have suffered at the hands of intruders and burglars during those two years.

This morning in one of our better suburbs a person returned home after going out and discovered that goods had been stolen from the home. I wonder what would have occurred if the occupant of the home had engaged in a confrontation with the thief. For many years the law has purported to give individuals rights against intruders. However, those who have taken physical action against intruders to protect themselves or their property have been held accountable and some have been convicted of assault and other offences. It is ridiculous that many have been successfully sued by offenders. That would be repugnant to all Australians. People are entitled to safety and security within their own homes.

For that reason it is necessary to enact legislation to clearly define the rights of home owners or occupiers to defend their person and property. When I spoke to the 1996 legislation I referred to a case which highlights the fundamental weaknesses in this legislation, in that it refers only to homes. Everyone would support the notion of being able to defend their property and person against intruders. The Opposition asserts that this legislation does not go far enough. A person's place of residence and occupation, whether it is a factory, office or taxi, should also be brought within the ambit of this legislation so that people know that if they confront an intruder they do so in the knowledge that they will not be sued by the trespasser, who, through a legal technicality, may receive a finding in his or her favour. The majority of Australians would not regard that as a fair go.

If ordinary, average Australians who live a normal life are confronted by an intruder—someone of low standing in the community who is acting illegally—they should be able to protect themselves and their property. In 1996 Anton Lees was operating an antique shop on Old Northern Road, Dural. He and his wife are hardworking Australians who work seven days a week to earn a living. They offer an excellent service to people from all over Sydney. On a dreadful day in March 1996 a person intent on robbing them of their goods and chattels was unfortunately killed. However, the tragedy did not end with the death of the intruder but continued for the ensuing 12 months.

Those 12 months were hell on earth for Mr and Mrs Lees, who did not know whether they would be charged or what the ramifications might be. Reason prevailed and Mr and Mrs Lees were not charged. However, I am sure that the memory of those days, months and weeks of distress will remain with them for the rest of their lives. This legislation has all the earmarks of a reluctant bridegroom being dragged to the church for a wedding that he does not want to go ahead with. The Government really does not want to know anything about this legislation—

Mr Gibson: You had seven years, and you didn't even get to the church.

Mr MERTON: I think you should go back to it.

Mr Gibson: You had seven years, and you are moaning now.

Mr MERTON: The Salvation Army looks after everyone. This legislation has all the signs of a government that has been pushed along and suddenly says, "Hang on. In six months time we have an election. We had better do something about home invasion. It is still happening, it has not gone away, and we have done nothing about it. Let's have a look in the cupboard and see what we can do." The Government looked in the cupboard and found that the Hon. John Tingle in another place introduced similar legislation some time ago, and it grabbed that legislation because it thought it would be a vote winner. The Opposition supports the thrust of the legislation but believes it does not go far enough in that it does not relate to business premises, industrial premises or taxi cabs but is confined to the home situation. The bill defines "dwelling-house" as including:

(a) any building or other structure occupied as a dwelling, and

(b) any building or other structure within the same curtilage as a dwelling-house, and occupied in connection with the dwelling-house or whose use is ancillary to the occupation of the dwelling-house.

The bill simply deals with domestic situations, as opposed to business or industrial situations which relate to people seeking to protect their business. It also refers to self-defence of an occupant of a dwelling house, and provides that the occupant of a dwelling house may act in defence of any other person in the dwelling house against an intruder if

the occupant believes on reasonable grounds that it is necessary to do so.

A fundamental problem with the bill relates to who would be regarded, at law, as being the occupant of the dwelling house. Would it be the tenant, the registered proprietor of the premises, or anyone living in the dwelling house? The bill does not attempt to define an occupant of a dwelling house. That substantial problem could cause difficulties when the legislation is tested, as it is bound to be, in either the criminal or civil jurisdiction. For that reason I suggest that the definition of "occupant" be contained within the legislation so that it is all-encompassing and covers anyone who is in the dwelling house at the time of an invasion. In other words, the bill should provide that the occupant does not have to be the lessee, the tenant or the owner of the premises. If a person is in the dwelling house by virtue of a licence or an invitation by a person who is in a position to give such an invitation, that person should have the benefit of the legislation.

Clause 7 provides that an occupant of a dwelling house may act in defence of any other person in the dwelling house. It could be considered by implication that the bill gives protection only to the occupants and not to others who may be residing in the house or who may simply be in the house when the invasion occurs. Clause 7 allows the occupant to defend that person. Under that provision, if an intruder breaks into a house, the only person to benefit from the legislation will be the occupant. That matter should be pursued further. Clause 5 provides:

> **Safety within homes**
>
> Parliament expressly declares that it is the public policy of the State of New South Wales that its citizens have a right to enjoy absolute safety from attack within their dwelling-houses from intruders.

Whilst the clause initially contains the all-encompassing statement that the State's citizens have a right to enjoy absolute safety from attack, that definition is narrowed somewhat when the bill refers to an occupant of the dwelling house. The legislation sanctions the use of physical force, subject to certain constraints, including deadly physical force, by an occupant in defence against an intruder, and provides immunity to occupants from criminal and civil liability arising from anything done by them that is sanctioned under the bill. It also provides immunity from a civil liability that might otherwise arise between an occupier and an intruder under, for example, the law relating to occupiers' liability.

It provides further that if an occupant is acquitted of criminal charges because of the immunity conferred by the proposed Act, he or she will be entitled to recover the costs and expenses of medical and similar treatment, lost income, and the costs of legal advice and representation incurred as a consequence of the home invasion. Whilst the Opposition believes that the legislation is a step in the right direction, its ambit should be extended to cover business premises, industrial premises, taxis and other aspects of personal property that members of the public seek to protect against intruders.

The Government is facing an election within six months and it is desperate to get another statute on the books so that it can glibly say that it has introduced legislation for home invasion—the Home Invasion (Occupants Protection) Bill 1998. In reality, the legislation does not go far enough. It does not protect many people who should be entitled to protection under such legislation, because it clearly refers only to occupants. In the circumstances the bill is wanting because it is too late, it does not go far enough, and it does not deal with the fundamental right of members of the public to defend themselves, their person and their possessions against intruders.

Debate adjourned on motion by Mr Gibson.

[*Mr Acting-Speaker (Mr Clough) left the chair at 12.57 p.m. The House resumed at 2.15 p.m.*]

AUDIT OFFICE OF NEW SOUTH WALES

Report

Mr Speaker tabled, pursuant to the Public Finance and Audit Act 1983, the performance audit report entitled "NSW Police Service—Police Response to Fraud", dated October 1998.

PETITIONS

Governor of New South Wales

Petitions praying that the office of Governor of New South Wales not be downgraded, received from **Mr Armstrong, Mr Blackmore, Mr Brogden, Mrs Chikarovski, Mr Collins, Mr Debnam, Mr Ellis, Ms Ficarra, Mr Glachan, Mr Hartcher, Mr Hazzard, Mr Humpherson, Dr Kernohan, Mr Kerr, Mr Kinross, Mr MacCarthy, Mr Merton, Mr O'Doherty, Mr O'Farrell, Mr Phillips, Mr Photios, Mr Richardson, Mr Rozzoli, Mr Schipp, Ms Seaton, Mrs Skinner, Mr Smith**, **Mrs Stone** and **Mr Tink**.

Ryde Hospital

Petition praying that Ryde Hospital and its services be retained, received from **Mr Tink**.

Land Tax

Petitions praying that land tax on the family home be abolished, received from **Mr Blackmore, Mr Brogden, Mrs Chikarovski, Mr Collins, Mr Debnam, Mr Ellis, Ms Ficarra, Mr Glachan, Mr Hartcher, Mr Hazzard, Mr Kerr, Mr MacCarthy, Mr O'Farrell, Mr Phillips, Mr Richardson, Mr Rozzoli, Mr Schipp, Mr Smith** and **Mrs Stone**.

Land Tax

Petition praying that land tax on the family home be abolished, and that the investment tax threshold be increased from $160,000 to $320,000, received from **Mrs Skinner**.

Kings Cross and Woolloomooloo Policing

Petition praying for increased police strength at Kings Cross local area command and police foot patrols in Woolloomooloo, received from **Ms Moore**.

Surry Hills Policing

Petition praying for increased police presence in the Surry Hills area, received from **Ms Moore**.

East Sydney and Darlinghurst Policing

Petition praying for increased police presence in East Sydney and Darlinghurst, received from **Ms Moore**.

Kings Cross Policing

Petition praying for increased police presence in Kings Cross, received from **Ms Moore**.

Olympic Games Australian Flag Use

Petition praying that the Australian Flag be maintained in promotional material for the Sydney Olympic Games, received from **Mr Schipp**.

Same-sex Relationship Rights

Petition praying that same-sex relationships are accorded the same rights as heterosexual relationships, received from **Ms Moore**.

Transmission Structures

Petition praying that telecommunication carriers not be allowed to erect transmission structures within close proximity to residential homes, schools, child-care centres, hospitals, and aged-care centres, received from **Dr Macdonald**.

North Head to Little Manly Point Spoil Tunnel

Petition praying that construction of the spoil tunnel from North Head to Little Manly Point be opposed and that the excavated sandstone stockpiled at North Head be used to rehabilitate the North Head sewage treatment plant, received from **Dr Macdonald**.

Northside Storage Tunnel

Petition praying that plans to construct a storage tunnel from Lane Cove to North Head be abandoned, and that the allocated funds be used to find a long-term sustainable solution to sewage disposal, received from **Dr Macdonald**.

Manly Cove Foreshores

Petition praying that the Manly Cove foreshores be protected, and that the Manly Council policy that limits the height and scale of any Manly Wharf development be respected, received from **Dr Macdonald**.

Cooranbong F3 Noise Reduction Barriers

Petition praying that noise reduction barriers be erected on the F3 at Cooranbong, received from **Mr Hunter**.

Manly Wharf Bus Services

Petition praying that plans to move bus services from Manly wharf to Gilbert Park be abandoned, received from **Dr Macdonald**.

Moore Park Passive Recreation

Petition praying that Moore Park be used for passive recreation after construction of the Eastern Distributor and that car parking not be permitted in Moore Park, received from **Ms Moore**.

Moore Park Light Rail System

Petition praying that a light rail public transport system be established to serve sporting

venues and the Fox entertainment centre at Moore Park, received from **Ms Moore**.

Liquor Act Amendment

Petition praying that the Liquor Act be amended to allow restaurants to apply to serve liquor without the requirement of partaking of a meal and to allow customers to stand and consume alcohol away from the table, received from **Mr Cochran**.

QUESTIONS WITHOUT NOTICE

ELECTRICITY INDUSTRY PRIVATISATION

Mr COLLINS: My question is to the Premier. Did the Premier say last year in support of his plan to sell the State's electricity industry:

> My obligation as an elected Premier of this State is to speak the truth . . . the arguments here are simply overwhelming and they represent an opportunity to give New South Wales a more secure future.

Given what the Premier told *Stateline* last week, why has he decided to stop speaking the truth on the electricity issue?

Mr CARR: What a savage attack! Day after day I face these ferocious onslaughts in this Chamber.

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

Mr CARR: The Leader of the Opposition should put the wet lettuce leaf away.

Mr SPEAKER: Order! I call the honourable member for Gosford to order. I call the honourable member for Coffs Harbour to order. I call the honourable member for Georges River to order.

Mr CARR: According to an intelligence report, the Leader of the Opposition, whilst walking around a shopping centre at Wattle Grove, not far from where the Minister for Urban Affairs and Planning lives—

Mr SPEAKER: Order! I call the honourable member for Wakehurst to order for the second time.

Mr CARR: —was putting out his hand and saying, "Do you know who I am?"

Mr SPEAKER: Order! I place the honourable member for Ku-ring-gai on two calls to order.

Mr CARR: According to this report, no-one, not one person, was prepared to say they knew him.

Mr SPEAKER: Order! I call the honourable member for Georges River to order for the second time. I call the honourable member for Gosford to order for the second time. I call the honourable member for Wakehurst to order for the third time.

Mr CARR: After what happened with the gas industry in Victoria—

Mr SPEAKER: Order! The honourable member for Wakehurst has now been called to order three times, and the honourable member for Gosford and the honourable member for Georges River have been called to order twice. The member who next contravenes the standing orders by interrupting the Premier will follow the same path as that taken yesterday by the honourable member for Pittwater.

Mr CARR: After what happened with the gas industry in Victoria, after the Federal Government's decision on Telstra and after the Tasmanian election result, I make no apology for going to the people in March with a policy that we will manage strategically and cautiously the great public assets of this State. The coalition stands for nothing less than a wholesale fire sale. We will let the people in Maitland and Newcastle make the choice.

HEROIN IMPORTATION SEIZURE

Mr PRICE: My question without notice is directed to the Premier, Minister for the Arts, and Minister for Ethnic Affairs. What is the Government's response to the interception of a ship offloading packages allegedly containing 400 kilograms of heroin at Port Macquarie?

Mr CARR: I acknowledge the fine work in the Hunter of the honourable member for Waratah, not least of which is drawing public attention to the issue I just canvassed. For the Australian community in 1998 heroin is public enemy number one. It is an addictive poison that ruins lives, fuels crime and fills hospital beds. Each year the State Government spends $1.3 billion fighting the drug problem. Stopping heroin at the border is the best way to protect our community from this menace. Once heroin passes our shores, police, doctors, nurses and teachers must fight against the odds. That is why we welcome the interception of packages allegedly containing a staggering 400 kilograms of heroin at Port Macquarie and congratulate the police men and women involved in the operation.

I will inform the House about the effects on the State if 400 kilograms of heroin were to hit our streets. New South Wales Health calculates that we

could expect an extra 3.2 million hits of high-grade heroin for heroin users. On average that would result in an additional 75 heroin overdose deaths in New South Wales and 12,000 new hepatitis C cases. In turn, that would cause additional health care costs of $180 million. Further, New South Wales Health calculates that we could expect 350 new HIV and AIDS cases, at a health care cost of $35 million. The New South Wales Police Service contributed nearly 70 specialist officers from the Asian Crime, Special Services and State Protection groups to work in the front line of the investigation. Each officer was part of the restructured Police Service approach to fighting drugs—a restructure recommended by the Royal Commission into the New South Wales Police Service because the old methods were failing and letting the community down.

In 1997 a total of 211 kilograms of heroin were seized during operations involving New South Wales agencies. That is nearly 80 kilograms more than were seized in 1994-95. Based on the success of the restructure to date, the time must come for both sides of the House to support it. A restructured and reformed Police Service is getting results for the people of this State. The interception and the size of the alleged heroin seizure sends a chilling warning to this country and to our Federal Government. More than ever, Australia is being targeted as a market for heroin. That is why, above all else, stopping heroin at the border is so vital to all our endeavours.

DRUGS POLICING POLICY

Mr TINK: My question is directed to the Premier. Given the Government's cutting of the number of detectives dedicated solely to drug enforcement work from 300 to 50 and that the policing initiatives of the Howard Government are resulting in record heroin seizures, when will the Premier get serious about policing local amphetamine manufacturers and cannabis plantations and match the Federal Government's policing of drug importers?

Mr CARR: The number of police involved in drug enforcement work in New South Wales is 600.

Mr SPEAKER: Order! I place the Deputy Leader of the Opposition on two calls to order.

Mr CARR: If the Opposition's policy of running a corrupt Police Service had continued, to this day the State would be hamstrung in the fight against drugs.

Mr SPEAKER: Order! I place the honourable member for Eastwood on two calls to order.

Mr CARR: The Opposition was the parliamentary team that voted to a member against the establishment of the Royal Commission into the New South Wales Police Service. Not one of them voted to establish the royal commission. It took the Australian Labor Party to establish it.

Mr Photios: On a point of order.

Mr SPEAKER: Order! The honourable member for Ermington will resume his seat. The Chair will not hear a point of order from a member whose colleagues are shouting across the Chamber.

REGIONAL FOREST AGREEMENT

Mr ARMSTRONG: My question is to the Premier. Does the Premier claim that the negotiation process for the Regional Forest Agreement is fair, when he has arbitrarily excluded Aboriginal, farming and mining communities from discussions and is only negotiating with green pressure groups? How does he justify isolating every interest group from the process except those he once described as "ravenous timber wolves . . . who growl menacingly"?

Mr CARR: No wonder the Leader of the Opposition will not express faith in the Leader of the National Party and confirm that he would be Minister for the Olympics in a coalition government! What did the coalition do in relation to forests when the coalition had a chance to introduce its alternative policies? Jobs were disappearing and there was a year-by-year loss in the industry. The employment base was falling away. There was unsustainable cutting and the State was losing—

Mr SPEAKER: Order! The Premier needs no encouragement from those on the Government benches. The honourable member for Coffs Harbour will cease interjecting. I have warned members previously about interrupting. Those members who have been called to order are now deemed to be on three calls. I include the honourable member for Coffs Harbour in that order. I place the honourable member for Monaro on three calls to order.

Mr CARR: So the Government did not start with a clean slate. The coalition was in government; it was in charge of the forest process. Jobs were disappearing from the industry. Under the coalition there was unsustainable cutting and the State was

losing its high-conservation value old-growth forests. The Australian Labor Party was elected to government with a platform that spelled out a process of forest industry reform involving all the stakeholders—and all the stakeholders are being consulted. That great icon of conservation in New South Wales, the vast area of the south-east forests, areas of which have been remorselessly logged, have been saved and are now one of the greatest national parks in the State. That is in line with the Labor Party's election commitment. The shadow minister has now given notice of a motion that effectively calls for the repeal of the declaration of the 66 national parks created by the Government, which is a world record as well as an Australian record.

Mr SPEAKER: Order! The Leader of the National Party will remain silent. I call the honourable member for The Hills to order.

Mr CARR: In March 1999 the people will again decide, as they decided in March 1995, in electorates like Bathurst, Gladesville and the Blue Mountains—electorate by electorate. In electorates where the forest conservation issue figured large, the people of this State voted to save the south-east forests. They voted in favour of the ALP policy of forestry reform and the declaration of new national parks. They voted the same way in 1984 when they re-elected the Wran Government, which endorsed the rainforest—

Mr Armstrong: On a point of order. The Premier has been speaking for almost four minutes. I ask you to remind him that the question asked why he has excluded aboriginals, the Mining Council and the farmers from negotiations on the very forests he is speaking about. It is the exclusion we are interested in.

Mr SPEAKER: Order! There is no point of order.

Mr CARR: In March 1999 there will again be a choice between the forestry process—

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

Mr CARR: The choice in March next year will be between a forestry process that results in the saving of our high-conservation value old-growth forest and the repeal of the national parks declarations, as foreshadowed by the shadow minister. All the key players in achieving the central objective are part of the process. They include representatives of the timber industry and conservationists and the negotiations—

Mr SPEAKER: Order! The Leader of the National Party asked the question and he has interrupted the Premier on at least five occasions. I thought I had made it clear that the tolerance of the Chair is at an end. I usually extend a little more latitude to the Leader of the National Party and the Leader of the Opposition than I extend to others. However, if the Leader of the National Party continues to transgress that latitude I will direct the Serjeant-at-Arms to remove him.

Mr CARR: The core groups in these discussions include the Forest Products Association, the Construction, Forestry, Mining and Energy Union, the North-East Forest Alliance, the National Association of Forest Industries, the Nature Conservation Council, and the New South Wales Aboriginal Land Council. Those parties are discussing the future of the State's forests, but not at the expense of mining or farming interests. The discussions are about the future of forestry on Crown land, but when they move into policy that might apply to other areas, stakeholders representing mining and farming interests are brought into the process and consulted. Those consultations have been fed directly into the final result. I remind the House that farmers and miners were not part of the interim negotiations. They were invited to have a role in the final process to fully inform the Government about additional land uses in the areas under discussion.

New South Wales is the only State in Australia to involve the community in negotiations about the future of our forests. We know the coalition opposes those consultations and that they would end if the coalition came to government. We know the coalition would repeal many of the 66 new national park declarations. That has been foreshadowed by the shadow minister. The Minister for the Environment will have to advise stakeholders about that within the next hour; letters will go out to all of them. In March next year the community will decide whether the south-east forests and the other great forest areas are protected for all time under the Australian Labor Party, as the rainforests were under Neville Wran, or whether they are logged by the coalition.

REGIONAL FLOOD-DAMAGED ROADS REPAIR

Mr BECKROGE: My question without notice is directed to the Minister for Roads, and the Minister for Transport. Can the Minister advise the House what the Government is doing in partnership with local councils in respect of the repair of roads in the central west and north-west of New South Wales that were damaged by recent floods?

Mr SCULLY: I commend the honourable member for Broken Hill for his commitment to infrastructure and resources in his electorate. Honourable members would be aware of the devastating floods that have hit northern and central western New South Wales and the upper Hunter over recent months. The floods, which were declared a national disaster in August, have devastated farmers, families and businesses in the north and north-west. Many affected farms are still under water. The floods have caused major damage to local, regional and State roads and as well to the national highway system.

Major roads affected include the New England, Newell, Castlereagh, Gwydir, Carnarvon and Oxley highways. The Roads and Traffic Authority and local councils are now assessing damaged roads and repair works are well under way. The emergency works are 100 per cent funded by the RTA, as are works on State and regional roads. The RTA will also fund 75 per cent of the cost of repairs to local roads up to $100,000 and 100 per cent of the costs above $100,000. Flooding is still progressing down the Darling River system and the full progression of flood peaks could take some months.

Mr SPEAKER: Order! I place the Deputy Leader of the National Party on three calls to order.

Mr SCULLY: The total cost of the flood repair bill for those roads is still being assessed, but it will run into tens of millions of dollars. The total cost will include the necessary Federal Government contributions to fix damage to the national highways in the bush. On 13 September, the Premier asked the Howard Government for Federal assistance for necessary infrastructure repairs, but it will not surprise anyone to learn there has not yet been a response to that request.

Mr Souris: On a point of order. The Minister has arranged a question which he has already answered today, a question which I placed on the notice paper. There is no need to give the House two versions of the same answer, which appears at page 1315 of *Questions and Answers* and which I ask you to read.

Mr SPEAKER: Order! Having looked at the relevant material in *Questions and Answers* I rule that Minister is in order. The honourable member for Coffs Harbour will remain silent.

Mr SCULLY: I am pleased we have on the record that the Deputy Leader of the National Party is not concerned about rural roads. The pressing issue facing farmers, especially in the north-west, is ensuring that the roads are open and in a safe condition for the coming harvests of their remaining crops, including cotton and sunflowers. Over the next few months it is vital that the roads are fixed to get the crops to silos and railheads, to allow wool and livestock to get to markets and to get heavy machinery in to allow the preparation of fields for replanting.

Last night I met with the President of the New South Wales Farmers Association. I assured the association that the Carr Government is committed to fast-tracking the flood repair work to allow farmers who are already suffering the devastating effects of the floods to get their crops to markets. I take this opportunity to reassure shire councils, especially in north-western New South Wales, that the Carr Government will fully support their efforts in restoring our country roads. The Government is committed to providing the necessary funding and the full resources of the Roads and Traffic Authority are committed to helping councils to assess the damage and to get on with the repair work.

I encourage shires to get on with the assessment and repair work and to put in applications for funding as quickly as possible. I have asked the RTA to provide any councils facing difficulties with resources or expertise in assessing and commencing flood repair work with all necessary assistance to get the work under way. This is an opportune time to remind heavy vehicle operators that this year, more than ever, overloaded vehicles on our roads will not be tolerated. As a result of the floods the saturated pavement is more susceptible than ever to damage from overloaded vehicles, and it is in the interest of all road users that mass limits are observed. I am pleased with the level of co-operation and support between farmers, local government and the RTA in dealing with this disaster. I emphasise the need to continue working together over the coming harvest season. The Carr Labor Government will continue to support farmers, families and small businesses in rural and regional New South Wales.

COMMUNITY SAFETY INITIATIVES

Mr McMANUS: My question is directed to the Minister for Police. What is the Government doing in partnership with the community to prevent crime under the safer communities plan launched in April?

Mr WHELAN: As my Parliamentary Secretary the honourable member for Bulli was involved in the development of the very innovative community safety plans and I thank him for his

contribution to that program. In April this year the Premier launched the innovative crime prevention initiative, the safer communities plan.

Mr SPEAKER: Order! I remind the Deputy Leader of the Opposition that he is on three calls to order.

Mr WHELAN: The plan means a renewed partnership between police and the community in the fight against crime. It means 80 police community safety officers at every police command around the State are now working with local residents to develop and implement local community safety plans. It means a reinvigoration of existing crime prevention programs and the creation of exciting new ones such as the one I was involved with today when more than 1,000 schoolchildren from inner and eastern Sydney locations had a unique opportunity to say no to crime. The kids participated in the community winners project, which is designed to give anyone up to the age of 18 the chance to create a community project with a crime prevention theme.

The kids who participated received tickets to the Australian champions tennis tournament to see the likes of Connors, Vilas, McEnroe, Borg and Cash in action. Today I had the pleasure of thanking the children, the police and the schools involved for a job well done. Community winners is about involving young people in crime prevention projects. It involves anti-drug, anti-knife and anti-graffiti messages. It brings young people, community groups, community safety officers and youth liaison officers from nine local area commands in the city-east region together to fight against crime.

Kids involved go to schools such as Bondi Beach primary, Sydney Girls high, Gardeners Road Public School, Fort Street, Marist college at Pagewood and Plunkett Street primary school at Woolloomooloo. It involves taking a fresh look at how to fight crime. Aboriginal artist Danny Eastwood and children from the Plunkett Street school painted a mural which was entered in the community winners project. A mural, where there was once graffiti, now adorns Woolloomooloo police station. The mural is a visible sign of the success of the partnership between police and the local community. It is but one indication of how the New South Wales Police Service is getting on with driving down crime.

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

Mr WHELAN: In Woolloomooloo we are starting to see results. Today I am pleased to report that over the past 12 months crime in Woolloomooloo has dropped by 24 per cent. The figures are impressive. In the last 12 months assaults are down by 24 per cent, malicious damage is down by 44 per cent, stealing from motor vehicles is down by 11 per cent, and car stealing is down by 16 per cent. This dramatic crime reduction is due to both an increased police presence and the extraordinary work being done as part of the safer communities plan. It means greater safety and better security for inner city families.

The Carr Government is working with the community and police to reduce crime. As everyone knows, we have a zero tolerance policy on knives. We have passed tough new laws to search for and confiscate knives, to demand names and addresses and to move on those who harass or intimidate the community. The sale of knives to people under 16 years of age is now banned. Community winners shows that the anti-crime messages are getting through to our kids. Students at Gardeners Road Public School are certainly getting the message. Samantha Coates, a year 6 student, said:

> Look what happens when people carry knives. There are all different problems. You can get killed, injured or hurt . . . I think it is bad to carry knives because it's a crime and you can go to gaol for it.

Mark Peterson, also in year 6 at Gardeners Road Public School, said:

> I think that drugs are endangering the lives of other people because they only get one body in a lifetime and they have to look after it . . . Drugs shouldn't be used because they affect people very badly.

Our crime prevention plan is working. It means that the police and the community are partners against crime. Community winners is an outstanding example of what can be achieved when young people actively take part in crime prevention. I especially thank those police who have made it happen, particularly Sergeant Adrian Gover from Kings Cross local area command, who co-ordinated the project, and many other police. Positive results are already being seen by families such as those living in Woolloomooloo.

INTERNATIONAL GARDEN FESTIVAL

Mr HARTCHER: My question is to the Premier. Why did he turn his back on the International Garden for three years but suddenly find funding to back the smaller springtime festival on the central coast during Labor's failed election campaign? Which is more important to the Premier, helping the ALP right wing or securing 9,000 jobs for the people of the central coast?

Mr Whelan: On a point of order. The question is argumentative and contains too many parts.

Mr Hartcher: It is a very important question and—

Mr SPEAKER: Order! Because of its length I rule the question out of order. However, I will allow the honourable member for Gosford to rephrase it. I suggest that if he had read the question as written without embellishment the form of the question may not have been challenged.

SCHOOL CAPITAL WORKS FUNDING

Mr SHEDDEN: My question is to the Minister for Education and Training. What is the Government doing in partnership with school communities to improve facilities?

Mr AQUILINA: As all members are aware, the Government has demonstrated its commitment to education through the massive boost in funding since its election. This year's budget resulted in a record $6.8 billion allocation to education and training. That is $1.1 billion more than was spent in 1995, and is an increase of 18 per cent in real terms on public education expenditure. The Government is now spending more per student in real terms than has ever been spent in the 150-year history of public education in New South Wales. I am sure the honourable member for Ku-ring-gai is taking note. That increased funding ensures that our students are better prepared for their futures and that the Government is delivering high-quality education, improved resources and better facilities.

Mr O'Doherty: Prove it!

Mr AQUILINA: I will prove it. Today I advise that the Government has allocated funding for capital works projects for 124 schools under the joint funding program. Like many important programs the joint funding program has received a funding boost from the Government

Mr O'Doherty: On a point of order. The Minister announced this yesterday during debate on the censure motion.

Mr SPEAKER: Order! The honourable member for Ku-ring-gai is abusing the forms of the House. He is well aware that what he had said does not constitute a point of order. If he again behaves in that way I will have him removed from the House.

Mr AQUILINA: Obviously good news hurts, and it particularly hurts the honourable member for Ku-ring-gai. This year's allocation has been increased by $700,000 over last year's funding. These funds will assist schools with a wide range of capital works projects, such as school halls, cabling for the networking of computers, covered outdoor learning areas, interview and time-out rooms, covered walkways and shade shelters. As honourable members are aware, the joint funding program is in addition to the usual major and minor capital works programs. Under the program the Government provides up to half of the total construction cost for additional capital works projects. This year 124 schools will receive up to as much as $300,000 for such projects. The remainder of the cost of the projects is usually provided from funds raised by school communities, particularly the local parents and citizens associations.

The joint funding program is an excellent demonstration of how the Government is working with parents, teachers and school communities to improve school resources and to ensure that our students have access to high-quality facilities. It is a clear example of the strong partnership that exists between schools, parents and the Government. I am pleased to inform the honourable member for Bankstown that Bankstown Public School will receive additional funding. It is the largest school in the Bankstown district, with approximately 920 students. It will receive funds to build shade structures in the playgrounds. These structures will provide shady areas in which to learn and play and will add to landscaping work done by the school and parents to improve the school environment.

The Government is working in partnership with parents and local schools to ensure that the hard-earned dollars that parents have contributed to the schools are matched by the Government on a dollar-for-dollar basis. Willyama High School at Broken Hill will receive funding for additional computer cabling and networking. Honourable members would be aware that giving students and teachers access to the latest teaching and learning technology is a high priority for the Government. I am sure Mr Speaker will be pleased to hear that Abbotsford Public School, which is in his electorate, will receive $300,000 to assist with the construction of a community hall.

Mr Hazzard: On a point of order.

Ms Allan: You have no intelligence and no sense of humour either.

Mr Hazzard: The Minister for the Environment should withdraw her comment about the Minister for Education and Training. It is outrageous. She should be working as part of a team with the Minister rather than condemning him in that way.

Mr SPEAKER: Order! The honourable member for Wakehurst will resume his seat.

Mr AQUILINA: I am sure my ministerial colleague the Minister for Urban Affairs and Planning will be pleased to learn that Hammondville Public School will also receive $300,000 for a community hall. Schools in rural New South Wales are also major beneficiaries, with most rural electorates receiving some funding. For example, the Minister for Regional Development, and Minister for Rural Affairs will be pleased to learn that four schools in his electorate—Drake Public School, Grafton High School, Grafton Public School and Mallanganee Public School—will also receive funds for covered outdoor learning areas.

Members will receive, or have already received, from my office details of the funding for projects at schools in their electorates. As I indicated yesterday, three schools in the electorate of the honourable member for Ku-ring-gai will benefit, and I gave him a letter yesterday to that effect. These schools are Berowra Public School, Turramurra North Public School and Wideview Public School. I gave him 24 hours notice. One would have thought that he would at least be generous enough to thank me. I have waited 24 hours for him to acknowledge that the Government is providing funds for outdoor learning areas at schools in his electorate. I am almost embarrassed to say that nine schools in the electorate of the Leader of the National Party will receive project funding. Where is he? Almost every electorate represented by a member of the National Party has received funding.

INTERNATIONAL GARDEN FESTIVAL

Mr HARTCHER: My question is to the Premier. Why did he do nothing for the central coast International Garden Festival for three years but found funds only two weeks before polling day for the much smaller springtime floral festival?

Mr CARR: The honourable member for Gosford is in charge of the coalition's marginal seat strategy. He and someone called Gallacher from the upper House get the candidates in and the first half hour of the briefing is devoted to what is wrong with their leader. That is the starting point: what is wrong with the leader and how the silent, almost invisible, member for Lane Cove will change everything. That is the coalition's marginal seat strategy. It took 48 hours to negotiate the touching letter of loyalty, but I suppose, as they always say, nothing is true until it is officially denied. Even hardened political observers wiped the tears from their eyes as they read the protestation of loyalty to dear brother Peter in the letter. Each of them was called on to pen a little letter of loyalty.

I turn now to the garden festival. The honourable member for Gosford asked why it did not go ahead in its original form. The answer is that the International Bureau of Exposition requires underwriting from the national Government. The national Government is not this Government. Australia would be better off if it were, but Federation occurred in 1901 and Henry Parkes' bill to rename New South Wales as Australia lapsed in this House more than 100 years ago. Canberra was required to underwrite the bid, but the Howard Government refused to do so. As a result the bid was rescinded.

Mr SPEAKER: Order! I ask the Serjeant-at-Arms to remove the honourable member for Ermington.

Mr Photios: It was Keating, and the Premier is a bloody liar.

[*The honourable member for Ermington left the Chamber, accompanied by the Serjeant-at-Arms.*]

Mr CARR: Did honourable members hear what he said? I do not want to be in a position where someone on my side of the House draws on that kind of language with the intention of—

Mr SPEAKER: Order! Members of the Opposition are still interjecting 30 seconds after the honourable member for Ermington was removed from the Chamber for constantly interrupting the Premier. They are inviting me to exercise my prerogative and direct that they be removed. I do not want to direct members to leave the Chamber, but if they continue to disobey the directions of the Chair I will do so.

Mr CARR: The festival did not proceed—could not proceed—because the Federal Government did not opt to underwrite it. The Federal Government had the opportunity to put this on its list of national scheme federation fund projects. But, no, John Howard said that money that might have gone to this project was going to go to the Department of Defence. That money went towards the hand-over of lands around Sydney Harbour,

lands that should have gone to the National Parks and Wildlife Service without any payment from the Federal Government. What has been the reaction on the central coast to the Government's announcement? I quote Edgar Rabins, the editor of the *Central Coast Business Review*, the organ of the employers on the central coast. He said:

> The State Government decision for a festival at Mount Penang has the potential to be even better than Planet Earth.

The original garden festival proposal was called Planet Earth. I refer to the annual horticultural festival being developed from the successful Australian Springtime Floral Festival. The reaction on the central coast was overwhelmingly positive. It would result in the development of first-class community sporting facilities; infrastructure services; environmentally sustainable, long-term, commercial, viable buildings; et cetera. What was the reaction of the honourable member for Gosford? He said on central coast radio that the Government has a secret plan to cover the site with housing.

As my colleague the Minister for Urban Affairs and Planning, and Minister for Housing pointed out, the zoning simply prohibits that. The people who live on the central coast are saying that it is a terrific proposal and businesses are saying that it is even better than the original proposal, which lapsed because the Federal Government would not support it. This terrific decision has received general approbation, except from the negative, whingeing, whining mob opposite. The people of New South Wales are happy because the economy is growing, jobs are increasing and the future is looking positive. The negativity of Opposition members, particularly as we approach the Olympics, is regrettable and deeply disappointing to me.

SENIOR CITIZEN SPORT PROGRAMS

Mr CLOUGH: My question without notice is directed to the Minister for Sport and Recreation. What is the Government doing to encourage older people to participate in sport?

Ms HARRISON: I note with particular interest that the honourable member for Bathurst has great plans for his retirement. However, he will have to do more than just watch the cricket. A new game is being played in retirement villages, and one can play it even if one is in a wheelchair. If the honourable member's knees need to be operated on further he will still be able to play this new game. This new game is being run by Steve Mortimer, of Canterbury fame, and it is called shuffleboard. I understand that a number of people in retirement villages have met and then married after playing shuffleboard together—so I do not know whether we should set the honourable member loose on it.

Forecasters predict that just 20 years from now the number of people over the age of 65 will comprise 15 per cent of our total population. Access to recreational opportunities is essential for this age group, who are predominantly retired people. It is well recognised that some form of sport or recreational activity is necessary for everyone in the community, and this is particularly true for the older people among us. Proper and regular exercise has positive effects in terms of a person's general health and wellbeing. In New South Wales that message is getting through to our seniors. The Australian Bureau of Statistics publication "Participation in Physical Activities Australia" showed that we had the second highest participation rate in the over-65 age group, which is just behind South Australia.

To keep the impetus for increased participation going, the Government provided $100,000 to pilot a volunteer training scheme for older adults to train as volunteers to work with sport and recreation organisations and in my department's programs. This specialised training has enabled 490 individuals to gain accreditation to work with various seniors' groups to help promote participation in some form of physical activity. These people received instruction to equip them to work with seniors involved with my department's walking for pleasure program, which promotes walking as a pleasant form of exercise through organised groups. They received training in selecting and guiding a walk, emergency procedures, administrative requirements, motivating groups, and the assessment of individual abilities.

Other programs being developed for senior adults include a general exercise training program and leadership training for seniors camps programs. Another program being developed is the holidays for seniors program, which provides co-ordinated holidays at a number of centres throughout the State where people can set their own pace while having the opportunity to choose from a wide range of activities in a community setting. Other programs that older people can enjoy include adult learn-to-swim and aquafitness classes, learn-to-play-golf classes, as well as a variety of Senior Citizens Week activities.

As honourable members would be aware, next year is the United Nations International Year of Older Persons. My department is active in supporting the whole-of-government approach to

raise the profile of this celebratory period. The Government places an extremely high value on the contribution that our seniors make to the community as a whole, and I am proud that we are able to provide them with these opportunities to enjoy their golden years in a productive and healthy way.

Mr CLOUGH: I ask a supplementary question. In view of the Minister's answer, when and where will the first of these programs commence?

Ms HARRISON: A number of these programs have already commenced, and I believe the next shuffleboard tournament starts next month.

Questions without notice concluded.

CONSIDERATION OF URGENT MOTIONS

New South Wales Agriculture Centres of Excellence

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Land and Water Conservation) [3.18 p.m.]: I ask the House to give priority to my motion, which relates to the success of the Government's centres of excellence concept and the rationalisation of its laboratory services relating to veterinary services. While many of these issues commenced some two to three years ago, the grants to support these institutions are only just coming on line. Today is a good opportunity for the House to debate this matter. I wish to highlight the success of the restructuring of New South Wales Agriculture. In fact, many organisations are now voting with their pockets and are supporting New South Wales Agriculture's restructuring. They have increased funding to a number of services, which I shall outline should my motion receive precedence.

During 1995 and 1996 the Opposition made a number of claims about the restructuring of New South Wales Agriculture. This motion would provide a good opportunity, as we lead into the election in March next year, to again hear what the Opposition said in 1995 about the restructure in agriculture, to assess whether its predictions stood up to the test of time and to analyse the results of the restructuring. I ask the House to vote in favour of my motion receiving priority so that we can discuss further the expansion of agricultural services, its impact on rural areas and its support not only from regional areas but also from various non-government funding bodies that have voted with their pockets. I ask the House to support my motion.

Electricity Privatisation

Mr COLLINS (Willoughby—Leader of the Opposition) [3.20 p.m.]: The motion of which I have given notice is more urgent for the following reason. Yesterday in another place the Treasurer of New South Wales, the Hon. Michael Egan, in answer to a question from the Opposition, said in relation to electricity privatisation, "My view on the question of the privatisation of our electricity utilities has not changed at all, nor has the Premier's." The man in charge of the finances of this State is at complete variance with the current leader of this State, the Premier of New South Wales. There is a total divergence; a total split.

Mr McManus: On a point of order. I am reluctant to take a point of order on the Leader of the Opposition, but I would draw your attention, Mr Speaker, to the standing orders, particularly Standing Order No. 120(4), which clearly indicates—

Mr COLLINS: We are back to that, are we? We are going to interrupt on your Ministers in future! Are we playing that game again? The honourable member for Bulli is deliberately wasting time.

Mr McManus: Standing Order 120 is very specific—

Mr COLLINS: We will put up objection after objection to every Minister. We will do the same thing.

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

Mr McManus: The Leader of the Opposition opened this debate by attacking, first, another member, which is against Standing Order No. 120. I would ask you, Mr Speaker, to draw him back to the leave of the motion.

Mr SPEAKER: Order! I have extended a degree of latitude to members speaking in this priority debate. I will continue to do so.

Mr COLLINS: The single biggest initiative that can be taken to improve this State and its finances is an issue on which the Premier of this State has today done a monumental backflip. This is short-sighted opportunism at its worst. This is a cowardly retreat by a Premier. This is a Premier who has failed to deliver to the people of New South Wales for generations to come on a policy

that he said, in his words, was "one of the most important steps that could ever be taken by a State government". It was the Premier of this State who said that it is in the best interests of the people of New South Wales. It is the Premier of this State who said that the longer privatisation is delayed, the more jobs are at risk.

It was the Premier of this State who said, "New South Wales, under my plan, will stride into the next century free of public debt, and that means a more secure future for every man, woman and child of this State." If it were so important then, it is important now. What the Premier said then was the truth, and it is the truth now. The truth does not change. It was the Premier of this State who said that the arguments are simply overwhelming, and they represent an opportunity to give New South Wales a more secure future. It was Michael Egan, the Treasurer of this State, who said that there are huge financial benefits of selling now, there are huge risks down the track if we do not, and the reality has dawned that privatisation of this industry is inevitable. It was the Treasurer of this State who said that the onus would be on privatisation opponents "to show where the money otherwise is coming from to build better schools, better hospitals and other infrastructure". That is what we gather here to discuss. That is what we are here to improve.

What the Premier said today makes him and his Government the laughing-stock of the business community and the finance world. Anyone with the most rudimentary knowledge of economics knows the bunkum that the Premier is perpetrating. He cannot be allowed to do a backflip on this issue and get away with it. The people of this State see right through him. Mark our words: whoever wins the next State election, privatisation of the electricity industry is inevitable, and Bob Carr knows it. The most cursory glances at the financial choices confronting New South Wales leave no doubt about the windfall available now to this State, which will recede dramatically as the years pass. Everything the Premier and the Treasurer said over the past two years stands. In other words, it is by that they will be judged. Yet today, we have a Premier in conflict with his Treasurer. Which one is telling the truth? [*Time expired*.]

Question—That the motion of the honourable member for Mount Druitt be proceeded with—put.

The House divided.

Ayes, 49

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Mr Moss
Mrs Beamer	Mr Nagle
Mr Carr	Mr Neilly
Mr Clough	Ms Nori
Mr Crittenden	Mr E. T. Page
Mr Debus	Mr Price
Mr Face	Dr Refshauge
Mr Gaudry	Mr Rogan
Mr Gibson	Mr Rumble
Mrs Grusovin	Mr Scully
Mr Harrison	Mr Shedden
Ms Harrison	Mr Stewart
Mr Hunter	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knight	Mr Watkins
Mr Knowles	Mr Whelan
Mr Langton	Mr Woods
Mrs Lo Po'	Mr Yeadon
Mr Lynch	*Tellers*,
Mr McBride	Mr Beckroge
Mr McManus	Mr Thompson

Noes, 44

Mr Armstrong	Ms Moore
Mr Beck	Mr Oakeshott
Mr Blackmore	Mr O'Doherty
Mr Brogden	Mr O'Farrell
Mr Chappell	Mr D. L. Page
Mrs Chikarovski	Mr Peacocke
Mr Cochran	Mr Phillips
Mr Collins	Mr Richardson
Mr Cruickshank	Mr Rixon
Mr Debnam	Mr Rozzoli
Mr Ellis	Ms Seaton
Ms Ficarra	Mrs Skinner
Mr Glachan	Mr Slack-Smith
Mr Hartcher	Mr Small
Mr Hazzard	Mr Souris
Mr Humpherson	Mr Tink
Mr Jeffery	Mr J. H. Turner
Dr Kernohan	Mr R. W. Turner
Mr Kerr	Mr Windsor
Mr Kinross	
Mr MacCarthy	*Tellers*,
Dr Macdonald	Mr Fraser
Mr Merton	Mr Smith

Question so resolved in the affirmative.

NEW SOUTH WALES AGRICULTURE CENTRES OF EXCELLENCE

Urgent Motion

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Land and Water Conservation) [3.35 p.m.]: I move:

> That this House notes the successful establishment of nine centres of excellence and the restructured veterinary laboratories within New South Wales Agriculture under the Government.

I thank all honourable members for voting this afternoon to give this motion priority. The New South Wales Opposition should declare its position on the nine successful centres of excellence across the State and the restructured veterinary laboratories within New South Wales Agriculture. All honourable members should note the Government's restructuring program and look also at what the Opposition is now saying about restructuring in agriculture. I believe that this important issue should be debated to encourage the State Opposition to lay its cards on the table once again, bearing in mind that, on the first occasion it laid its cards on the table, that event was recorded in *Hansard*. I am sure that all honourable members would like to be informed of what members of the Opposition said at that time.

In late 1995 and in early 1996 the present Leader of the National Party, and shadow spokesman for agriculture in the upper House, the Hon. Richard Bull, went on the record as saying that the restructuring of New South Wales Agriculture was "a disaster". In a media release dated 18 October 1995 the Leader of the National Party described it as "a crazy decision". In a media release he issued on 1 November 1995 he said that changes would "tear research teams apart". The shadow spokesman in the upper House, the Hon. Richard Bull, said in a press release on 25 March 1996 that restructuring of the department was "an airy-fairy package" and a plan "straight out of fantasy land". The shadow spokesman went on to say that the National Party would fight to have the Government's decisions reversed.

When the Hon. Richard Bull spoke in September 1995 he said that a coalition government would retain the restructuring program. Today we should ask Opposition members whether they will reverse that decision. I wonder whether the Opposition's position on restructuring is still current. Members of the Opposition, some of whom are now making notes in order to participate in this debate, might clarify their position today. Let us see how that compares with what they said in 1995 about this Government's decision to restructure New South Wales Agriculture. This matter is particularly important in light of the overwhelming support that the Carr Government now has for its restructuring program within regional New South Wales.

As a direct result of the restructuring process, New South Wales Agriculture now has nine centres of excellence across the State. Let me remind honourable members of those centres. They are: a centre of excellence for the environment at Wollongbar; a centre of excellence for the beef industry at Armidale; a centre of excellence for cotton at Narrabri; a centre of excellence for northern cropping systems at Tamworth; a centre of excellence for sheep, deciduous fruit, pastures and weed and vertebrate pest management at Orange; a centre of excellence for animal and plant health at Elizabeth Macarthur Agricultural Institute in Camden; a centre of excellence for range land management at Trangie; a centre of excellence for rice and horticulture at Yanco; and a centre of excellence for southern farming systems and viticulture at Wagga Wagga. All those centres have received extremely high support from their local communities, the farming sector and wider industry funding bodies.

Since the Government made its decision to restructure external industry, funding has increased enormously. At the time the Opposition claimed that industry funding bodies would walk away from New South Wales but the contrary is now the case. In 1995-96 we attracted just over $16 million in industry support funding. That was at a time when the Opposition said that the funding levels would reduce. In 1997-98 we learned that we attracted just over $22 million from those similar sources—an increase of 35 per cent, not a decrease as predicted by the State Opposition.

The figures show that the level of support is likely to increase yet again in this current financial year. Only last week I attended the Wagga Wagga Centre of Excellence. With the honourable member for Wagga Wagga I officially opened the centre and launched four new crop varieties. I was pleased that there was overwhelming support from the regional community, with the centre attracting a record level of funding from various industries. In 1996 the external industry funding for the regional centre jumped from $1.83 million to $3.2 million. That dramatic increase of 80 per cent in just two years occurred after the Government announced the changes to the Wagga Wagga agricultural facility.

As a result of increased numbers and a new focus, the staff at Wagga Wagga are doing great work. At the time the honourable member for Wagga Wagga and the local mayor predicted that this Government would gut agricultural services in Wagga Wagga. I was pleased to announce at the opening of the centre that staff numbers had increased from 150 to 200 in two years. At a time when it was alleged that we were reducing staff in Wagga Wagga we actually increased staffing by 50. Wagga Wagga is also a centre for acid soil work. Australia's leading acid soil experts are located in Wagga Wagga, working in collaboration with 20 sites involving farmers' properties on some of the worst affected parts of the State.

All of our centres of excellence have significant links with outside bodies. Wagga Wagga Centre of Excellence has links with Charles Sturt University, the University of Sydney, the Grains Research and Development Corporation, the Grape and Wine Research and Development Corporation, the CSIRO, the Horticultural Research and Development Corporation and the Natural Heritage Trust. The changes to the veterinary laboratories have produced similar success stories. The Government concedes that technically speaking we closed down the laboratories at Armidale and Wagga Wagga and moved the Biological and Chemical Research Institute from Rydalmere. I say "technically" because, in fact, the Wagga Wagga laboratory was converted to a plants and soil laboratory and the Armidale laboratory was privatised.

Mr Chappell: No thanks to you.

Mr AMERY: The honourable member for Northern Tablelands knows that negotiations were occurring at the time we made those decisions, because he led a deputation to the Government at the time. Many services now operate out of Wollongbar, Orange and Camden. For the first time a private veterinary laboratory is operating in New South Wales. The services carried out by the Rydalmere research institute are now dispersed over several centres across the State. With all these laboratory changes, services and expertise have been maintained and farmers have borne no extra cost. The department has not received any complaints about the services since the changes. The Camden centre was given an award for contributing to the State's economy last year after tests confirmed that our cattle were free from the deadly blue tongue disease.

If the Opposition still insists on opposing and reversing the Government's successful restructuring program, the Liberal and National Party members should declare their position today and indicate how much a reversal would cost. Will the Opposition oppose the relocation of research centres from western Sydney to the country areas? *Hansard* will show, and I will read it in my reply, that at every opportunity Opposition members spoke and voted against the Government's attempts to move the Rydalmere facility to nine centres of excellence around New South Wales. If the Opposition ever wins office—

Mr Fraser: We will be there in March.

Mr AMERY: Media monitoring tells me that polling during the Federal Government's campaign shows that the Carr Government leads the Opposition 55 per cent to 45 per cent. In the unlikely event that the Opposition wins office, the question that must be asked about all those regional centres is: will the Opposition recentralise agricultural research from country areas back into the western suburbs of Sydney, which it previously fought for so passionately? New South Wales now has three government veterinary laboratories and one private operation. With improvements in technology, will the Opposition close the present facilities that now operate at Armidale and Wagga Wagga and open new veterinary laboratories? If that is the Opposition's intention, the Government will be pleased to give a costing of such a proposal. The Opposition's position on the restructure is on the public record, in *Hansard* and in the press clippings and press release files. I look forward to hearing the Opposition's contributions to the debate to ascertain its intentions.

Mr SLACK-SMITH (Barwon) [3.44 p.m.]: The people of country New South Wales will never forget who gutted New South Wales Agriculture. They will never forget that 900 experienced and valuable employees have now left the Department of Agriculture. The Minister has a hide to congratulate himself. He talked about the nine centres of excellence, but he promised 14 centres. Although the State has nine centres of excellence, whose staff are doing a fine job, we are still a few short. The Government's so-called restructuring of the regional veterinary laboratories and the Biological and Chemical Research Institute has resulted in the closure of three world-class facilities at Wagga Wagga, Armidale and Rydalmere. The Minister referred to an increase in personnel at Wagga Wagga from 150 to 200, but that is a far cry from 900. The Minister has a lot of catching up to do.

The closure of the centre has severely damaged the State's surveillance and research

capacity and has resulted in a massive reduction of extension services. The restructuring has had a dramatic effect on the department and has severely curbed its ability to provide advice, counselling and aid to farmers. Instead of running decent extension services to farmers, many of the Minister's employees are trying to charge honest farmers with breaches of State environmental planning policy 46 under the Native Vegetation and Conservation Act. If they are not too busy doing that, they are constructing a parthenium weed combine harvester pit at the Mungindi floodway. As I speak, parthenium weed is spreading towards Menindee into South Australia because of this Minister's complete ignorance of the parthenium weed situation. An article in the *Sydney Morning Herald* of 16 March 1996 in relation to the staffing cuts stated:

> The Minister for Agriculture, Richard Amery, conceded the cuts had badly damaged the Government's electoral standing in the bush.

That is right. The article continued:

> He said the intention of the redundancy program had simply been "to give us an idea of how many people intended to leave the department in the next few years, so I could get a picture of where we were heading."

The 900 employees in the Department of Agriculture took the Minister's statement as gospel. There was then that famous quote from the Minister: "It got a little out of hand." It was like rats deserting a sinking ship. Too many employees left because they were scared about their future employment. Despite the pre-election promise to enhance services to drought-affected farmers—another promise broken by the Carr Labor Government—this Minister slashed the department's budget by $35 million in his first budget. However, after sustained pressure from the coalition, the Australian Labor Party had a huge swing against it in rural communities and the Minister was forced to revise the cut to $11.2 million.

It is mind-boggling to consider what the final budget cuts would have been had that swing not occurred in regional New South Wales. It is imperative that mechanisms are put in place to improve relations with our trading partners and to ensure that our cattle and products are clean and disease free. Also, non-tariff barriers, such as quarantine, should not be used to block the importation of goods into the country. Scientific and technical data is required to prove facts, so that our trading partners do not have to rely on suppositions. This Minister will go down in New South Wales history as the worst Minister this State has had.

Mr PRICE (Waratah) [3.50 p.m.]: I am pleased to speak to this motion of urgency and to congratulate the Minister on the various initiatives he has taken. Ultimately the New South Wales Government's performance in agriculture will be judged on the delivery of service. Various initiatives have been introduced by this administration relating to the poultry, dairy, rice and banana industries. The Government's brave decisions to develop the centres of excellence as well as its ongoing commitments to the state-of-the-art veterinary laboratories provide an appropriate barometer for performance. It is timely to remind the Opposition of its politically inspired furore when the Government maximised the use of multi-million dollar investments in the provision of veterinary laboratory services. Honourable members may recall the extraordinary outrage that was expressed at that time. In a press release of 1 November 1995 the Leader of the National Party said, in regard to the Government's policy:

> All consumers of food and fibres are witnessing the vulnerability of agricultural industries to sudden disease or pest outbreaks and will be deeply concerned by the winding down of farm research, extension and communication services.

Absolute doom and gloom! He continued:

> Centralisation of animal tissue sampling at Camden imposes a huge risk through lost time as well as extra transport costs.

That is a complete fabrication; that has not been the case. In fact, the industry has benefited from the centralisation program. It is always important to compare the alarmist views of the Deputy Leader of the Opposition with the facts and, more importantly, with the performance. In late 1997 and early 1998 the New South Wales poultry industry was affected by the avian influenza virus in the Tamworth area. Recently the same industry was affected by Newcastle disease. In both instances the poultry industry was seriously threatened. I can speak with some knowledge because of my contact with the Tocal Agricultural College and its "Numerella" chicken farm arrangements, as well as the research that is quietly being carried out through its teaching section and short courses run at Glendara on the Tocal campus.

However, the Minister and the Department of Agriculture responded in an exemplary fashion in both cases and the prompt responses effectively contained the risk of both those diseases. Compare that performance with the doomsday predictions of the Leader of the National Party. In regard to the Minister's performance in responding to the Newcastle disease problem, New South Wales Farmers said:

> Critical to the need of the growers has been the scientific 'correctness' of the decisions taken and the method and suitability of communication throughout this affair. The performance of your office and New South Wales Agriculture staff in this issue warrants comment. The committee and growers have asked me to congratulate you on the decision to eradicate this disease, which otherwise would have damaged both industry performance and possible trade activities now and into the future (not just for New South Wales, but for the industry Australiawide). The suitability and (so far) appropriateness and efficiency of the AUST VET PLAN into which your department's officers have had substantial input; the performance of the New South Wales Agriculture in 'managing the crisis'.

The letter then goes on to congratulate both the Minister's office and the department's disease control group on the communications provided, describing them as, "timely, useful and accurate". The letter is signed by the Director of the New South Wales Farmers Poultry Meat Group, on behalf of 80 per cent of growers in the poultry meat industry. In short, the services that the Leader of the National Party, in his scaremongering, claims this Government is running down are the very same services that his mates in the New South Wales Farmers Association are so willing to praise.

I call on the Leader of the National Party to get back in touch with the needs of New South Wales Agriculture. Does he continue to stand by his comments? He should recognise that New South Wales Agriculture has lifted its performance under this Government. Perhaps his real position on the future of New South Wales Agriculture is his newfound silence on reversing the many efficiencies implemented by this Government. Moreover, the lack of questions asked by the Leader of the National Party of the Minister for Agriculture on matters of importance to his claimed constituency do not go unnoticed in this House.

Mr CHAPPELL (Northern Tablelands) [3.55 p.m.]: This exercise in self-congratulation by the Minister needs to be contrasted with a farmer's view. The first edition of the *North West Magazine* of 20 July 1998—which circulates in all the northern newspapers in my area—carried the headline, "Farmers see Amery's role as 'pathetic'." Mr Gerry Cross, a spokesman for New South Wales Farmers, said:

> . . . in the 39 months Mr Amery has been Minister for Agriculture he has presided over the demolition of a proven system of drought notification, shown no public justification for his government's axing assistance in transporting food and water to drought-affected stock, remained silent about the damage to the grains and livestock industries of SEPP-46 and personally introduced to Parliament and pushed through the Native Vegetation Conservation Act which replaced SEPP-46, which was even worse,

And so on. Today's exercise is an attempt to put on the record of this House a lie. The lie is that all of the nine centres of excellence that the Minister is talking about today—and I thought there were going to be 14—were part of a grand plan by this Government when it cut $35 million from the State's agriculture budget. That is why the veterinary laboratories were closed down. That is why so much of the scientific brainpower of the Department of Agriculture was made redundant. Over 400 positions were declared redundant; the employees took their packages and left. There was a massive brain drain from the department, and advisory and research facilities were simply cut out.

The Minister was forced into a humiliating backdown when the $35 million savings became $11.2 million, and the Government could not take the heat when it realised that it had simply got it wrong. You cannot cut $35 million out of New South Wales Agriculture and get away with it. That is the background. There was no grand plan to have all these centres of excellence. That came after the event, and the Government is now trying to claw back some of the facilities. I am not going to say that these facilities are not worth having. They are clearly worth having, and they will not all be shut down when the coalition is returned to government after 27 March. The coalition is not trying to unscramble eggs or live in the past.

Many of those who were lost to the department in the brain drain have gone, and we have to live with what we have now. It is important that the work that is being carried out in these new centres of excellence should continue in some form. This is not all one way, and I do not pretend that it is, but for the Minister to pretend that this was all part of his grand plan and vision for improving New South Wales Agriculture—

Mr Amery: I didn't say that.

Mr CHAPPELL: That is the clear implication from what the Minister is saying. It is a total fabrication. The loss of expertise in the Department of Agriculture in this State under this Government is an utter disgrace. The Minister cannot honestly claim credit for all these centres of excellence. He referred to the beef research centre for excellence in Armidale. I happen to know that that centre did not originate from the grand plan that the Minister is implying. A lot of work was done previously in regard to that centre, including Commonwealth Government and university involvement. The Minister and his Government cannot claim credit for it.

The facilities in Wollongbar, Armidale—the private facility in Armidale—Narrabri, Orange, Camden, Trangie and Wagga Wagga are delivering a much-needed service to the farmers of New South Wales. But to try to totally destroy the brain power of one of the most highly respected government departments of this State in this century is a thorough disgrace and stands to discredit this Minister and this Government. The shallow attempt to try to rewrite history does no-one any credit at all. The Minister blew it with New South Wales Agriculture and he was forced into a humiliating backdown.

Mr ANDERSON (St Marys) [4.00 p.m.]: I support the motion of urgency. It is obvious that after 3½ years in opposition coalition members have not learned anything. They have not recognised the benefits that have been achieved for New South Wales rural areas. The National Party has totally ignored the agenda of the Government and the way in which it has been undertaking its task. In all the discussions that have gone on we have not heard a word from National Party members and their leader about the reduction in interest rates for flood relief loans.

Mr Amery: Not even a "well done!"

Mr ANDERSON: That is right. National Party members did not support rural communities in their hour of need. They did not support what the Government was doing or ask the Government to enhance its programs. They ignored what was happening. The Government is reacting to the needs of farmers and providing them with services and facilities. The honourable member for Northern Tablelands and the honourable member for Barwon talked about devastation caused to the industry. I remember well sitting in this Chamber listening to the Leader of the National Party speaking on the budget in the year that the Biological and Chemical Research Institute at Rydalmere was closed. He claimed that this resource, a great piece of infrastructure, was going to rack and ruin and being wasted, and that the people of New South Wales would suffer as a result. Today many great things are going on at that facility. In addition to the nine centres of excellence which have been established throughout the State and which are doing a good job, in the words of previous speakers, the facility at Rydalmere is also doing a great job. It has been incorporated into the University of Western Sydney Nepean campus.

Mr Chappell: Will you swear on the *Bible* that that was part of the original plan?

Mr ANDERSON: I certainly will. I will swear that the facility is working particularly well. It is providing benefits, contrary to what the Leader of the National Party claimed previously. An industrial high-technology partnership between the university and local industry leaders at the facility is providing many jobs and attracting many dollars to the State with research investment. The State will benefit from that investment, which would not have happened under the coalition's proposals with the BCRI remaining as it was.

The electro micro probe created within the facility since the change to the BCRI has been used by people across the nation for minerals research. Had we stuck to the coalition agenda, this State would not have that facility of which we can be proud. A collaborative research agreement has been undertaken at the facility between the agricultural industry and private enterprise. The people of New South Wales have received many benefits from the facility being restructured, which would never have happened under the coalition Government. The State has benefited from the investment. The Minister for Agriculture, and Minister for Land and Water Conservation spoke about the $16 million of industry support attracted in 1995-96. The figure for 1998 could be $22 million, an increase of more than 35 per cent, which will bring benefits to everybody. I support the motion.

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Land and Water Conservation) [4.05 p.m.], in reply: I thank all members who contributed to the debate, particularly the honourable member for Waratah and the honourable member for St Marys for supporting the motion and highlighting to the House the advances that have been made as a result of the changes in New South Wales Agriculture. The honourable member for St Marys referred to reduced interest rates in relation to the continuing work of the Rural Assistance Authority, which also has been decentralised from the city to the country. That issue could probably be the subject of debate on another day.

The honourable member referred also to the increased investment from non-government bodies. The honourable member for Waratah said that irrespective of politically motivated comments in this House about whether the change was good or bad, at the end of the day results are what matters. He referred to how well the department responded to outbreaks of disease such as ovine Johne's disease, and to poultry industry outbreaks. The department is well equipped to set in place the various protocols to

control disease. He made the point that whatever we say in this political forum, New South Wales Agriculture and the performance of the Government will be judged by people outside the political arena. The honourable member for St Marys said it all: the funding coming into agriculture now from non-government research institutions has increased by 35 per cent as a result of a better focus by the Government.

The honourable member for Barwon and the honourable member for Northern Tablelands would have made better speeches if they had made shorter contributions, although the honourable member for Barwon spoke for only about four minutes anyway. He attacked the Government for closing down veterinary laboratories "at Armidale, at Wagga Wagga and at Rydalmere". For the record, there has never been a veterinary laboratory at Rydalmere.

Mr Slack-Smith: The BCRI.

Mr AMERY: Where is the BCRI? It is at Rydalmere. I like these well-researched contributions! The honourable member waffled on about native vegetation and State environmental planning policy 46 because, basically, he had nothing more to talk about. He wanted to talk about big swings against Labor in rural and regional New South Wales. Since the restructuring of New South Wales Agriculture, when all these matters were debated, the Labor Party in New South Wales has been put to the test, twice, in by-elections at Clarence and Orange. In Clarence we won the National Party seat and in Orange we went within 1 or 2 per cent of winning the seat. The honourable member again failed to research this matter.

The honourable member for Northern Tablelands referred to some grand plan. I do not know where he got that from. He said one positive thing which is worth noting—it is already in *Hansard*—that the Opposition would not close down the facilities that the Labor Government established in regional New South Wales. It is great to hear that. He did not quite clarify whether the veterinary laboratories will be reopened, but maybe on another day we will get that out of coalition members. He was very quick to attack the Government, but there was not one comment about what the Opposition believes should be going on in agriculture. If it is so bad under Labor, he could at least have spent maybe 30 seconds on stating what the coalition would do in government. The honourable member for Northern Tablelands waffled on about SEPP 46. If he is to contribute to debate in this House in the future he should broaden his research. I congratulate New South Wales Agriculture and thank honourable members for their support of the motion. [*Quorum formed.*]

Motion agreed to.

SPORTING PROGRAMS FOR PEOPLE WITH DISABILITIES

Matter of Public Importance

Ms HARRISON (Parramatta—Minister for Sport and Recreation) [4.12 p.m.]: There are few moments in sport that have left a greater impression than the emotional scenes that occurred immediately after the gold medal victory by the Australian wheelchair basketball team at the 1996 Atlanta Paralympics. Nonetheless, results such as that are parallelled regularly by the achievements of athletes with disabilities in many different disciplines. There is no better example of that than the outstanding results achieved by Australian athletes at the recent International Paralympic Committee World Athletics Championships in Birmingham, England. Australia topped the medal count with 30 gold, 18 silver and 16 bronze medals.

Of even greater significance is the fact that New South Wales members of the team won 18 gold, four silver and five bronze medals, with most of these medals being collected by the New South Wales Institute of Sport and Sydney Academy of Sport wheelchair track and road squad. The determination, courage and commitment of many of our athletes with disabilities are inspirational, not only to others with disabilities but to all sportsmen and sportswomen who aspire to greater heights or who are looking for some motivating force to compel them to take part in some form of recreational activity.

Acknowledging the growth in interest and rates of participation at all levels, the Government, through the Department of Sport and Recreation, has responded to the need for a more professional approach to the development of programs for athletes with disabilities. In 1995-96 the Government made a commitment of $220,000 to expand support programs through the enhancement of the high-performance sport for athletes with disabilities program. The talented athlete with a disability program, which is targeted at young people with disabilities, was also developed at that time.

The increased level of funding—an increase from $50,000 provided by the former Government—demonstrates the commitment and

enthusiasm this Government has for sports people with disabilities. Those programs are administered by the department's sport unit for athletes with disabilities located at the Sydney Academy of Sport at Narrabeen. The development of those programs means that New South Wales is now acknowledged throughout Australia as pre-eminent in providing sporting facilities for people with disabilities.

As part of the Government's commitment to increasing opportunities for this group of athletes, I have put in place an Advisory Committee for Athletes with Disabilities, or ACAD. The committee is chaired by Mr Ron Finneran, the National Executive Director of Disabled Winter Sport Australia, and includes the director-general of my department, two representatives from the New South Wales Sports Council for the Disabled, two representatives from the Australian Paralympic Federation, one representative from both the New South Wales Institute of Sport and the Sydney Academy of Sport, and the Australian Institute of Sport coach for athletes with disabilities. It is responsible for athlete and team selection, together with management decisions regarding scholarships, and its composition ensures that the process of team and individual scholarship selection is seen as fair and impartial.

The scholarship scheme for high-performance athletes with disabilities is the primary function of this program. Scholarships are awarded to athletes who have the potential to perform at an international level, and to assist athletes working towards their potential through the provision of services and support to complement a well-structured program. In recognition of the achievements of those athletes, NSWIS has joined with the Sydney Academy of Sport to provide additional services to scholarship athletes with disabilities, and those athletes now enjoy the same status as other institute athletes.

As part of the development process a coach for the wheelchair track and road team has been employed to train the top athletes in those disciplines. There are two aspects of the scholarship scheme, one for individuals and the other for teams or squads, and 33 athletes are currently benefiting from individual scholarships that provide financial support to assist with their training and competition costs. The provision of specialised services in sports science, sports medicine and athlete education, such as nutrition, sports psychology, strength and conditioning, and personal development are also key features of the program.

While funding for the 10 squads in the team support program can be utilised for financial assistance, there is a definite focus on the provision of coaching, sports science and support services, as these are matters in which most teams need considerable assistance. In the case of teams, the services will be directed towards the group as a whole rather than the individual. A sports analyst has also been appointed to the program. The analyst will provide an assessment of the needs of the athlete in conjunction with his or her coach and the appropriate provision of sport science support. The sports analyst will also conduct research in a variety of areas, such as developing or modifying testing protocols or the analysis of push techniques that will assist in the development and enhancement of wheelchair track athletes. The sports analyst will also liaise with regional academies to improve the access to services for sports persons with disabilities throughout New South Wales.

The division of the funds in this way will ensure that the funding will provide athletes with access to the services that will actually help them improve as athletes rather than being utilised as traditional grants. The establishment of coaching improvement programs is a result of the distinct lack of coaches for current programs. The primary focus of the programs is to increase the number of coaches with an interest in athletes with disabilities and to help them become qualified in their respective sports. While the educational content of current courses is very worthwhile, there is still a big gap between what is learned in the course and what is needed for working with athletes in a specific sport. That gap is being addressed at present.

The development of coaching workshops has led to the establishment of a network of coaches. Ideas to improve athletes' training regimes have been cross-fertilized, and sport science and sport medicine needs have been discussed. While the emphasis on those initiatives will be with personnel from New South Wales, external agencies such as the Australian Institute of Sport, as well as interstate and even overseas coaches, may be called upon for input. That type of assistance is necessary because it follows that when quality coaching and quality athletes come together quantum leaps in performance are made.

I am proud to say that the Government has created what is believed to be a world first for children with disabilities. They will now be offered the opportunity to develop their sporting talents and, therefore, create effective pathways for participants to progress in their sports, ultimately being included in the high-performance sport program, which, for 1998, consists of two levels. Participation camps are offered to provide children with the opportunity to

try a new sport or to further develop some of their basic skills.

Participants are able to try two of the three sports over a weekend and at the end of each camp the Sydney Academy of Sport provides them and their parents with details on specific sports associations and regional academies if they wish to become more involved with sport. Development camps are for those athletes who have continued in a particular sport and are involved with training and competition. They include identified athletes from regional academies and/or State sporting organisations. Athletes attending these camps will have their coaches in attendance. The academy enlists coaches with national and international accreditation and experience to provide qualified coaching and education throughout the weekend.

Development camps also include a workshop for coaches so that external coaches or those not attending with athletes can benefit from the knowledge and expertise of the national and international coaches in attendance. That form of coach education is vital for the continued development of coaches and to facilitate a higher level of expertise and knowledge. It provides an opportunity for coaches to access information that might not normally be available to them. The department's winter academy, which is based at the Sport and Recreation Centre at Jindabyne, will provide a variety of programs for disabled skiing. Until recently there was little continuity in services for skiers with disabilities. Programs catered only for the learner or the elite athlete. Agencies and services are now co-ordinating efforts to establish a full development path for all who may wish to participate, and the academy has a key role in that process.

In a whole-of-government approach, $145,000 has been made available for substantial upgrading of the Jindabyne facilities, and with increased co-operation and support from various organisations the academy is establishing itself as New South Wales' centre of excellence for disabled skiing. One of the biggest boosts is the recent announcement that the winter paralympic preparation program will be based at the academy. In co-operation with other stakeholders, the academy will now work to provide individual programs for each winter Paralympian. To complement that development, the Australian Sports Commission has provided funding to employ a full-time elite disabled ski coach, and the academy will also now offer opportunities in social skiing for people with disabilities. In conjunction with the New South Wales Sports Council for the Disabled, ski trips for people with disabilities will be organised and four-day Come 'n' Try programs will be arranged for people with a range of disabilities. Those programs are always a great deal of fun and offer a good introduction to skiing. All of those initiatives and developments ensure that the Department of Sport and Recreation will offer first-rate services to both social and elite disabled skiers.

In addition to the upgrade that has been undertaken at Jindabyne, a feature of the Government's involvement with those programs has been the provision of funding to enable the upgrade of facilities to provide the necessary suitable access for athletes with disabilities at the academy at Narrabeen. The facilities and accommodation recently completed are now regarded as the best available in the country. In fact, a number of athletes, including world champion Louise Sauvage, have chosen to move to this State for both training and competition. With accessible accommodation on site, Narrabeen will serve as an excellent location for training camps and is certain to be in high demand as the Sydney 2000 Paralympics approach. The high standard of those athletes and teams, together with the high-quality support from the New South Wales Government and the Sydney Academy of Sport, provide positive indications that at the time of the Sydney 2000 Paralympics Australian athletes, particularly those from New South Wales, will be performing at their best.

Mr HAZZARD (Wakehurst) [4.22 p.m.]: The New South Wales coalition, which, on 28 March next year, will be in government, is pleased to take part in this debate on the opportunities provided to people with disabilities to participate in sporting and recreational activities. Every citizen of New South Wales is entitled to be represented by a government that is interested in improving their health, wellbeing and quality of life. The New South Wales coalition welcomes that government responsibility. On 28 March next year, the day after the Carr Government moves into opposition, the coalition government will implement its policies, which will be far more effective than the current Government's policies, to improve the health, wellbeing and quality of life of the people of New South Wales.

People with some form of disability are an extremely important group in the New South Wales community. It is probably not generally known, but the surveys undertaken by the Australian Bureau of Statistics reveal that approximately 15½ per cent of Australians identify themselves as having some type of disability. That group, of course, would have a varying range of disabilities. However, many of them would look to the opportunities provided by sport and recreation for an improvement in their

basic quality of life. Sport can offer many benefits for disabled people. Obviously, it can assist in developing their motor skills and muscle strength. It may improve their psychological wellbeing and improve their self-esteem. It is now acknowledged that all members of the community need to have a degree of self-esteem to be able to function properly and to relate to other people in a reasonable way. Sport and recreation can offer all sorts of opportunities to people with disabilities, whether they be physical or intellectual, to address those matters.

The New South Wales coalition will take to the next election effective policies that put those with disabilities at the top of its thinking. I do not intend to refer the Minister to those policies chapter and verse today, but on 28 March I will be happy to tell her what the coalition government will be doing. That does not happen at present because the Government is in shutdown mode and is a little scared of letting the coalition know what it is up to. Regrettably, that extends also to many of the peak sporting groups, including those who work with the disabled. Those groups often have no idea what the Government is doing, and it is only after the event that they find out what is happening. About three months ago I attended the annual general meeting of the New South Wales Sports Council for the Disabled, to which the Minister referred in her contribution, which was held at the New South Wales Sports Centre at Homebush. During the meeting I had the opportunity to meet with a large number of representatives of various disability organisations throughout New South Wales.

The coalition acknowledges that the way forward not only involves government initiatives. It is about working in useful, productive partnerships with organisations such as the New South Wales Sports Council for the Disabled, and with all the member organisations of that peak group. Some of the disability-specific member associations involved with the New South Wales Sports Council for the Disabled are the New South Wales Amputee Sporting Association Inc.; the Blind Sporting Association of New South Wales Inc.; the Cerebral Palsy Sporting and Recreation Association of New South Wales Inc.; the New South Wales Deaf Sports Association; New South Wales Rapid, which is for intellectually disabled sports people; Special Olympics New South Wales; the Mental Health Sports Association of New South Wales; Push and Power of New South Wales; and the Australian Transplant Sports Association New South Wales Inc. Sport-specific member associations include the Disabled Golf Association of New South Wales Inc.; Sailability New South Wales Inc.; the New South Wales Waterski Association, Disabled Division; Disabled Wintersport Australia New South Wales Inc.; Riding for the Disabled Association of New South Wales Inc.; Boccia New South Wales Inc.; and the Goalball Association of New South Wales.

Simply recounting those disability-specific and sport-specific associations indicates the range of sports that are available to people with disabilities. Over the year in which I have been the shadow minister it has been a great pleasure to meet with representatives of a number of those organisations. On the night of the annual general meeting I had great pleasure, on behalf of the Minister, in presenting awards to the blind bowlers and various other disabled people. I am sure that in a bipartisan way both sides of politics are interested in supporting the various organisations that support people with disabilities. It was interesting to talk to some of those people on that night. The blind bowlers who received awards said they were most encouraged by the awards that are offered through the Government. They are encouraged also by the fact that they are given the opportunity to take part in a range of sporting activities.

Many disabled people function at high levels in the business world and in government departments. It is equally as important for them, as it is for people without disabilities, to be able to relieve the stress associated with their work and any stress that might be associated with their disabilities. The oldest Parliament in Australia should acknowledge that people with disabilities are worthy not only of having the use of taxpayers' funds but also of having the Government working with peak groups to ensure the best possible outcome for them. It is therefore with some disappointment that the Paralympics, which are to take place in a little over two years, are having difficulty attracting funding. The Sydney Organising Committee for the Olympic Games is now working with the Sydney Paralympic Organising Committee, although that was not so in the early stages.

New initiatives have collected more sponsorship dollars, but the Paralympics are still having trouble finding a host broadcaster. That makes it even more difficult to attract sponsors. On behalf of the New South Wales Parliament I encourage sponsors other than Telstra and the Motor Accidents Authority, who are at the forefront of so many of these initiatives, to support people with disabilities. Since 1 July the sponsorship list has grown to include Westpac, Bonds, AMP, Rogan, Woolcott Research, Franklins, Ansett Australia and EnergyAustralia. I encourage industry generally and the community to get behind our Paralympic team in

the same way they would get behind non-elite sports and to acknowledge that they will get back far more than they put in. If we can support people with disabilities, both in their elite pursuits and in their non-elite athletic capacity, New South Wales will be a far better place, as it will be on 28 March when the New South Wales coalition is in government.

Ms ANDREWS (Peats) [4.32 p.m.]: I support the Minister's comments on this most important issue. I should like to speak about the support the entire process is receiving from the various sporting organisations it is designed to assist. It must be said that the success of the Sydney Academy of Sport program of the Department of Sport and Recreation for athletes with disabilities has not been achieved by the program alone. This State is fortunate to have a network of sporting organisations willing to assist and develop sport for special needs athletes throughout the State. One such organisation is the New South Wales Sports Council for the Disabled, which is the umbrella body for 16 sporting organisations for the disabled. Victoria and South Australia are using the council as a role model for their State programs. Western Australia and Queensland are the next most effective in the provision of services.

By combining forces, the Sydney Academy of Sport and the Sports Council for the Disabled are able to provide programs for young, talented athletes right through to elite Paralympians. The council also hosts regular competitions to provide both New South Wales and interstate athletes with the opportunity to compete at a high level. Scholarship athletes use those competitions as trials to determine the progress of their training programs. They used the last athletics meeting to submit additional qualifying times to compete at the International Paralympics Committee World Athletic Championship, which was held in England earlier this year. Regular competition is one of the factors that has contributed to the success of New South Wales disabled athletes. To further confirm the success of New South Wales disabled athletes, I will give the House some exciting statistics.

At the World Swimming Championships held in Christchurch in October 1998, the Australian swimming team had 38 members, 15 of whom came from New South Wales—in other words, 40 per cent of the team. Seven team members came from Queensland, six came from Victoria, five came from Western Australia, two came from South Australia, one came from the Northern Territory and one came from the Australian Capital Territory. At the IPC Athletic Championships, which were held in Birmingham in August 1998, the Australian athletics team had 60 members, 16 of whom were from New South Wales; 15 from Queensland; 11 from the Australian Capital Territory, including the Australian Institute of Sport; 11 from Victoria; four from South Australia; and three from Western Australia.

The Sydney Academy of Sport scholarship program comprises 10 teams consisting of 33 athletes from the New South Wales Institute of Sport and the academy; 27 from the Australian Institute of Sport, 11 of whom are from New South Wales; 18 from the Queensland Institute of Sport; and 14 from the Victorian Institute of Sport. As the athlete numbers indicate, New South Wales surpassed all other States and Territories. In relation to New South Wales regional academies, six athletes participate in the disabled athlete scholarship program provided by the Illawarra regional academy and six athletes participate in the disabled athlete scholarship program provided by the south-west academy. Other regional academies will follow.

Additional benefits resulting from a well co-ordinated and accomplished united approach to disabled sport mean that New South Wales is now enticing athletes from other States to move to this State to continue their preparation and training for the 2000 Paralympics. The Minister has already mentioned Louise Sauvage. In addition, two wheelchair track athletes are moving from Western Australia and Victoria to be coached by the national track and road coach, Andrew Dawes. The wheelchair track and road program, which commenced in September 1997, is a joint initiative of the Sydney Academy of Sport and the New South Wales Institute of Sport. The squad includes high-profile, elite, disabled athletes Louise Sauvage and Fabian Blattman, both of whom are world record holders and wonderful ambassadors for disabled sport.

The program has achieved remarkable success in the short time it has been running. Recent highlights include five athletes from the program being selected to represent Australia at the 1998 IPC World Track and Field Championships, with Andrew Dawes being named as the national team coach; the squad's women's relay team breaking the 4 x 400 metre world record at this year's national championships, three members of the team still being under 18 years of age; and success at the Boston and Sempach marathons by Louise Sauvage and Fabian Blattman.

The program continues to gain momentum as we move towards the Sydney 2000 Paralympic Games. The program is on schedule to set new world records in the coaching and performance of

wheelchair track and road athletes. The Government is also playing its role in financially supporting many of the events. The Government has contributed $20,000 to the Multidisability Games, $50,000 to the World Transplant Games, $65,000 to the Oz Down Under series held over the Australia Day weekend and $100,000 to the World Wheelchair Basketball Championships. They are only a few examples of the ongoing support provided by this Government to ensure the maintenance of this important aspect of community and sporting life.

Ms HARRISON (Parramatta—Minister for Sport and Recreation) [4.37 p.m.], in reply: When I hear about the successes of our athletes with disabilities, which my colleague has listed, and I realise that the work of the Government—through its program support, event funding and the development of the best available facilities—has played a major role in that success, I feel very proud. As with all the programs initiated by the Government, it would be nice to be able to provide more funding, more support and more facilities. Regrettably, that is difficult in the current economic climate, but the provision of additional funding could have been much easier if the Commonwealth Government had kept its promise when it decided to make disability services funding a State rather than a Federal responsibility. Under the agreement the Commonwealth provided transitional funding to enable disability services in the States to conform with new requirements for care, accommodation and therapy.

The estimated amount required for the transition in New South Wales was $800 million, yet the State received only $17 million. The Federal Government refused to acknowledge that sport and recreation services for people with disabilities should be included in a special category for any transitional funding to enable such services to conform to the regulations. That is yet another example of the problems created by the Howard Government for the people of New South Wales. In any debate about those working with disabled sports people it would be remiss of me not to mention the contribution made by the New South Wales Sports Council for the Disabled. The council, which the department was instrumental in establishing in 1984, acts as an umbrella organisation for the development of sport for the disabled in New South Wales. It currently provides assistance to disabled competitors participating in 40 different sports. It caters particularly well for the needs of the intellectually disabled participating in athletics and swimming.

The council provides administrative support to its member associations and works closely in a promotional and educational role with non-disabled sporting associations, State and local government, welfare organisations and educational institutions. It provides a wide range of services to all disabled member sports associations, including assistance with strategic planning, assistance with administration, advice on funding, sponsorship and fundraising, as well as assistance in making applications to the Government for a range of grants to assist disabled competitors, and it designs and implements regular sports programs, annual championships and special events. During 1996-97 the member associations increased from 13 to 15 and the number of competitors with disabilities increased to 3,500.

Some of the projects in which the council is involved include: regional Come 'n' Try sporting programs in both rural and metropolitan centres throughout New South Wales; co-ordination of State and national championships for various disability groups and regular seasonal multidisability sporting competitions; co-ordination of the Learn to Ski Week for people with disabilities in conjunction with the department; intensive training sports clinics and camps for youths with disabilities; encouragement and support to coaches of able-bodied sporting organisations to assist people with disabilities; regular sporting programs for individual member organisations; production of a resource kit for teachers on integrating disabled students into regular physical education classes; an integration project of introducing people with disabilities into regular able-bodied sporting organisations; coaching clinics for disabled athletes representing New South Wales; lecturing at schools and tertiary institutions on sport for people with disabilities; and a community consultancy on facility development.

I can only compliment this organisation on the great work it is undertaking for these people with special needs. I mention another area in which my department is providing support for people with disabilities. All capital works projects currently being undertaken at sport and recreation centres have been designed with access for people with disabilities in mind. A $20,000 access audit was undertaken in 1996-97 for the department's sport and recreation centres. The department, in consultation with relevant community groups, examined all possibilities to upgrade outdoor recreation and adventure opportunities for children and adults with disabilities. The findings of the audit have been included in the maintenance schedules for sport and recreation centres.

The New South Wales Academy of Sport has purpose-built, accessible accommodation for 104

people with disabilities. This facility is regularly used by sporting groups catering for people with disabilities as a training and competition venue. In conclusion, I am grateful for the opportunity to outline details of the important work being carried out in this area and to remind honourable members of the successes which have been achieved. I am sure that all honourable members will now be more aware of the dedication and commitment which exist in the field of sport for the disabled and will continue to be mindful of the commitment they need from their representatives in this place.

Discussion concluded.

PAWNBROKERS AND SECOND-HAND DEALERS ACT: DISALLOWANCE OF CLAUSE 16A(1) OF THE PAWNBROKERS AND SECOND-HAND DEALERS AMENDMENT (RECORDS AND GOODS) REGULATION 1998

Withdrawal of Motion

Order of the day for resumption of the adjourned debate discharged on motion by Mr J. H. Turner.

Motion ordered to be withdrawn.

LEGAL PROFESSION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr WHELAN (Ashfield—Minister for Police) [4.34 p.m.]: I move:

That this bill be now read a second time.

The amendments to the Legal Profession Act 1987 provided for in this bill are principally designed to address recommendations contained in the Auditor-General's Report entitled "A Review of the Activities Funded by the Statutory Interest Account", which was tabled in Parliament in June last year. Honourable members may be aware that, under existing arrangements, the administration and distribution of income from solicitors trust accounts is divided into two funds, the statutory interest account, which is established under the Legal Profession Act 1987, and the Solicitors Trust Account Fund, which operates under a deed of agreement between the Law Society and the major banks. Currently, the Legal Profession Act requires solicitors to deposit a prescribed proportion of funds kept by solicitors in trust funds in a statutory deposit account. The Act also allows the Law Society to invest these funds, with all interest on those investments being paid to the credit of the statutory interest account.

Payments from the statutory interest account are made to various discretionary and non-discretionary beneficiaries. The principal non-discretionary beneficiaries include the Law Society Council and Bar Council in exercise of their complaints-handling functions under the Act, the Legal Services Tribunal, and the Legal Advisory Council. Allocations to the non-discretionary beneficiaries are currently made as costs are incurred, and do not require independent approval. Funds are distributed also from the statutory interest account to discretionary beneficiaries, principally, the Legal Services Commissioner, the Legal Services Tribunal, the Solicitors Fidelity Fund, the Legal Aid Commission, and the costs in respect of the cost assessment scheme. At present, allocations to discretionary beneficiaries must be determined by the Law Society Council and approved by the Attorney General.

The other fund, the Solicitors Trust Account Fund, is comprised of payments made by the financial institutions in lieu of interest on solicitors general trust accounts. The Solicitors Trust Account Fund does not have a statutory basis but is established by deed. Allocations to a number of the beneficiaries of the statutory interest account are supplemented by funds distributed by the trustees of the Solicitors Trust Account Fund. Of course, clients are free to instruct solicitors to deposit funds in specified accounts if they wish to receive the interest on their deposits. In such circumstances, no interest accrues for the benefit of either the statutory interest account or the Solicitors Trust Account Fund.

In accordance with the requirements of the Legal Profession Act, the Auditor-General conducted a special audit of the activities of the Bar Council, Law Society and Legal Services Commissioner funded out of the statutory interest account. Consequently, the Auditor-General made a number of recommendations, which I will now discuss in the context of the proposed bill. Firstly, the Auditor-General recommended that, where interest is not returned to clients, the collection of all interest and management of all funds from this source be arranged under one statutory account. The bill addresses this recommendation by providing for the establishment of a Public Purpose Fund. Interest paid on investments made by the Law Society, as well as any interest that accrues on general trust

accounts under the agreement between the trustees of the Public Purpose Fund and the financial institutions, will be paid to the credit of the Public Purpose Fund.

In effect, the assets and liabilities of the statutory interest account and the Solicitors Trust Account Fund will be combined to form the new Public Purpose Fund. The fund will continue to provide for both discretionary and non-discretionary payments to be made to the various legal bodies currently the recipients of funding through the statutory interest account and the Solicitors Trust Account Fund. The new provisions also allow discretionary payments to be made from the Public Purpose Fund for purposes including the supplementation of the Fidelity Fund, the Law Foundation Fund, for purposes consistent with the objects of the Law Foundation, and the promotion and furtherance of legal education in New South Wales.

The Act currently provides that, prior to making discretionary payments from the fund, consideration must be given to whether adequate provision has been made for the supplementation of the Legal Aid Fund. This requirement has been retained in the bill. However, given that the requirement will now relate to the larger pool of moneys held in the Public Purpose Fund, the priority accorded to Legal Aid funding will effectively be given greater emphasis. The Law Society will continue to have an administrative role with respect to the new fund, but will act on behalf of, and in accordance with, the directions of trustees appointed to manage and control the Public Purpose Fund.

Three of the four trustees of the Public Purpose Fund will be appointed by the Attorney General. The trustees appointed by the Attorney will include two members of the Law Society nominated by the President of the Law Society and one person whom the Attorney considers to have appropriate qualifications and experience to act as a trustee. In addition, the Director-General of the Attorney General's Department will be a trustee of the fund. The bill makes provision for the appointment of the trustees, their terms of office and procedures for meetings and other related matters.

The Auditor-General recommended also that clearer and more transparent guidelines be established to regulate expenditure from the statutory interest account and to distinguish between those purposes which ought to be the responsibility of the legal profession and those which are to be paid out of income derived from clients' funds. The provisions of the bill are unambiguous as regards both the matters for which the funds in the Public Purpose Fund may be allocated and the method by which such allocations may be made. The Auditor-General's report suggests that it is not appropriate that interest from clients' funds be used to support complaints handling and the Solicitors Fidelity Fund and that these matters should be directly funded by the profession.

However, it is my view that the new fund should continue to be applied for these purposes. If complaints handling were directly funded by the profession, the cost would more than likely be passed on to clients through increased legal professional fees. It should be noted that the fidelity fund is supported by substantial annual contributions by solicitors, and it has been the practice of the Law Society to levy solicitors to meet large claims against solicitors rather than seek to meet such claims solely from the statutory interest account. Nevertheless, I note that strategies are currently being examined in consultation with the Law Society to control the future liability of the fidelity fund.

Further, bearing in mind the concerns raised by the Auditor-General, a number of safeguards have been included in the proposed legislation. For the purposes of determining the amount to be paid from the fund for the cost recoupment associated with performing statutory regulatory functions, the director-general may require a non-discretionary beneficiary to prepare and submit a budget containing such information as the director-general may require, including projected costs and expenses of the beneficiary. Payments from the fund to discretionary beneficiaries will be able to be made only on the unanimous decision of the trustees and will require the approval of the Attorney General.

The bill also retains the power of the Auditor-General to conduct a special audit in respect of the Legal Services Commissioner, councils and the present and future liability of the fund for the payment of those costs which may be paid from the Public Purpose Fund. These provisions provide appropriate mechanisms for the independent scrutiny of the costs of regulating the legal profession and for oversighting the allocation of funds generally. The Auditor-General recommended that appropriate complaint handling criteria be developed by all three investigating organisations—that is, the Law Society Council, the Bar Council and the Legal Services Commissioner—and that performance against criteria be reported in the annual reports of these organisations.

As honourable members would appreciate, these organisations necessarily enjoy considerable autonomy in the exercise of their complaints handling functions. Nevertheless, provision has been included in the proposed legislation requiring each council and the commissioner to produce information about the procedure for dealing with complaints under the Act, to develop performance criteria relating to the handling of complaints, and to include an assessment of their performance against the criteria in their annual report. Honourable members may be aware that the Attorney General's Department has recently released a series of issues papers entitled "National Competition Policy Review of the Legal Profession Act 1987", which canvass issues for review in respect of various aspects of the legal profession, including complaints and discipline.

While the proposed amendments address some of the matters canvassed by the Auditor-General, the review will comprehensively examine the administration and operation of the complaints system in the context of whether the objects of the Legal Profession Act are being met. The issues papers relating to the review of the Legal Profession Act also canvass another of the issues of concern raised by the Auditor-General. In his report the Auditor-General highlighted the potential conflict of interest between the Law Society Council, complaint-handling role and the Law Society's involvement in defending solicitors against allegations of misconduct through ownership of Lawcover Pty Ltd.

The issues papers canvass the desirability of a deregulated market and possible policies and standards that might operate in relation to insurers operating in this area of insurance. This particular recommendation of the Auditor-General is thus being considered in the broader context of the review of the Act and has therefore not been addressed in the bill. The Auditor-General recommended that, in order to sustain the independence of the Legal Services Commissioner, the Law Society not be involved in the funding of the commissioner's office. The Auditor-General has expressed the view that the Law Society has a conflict of interest in its role in determining funding from the statutory interest account for the Legal Services Commissioner because it also performs complaint handling functions and because the commissioner has a role in reviewing complaints which have been dealt with by the Law Society Council.

It should be noted that the report does not point to any instances where the operations or resources of the commissioner have been adversely affected by the involvement of the Law Society. Nevertheless, it is considered that any perception of a possible conflict of interest in the distribution of funds will be removed by the requirement that applications for allocations will be approved by the trustees of the fund rather than by the Law Society Council. A further recommendation of the Auditor-General was that the administrator of the statutory interest account be accountable to and report to Parliament. The Legal Profession Act currently requires the Law Society Council to produce an annual report, which must be tabled in Parliament. As a matter of practice, the annual report sets out the allocations which have been made from the statutory interest account and the Solicitors Trust Account Fund.

However, the bill now specifically provides that the trustees are to provide the Law Society Council with a report about the income and expenditure of the Public Purpose Fund for each financial year, which is to be included in the Law Society Council's annual report. The proposed legislation provides also for a number of amendments relating to the costs assessment scheme. Firstly, it is proposed to amend the Legal Profession Act to overcome the effect of the recent Supreme Court decision in *Nabatu Pty Ltd v Crawley*, which decided that a costs assessor cannot apply the slip rule. In other words, the court held that once a costs assessor has made a determination in relation to an application for costs assessment, a mistake cannot be corrected in the determination.

The bill includes a provision allowing a costs assessor to correct an inadvertent error in the determination, such as a simple mathematical mistake, by making a new determination and issuing a replacement certificate that sets out the new determination. Chief Justice Spigelman has requested also that the Act be amended to make it clear that legal action commenced in respect of anything done under part 11 of the Act, which relates generally to costs assessments, should be commenced against the proper officer as nominal defendant. More generally, provision has been included to allow the Chief Justice to delegate his functions under the Legal Profession Act to a judge of the Supreme Court or a committee comprised of one judge of the Supreme Court and such other persons as the Chief Justice may appoint. The Legal Profession Amendment Bill has been the subject of wide consultation and is generally supported. I commend the bill to the House.

Debate adjourned on motion by Mr Fraser.

CRIMINAL PROCEDURE LEGISLATION AMENDMENT (BAIL AGREEMENTS) BILL

BAIL AMENDMENT BILL

Bills introduced and read a first time.

Second Reading

Mr WHELAN (Ashfield—Minister for Police) [4.57 p.m.]: I move:

That these bills be now read a second time.

The Government is pleased to introduce the Bail Amendment Bill. This bill is the result of a comprehensive review of the Bail Act recently undertaken by the Government. This review was undertaken because the issue of bail remains a matter of ongoing community concern. The proper balance between protection of the community and the rights of the accused is an important matter which warrants regular monitoring. Concern about the issue of bail has been heightened by a number of recent cases, including the tragic death of two Bega schoolgirls. I will not comment on the details of these cases, as court proceedings of all of the cases have not yet been finalised.

The review concluded that the Bail Act was generally working well. It achieves an appropriate balance between the protection of the community and victims on the one hand and the rights of accused persons on the other. However, a number of areas for improvement in the criminal justice system were identified, particularly in relation to serious offenders. The Government is moving promptly to address these areas of concern. The Government now introduces the Bail Amendment Bill. This bill is part of a series of measures being undertaken by the Government to ensure that the criminal justice system swiftly, efficiently and justly deals with persons charged with serious criminal offences.

In summary, the bill restricts the availability of bail to serious offenders in two main ways. Firstly, the presumption in favour of bail for certain serious offences is to be removed. Secondly, the police and courts must consider an additional factor for the protection of the community when a person charged with a serious offence is seeking bail. The bill also makes a number of miscellaneous amendments to address issues which were raised during the conduct of the bail review.

I turn now to the specific provisions of the bill. Most importantly, items [1] and [2] of schedule 1 to the bill remove the presumption in favour of bail for eight serious offences. These offences have been identified as appropriate for the removal of the presumption in favour of bail by virtue of their serious sexual or violent nature. These offences are in addition to the offences for which the presumption in favour of bail has already been removed. There is no presumption in favour of bail for serious drug offences, armed and aggravated robbery offences, murder, and domestic violence offences. The offences for which the presumption in favour of bail is to be removed are manslaughter, malicious wounding with intent, aggravated sexual assault, assault with intent to have intercourse, sexual intercourse with a child under 10 years of age, assault with intent to have intercourse with a child under 10 years of age, homosexual intercourse with a child under 10 years of age, and kidnapping.

This amendment will require the court to more carefully examine whether bail should be granted to persons charged with any one of these eight serious offences. They will make it more difficult for a person charged with any of these eight offences to obtain bail. The second significant provision contained in the bill in relation to serious offences proposes an amendment to section 32 of the Bail Act. Under the proposed amendment, the court or authorised officer will be required to take an additional factor into account when deciding whether consideration of the protection of the community permits a granting of bail.

Pursuant to item [8] of schedule 1 to the bill when a person is charged with a serious offence the court or authorised officer will be required to consider whether the person is already on bail or parole for a serious offence. It is important to note that in this context the definition of serious offence is not the same as that used in items [1] and [2] to remove the presumption in favour of bail. The definition will be broader than just those offences for which the presumption in favour of bail is to be removed. In item [9] the definition of serious offence will include, but not be limited to, the following factors: whether the offence is of a violent or sexual nature, the likely effect of the offence on any victim and on the community generally, and the number of offences likely to be committed. Accordingly, this provision is applicable to a much broader range of circumstances than the provision which removes the presumption in favour of bail. Again, this provision will make it more difficult for serious offenders to get bail.

Pursuant to items [9] and [10] of schedule 1 to the bill minor amendments are to be made to section 32 to make the section more readily understood. The bill amends also the provisions in relation to bail

and domestic violence in order to ensure that these provisions are more clearly understood. The current sections in the Bail Act in relation to bail and domestic violence are rather convoluted and difficult to follow. Items [3] to [6] of schedule 1 to the bill amend sections 9A and 9(5) to clarify and simplify the provisions in relation to bail and domestic violence. This will ensure that those applying the Bail Act are in no doubt about the effect of these provisions. In simplifying the provisions only one change of substance is being made. This is to ensure that victims of domestic violence receive proper protection from the law.

Currently, section 9A removes the presumption in favour of bail for all domestic violence offences and those breaches of apprehended domestic violence orders which involve an act of violence or intimidation. Section 9(5) removes the presumption in favour of bail for domestic violence offences where the defendant has breached a bail condition imposed for the protection of the victim. The irregularity is that section 9(5) does not currently apply to breaches of apprehended domestic violence orders involving an act of violence or intimidation.

The Government considers that it is anomalous that the protection afforded to victims of breaches of apprehended domestic violence offences involving violence or intimidation is not identically extended to that afforded to victims of domestic violence offences. Accordingly, the Government will extend the application of the protection which is currently contained in section 9(5) to victims of breaches of apprehended domestic violence orders where the breach involves an act of violence or intimidation. In short, a gap in the protection afforded to victims of serious breaches of apprehended domestic violence orders is being rectified by the Government.

The next substantive measure included in the bill relates to persons with an intellectual disability. Item [11] of schedule 1 to the bill includes a provision to ensure that accused persons who suffer from an intellectual disability are not unfairly dealt with under the Bail Act solely because of their disability. This provision implements recommendation 6(h) of the New South Wales Law Reform Commission report on people with an intellectual disability in the criminal justice system. This report identified that persons with an intellectual disability can have difficulty in understanding and complying with certain bail conditions.

The provision ensures that, before an authorised officer or court sets bail conditions for a person with an intellectual disability, the officer or court must be satisfied that the bail condition is appropriate having regard to the accused person's capacity to understand and comply with the bail conditions. This amendment will operate both to improve the protection afforded to the community and address the needs of persons with an intellectual disability. It will achieve this by improving compliance with, and understanding of, bail conditions imposed by the police and courts on persons with an intellectual disability.

In addition, the bill contains the following measures to improve the operation of the Bail Act. Item [14] of schedule 2 inserts new section 39A into the Bail Act to facilitate arrangements for entering sureties interstate. This is a vital first step in improving the efficiency of the process for implementing bail agreements. This proposal arose out of submissions to the bail review. Under item [16] a new power to permit a senior police officer to review the decision of a more junior police officer to refuse bail is to be created. This is to prevent an accused person from being unnecessarily detained, pending a court appearance. This proposal implements recommendation 91(a) of the Royal Commission into Aboriginal Deaths in Custody, which recommended that police be empowered to review a decision by another police officer to refuse bail.

Item [18] amends section 54 to ensure that continuing sureties are notified of variations to existing bail conditions. This implements the recommendations of Justice Kirby, who was then President of the Court of Appeal, in the case of *Thomaskakis v Sheriff of NSW*. That case highlighted the fact that failure to notify an existing surety of a change in the bail conditions can have serious consequences for the surety. The amendment provides the existing surety with an opportunity to consider whether or not he or she wishes to remain a surety in light of any new bail conditions imposed by the court. This will reduce the likelihood of sureties unwittingly losing the money which they have put up as bail, and will improve the capacity of the surety to monitor the accused whilst he or she is on bail.

As I have already mentioned, this is just part of a package of measures being undertaken by the Government to improve the protection afforded to the community and victims from serious offenders. Two further initiatives currently being undertaken by the Government are worthy of brief mention here. Firstly, the Government is preparing to make a regulation to ensure that the bail regulations comply with the charter of victims rights. This regulation will provide additional information to victims of

sexual assault and other personal violence offences about the outcome of bail applications and any conditions imposed. Secondly, the bail review conducted by the Government highlighted the need to ensure that accurate and complete criminal histories are placed before the court on bail applications.

The Government has made a number of administrative improvements to ensure that this occurs. In particular, improvements are being made to ensure that additional information about any breaches of periodic detention orders and other matters are included on criminal histories tendered to the court on bail applications. In short, this bill has been carefully drafted to achieve an appropriate balance between the protection of the community and victims, and the rights of the accused. In particular, the bill addresses the need to provide proper protection to the community and victims from serious offenders. It is a delicate task to balance these important principles of the criminal justice system. I am confident that this bill achieves that aim. I commend the bill to the house.

I now move to the Criminal Procedure Legislation Amendment (Bail Agreements) Bill. This bill provides for amendments to be made to the Bail Act 1978 to allow for the enforcement of bail agreements under that Act. It also provides for amendments to be made to the Justices Act 1902 and other Acts to abolish various recognisances under those Acts. The Fines and Forfeited Recognizances Act 1954 currently provides a mechanism, known as the estreats process, to enforce bail undertakings and recognisances set by the Children's Court, Local Court, District Court and Supreme Court. The estreats process is said to arise out of the old English practice of extracting or copying a recognisance that has been broken from the records of a court of law, and returning it to the Court of Exchequer for prosecution.

The English system has essentially been preserved in New South Wales by the Fines and Forfeited Recognizances Act. The need to have such an enforcement mechanism arises because of the requirement whenever a bail undertaking or recognisance is imposed by a court, for there to be an undertaking to forfeit an amount of money in the event that the bail undertaking or recognisance is not complied with. Where an accused person breaches a bail undertaking or a recognisance, not only is the accused called before the court to answer the breach of that undertaking but separate estreats proceedings need to be instituted to recover the amount of money agreed to be forfeited. Currently, all courts forward all forfeited bail undertakings and recognisances to the Estreats Court, which is simply a special list maintained by the District Court.

The present system is antiquated, cumbersome and time consuming. It requires that virtually all matters be dealt with by the District Court, regardless of which court the person was bailed to appear before, and requires that all matters be listed before the court even though the accused or surety has no desire to argue that the money should not be forfeited. It is proposed to streamline this procedure by removing the need for an estreats roll and by having the court which handled the original matter deal with any action arising from the forfeiture of the bail undertaking. Further, matters will be listed before a court only where the defendant or surety makes an application for the matter to go before the court.

The bill provides for a new part 7A of the Bail Act, which replaces the Fines and Forfeited Recognizances Act in respect of forfeited bail undertakings. It is also proposed to ultimately repeal the Fines and Forfeited Recognizances Act when amendments to abolish recognisances under the Crimes Act 1900 are introduced. I now turn to the specific provisions of the bill. The bill provides that a court may make a forfeiture order in relation to any bail money agreed to be forfeited, where an accused fails to appear in court in accordance with his or her bail undertaking.

Forfeiture orders may not be made, however, if more than three years have elapsed since the accused failed to appear before the court. Following the forfeiture of a bail undertaking the registrar of the court will be required to notify each affected person—that is, any bail guarantor and the accused—of the forfeiture order. Affected persons will also be notified that the order will be automatically confirmed within 28 days of service of the notice unless an application objecting to the confirmation is filed. Informal objections to the forfeiture order, made before notice of the forfeiture order is served, may also be heard by the court.

An informal application could arise in circumstance where an accused arrives late at court, but after the forfeiture order has been made, or where the accused appears on another day shortly thereafter. Applications are to be heard on an individual basis in the court which forfeited the bail and the Crown will be a party to the proceedings. On the hearing of an application, the court may confirm the forfeiture order, reduce the amount to be forfeited or set aside the forfeiture order. In the case of a bail guarantor, the court may reduce the amount to be forfeited or set aside the forfeiture order,

where it is satisfied the guarantor took all reasonable steps to ensure that the accused person complied with the relevant bail undertaking.

Where a forfeiture is confirmed in circumstances in which money has not been deposited or security has been given, the matter will be referred to the State Debt Recovery Office for enforcement in accordance with the provisions of the Fines Act. Where money has been deposited it will be remitted by the registrar into consolidated revenue. Where a forfeiture is confirmed automatically after the expiration of the statutory review period of 28 days, the registrar of the court is required to notify each person affected by the order that the forfeiture order has taken effect. An application may then be made by an affected person to set aside the forfeiture order within 12 months of the confirmation of the order.

The lodging of an application results in a stay of enforcement of the forfeiture order until the application is heard. If the court is satisfied that notice of the initial forfeiture order was not served on the applicant and the applicant was not aware the forfeiture order had been made prior to the expiration of the statutory review period, it is required to conduct a hearing and determine the application in the same manner as if an application had been made prior to the expiration of the statutory review period. As soon as a forfeiture order takes effect, bail money which has been deposited is forfeited to the Crown and bail money agreed to be forfeited becomes payable to the Crown.

Where security has been deposited, however, no action is to be taken to realise the security for 12 months from the date of the order. The purpose of this provision is to ensure that security, in particular land, is not disposed of until the expiration of the period within which an affected person may apply to have the forfeiture order set aside. In respect of forfeiture orders confirmed following an application to the Local Court, there will be a right of appeal to the District Court under section 122 of the Justices Act 1902. The bill also provides for an offence of fraudulently disposing of property which has been deposited as security in respect of a bail undertaking and for the revocation of a bail undertaking where the bail security is no longer intact.

An example of where bail security would no longer be intact is where a surety has died and the property has passed to his or her beneficiaries. Notice of the court's intention to revoke a bail undertaking must be served on the accused prior to the court revoking it. The accused must then, within 28 days, demonstrate that the bail security is still intact or arrange for replacement or supplementary security.

The bill further provides that an authorised officer before whom a bail undertaking is given must ensure that any person who enters into an agreement is aware of his or her obligations under that agreement. The officer must also be made aware of the consequences that may flow if the accused fails to comply with the bail undertaking. In relation to recognisances, as I indicated earlier, the bill provides for amendments to be made to the Justices Act and other Acts to abolish the various recognisances under those Acts. With the exception of recognisances to prosecute appeals, recognisances referred to in the Justices Act are now rarely used.

Moreover, in those circumstances where recognisances are relied upon, it is considered that more effective mechanisms can be used to achieve similar results without incurring the administrative difficulties which arise in enforcing a breached recognisance, particularly where there has been an undertaking to forfeit an amount of money. The bill therefore deletes all of the provisions in the Justices Act relating to recognisances and provides alternative procedures in circumstances where recognisances are currently relied upon. In most instances, the provisions of the Bail Act will be relied upon for this purpose. Similarly, in those rare instances where a witness is taken into custody, the bill provides a mechanism for the witness to be released upon entering into a bail undertaking.

These provisions are consistent with section 566 of the Crimes Act 1900, which provides that a witness who is apprehended on a warrant for failing to attend a trial may be released on entering a bail undertaking to appear at the trial. In relation to appeals, rather than relying upon the entering of a recognisance to stay the order of the Local Court, the bill provides that such orders will be stayed in most cases on the notice of the appeal being given. Where the accused is in custody or the matter relates to an apprehended violence order, however, the orders of the Local Court will only be stayed on the person entering into a bail undertaking.

This provision complements identical provisions in the Justices Legislation Amendment (Appeals) Bill 1998 which is currently before the other place. The bill also provides for recognisances to be abolished in other Acts, such as the Coroners Act 1980 and the Local Courts (Civil Claims) Act 1970. Recognisances under the Crimes Act 1900 are not included in this bill. It is proposed to abolish

these recognisances in a sentencing bill, which I expect will be introduced into the House later this session or next session. In conclusion, the measures being introduced by the bill represent a further step in the Government's broader strategy to reform the structure of the court system and to make it more efficient in the interests of the users of that system and the wider community. I commend the bill to the House.

Debate adjourned on motion by Mr Fraser.

PRIVATE MEMBERS' STATEMENTS

BATES DRIVE SPECIAL SCHOOL ACCESS

Mr PHILLIPS (Miranda—Deputy Leader of the Opposition) [5.17 p.m.]: A very special place in my electorate of Miranda which is close to the hearts of my constituents and which provides very special educational services for a group of very special people is Bates Drive Special School, a school for students with intellectual disabilities. I have been a major supporter of the school for some years. My constituents also support the school. I have a particular issue to put to the Minister today, an issue which I have been pursuing since 1975. It was brought to my attention in correspondence from the school council of Bates Drive Special School, which advised me of its concerns about road safety in Bates Drive opposite the front of the school. In a letter dated 28 June 1995 the council stated:

> Vehicular access to a small hardstand area outside the front gate requires the vehicle to negotiate a gutter crossing at slow speed in the wake of faster moving traffic in Bates Drive.
>
> This action results in reduced safety margins to students, staff and visitors to our school choosing to use the front gate.

I have visited the school to check the traffic safety problem. It is clear that access to the school is extremely dangerous as two lanes of traffic travelling down a steep gradient onto a curve have to narrow into a single lane to enter the school, creating an extremely dangerous situation. Following representations to the Department of Education and Training and Sutherland Shire Council, the council was persuaded to use its good offices to produce a plan and costing to upgrade the road. The council wrote to me on 16 August 1995 indicating that this was clearly the responsibility of the Department of Education and Training but that the council would assist. True to its word, on 9 December 1996 Sutherland Shire Council came good with plans, and stated in a letter:

> Attached you will find a proposed preliminary layout which has been estimated at costing around $45,000.

Subsequent to that letter and a plethora of correspondence with the Department of Education and Training and the Minister's office, a response was received from the Minister dated December 1997, which stated:

> The Department of Education and Training has acknowledged the desirability of improving the vehicular access to Bates Drive Special School . . .
>
> The proposed vehicular access project has not been able to be funded in the 1997/98 State Budget. However, the project will remain a high priority for reconsideration for funding in next year's Budget.

Despite the plans and costings, the support of the local government, the school, the community generally and the department, and the letter from the Minister stating that the matter is of high priority, no funds have been allocated in the 1998-99 budget. This vital road safety issue concerns parents, children and staff of Bates Drive Special School. I do not know what other project could be more important to the Minister than the safety of these special children and the staff who dedicate their lives to caring for them. There is no higher priority for me. [*Time expired.*]

Mr AQUILINA (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [5.22 p.m.]: I have listened with intense interest to the comments of the Deputy Leader of the Opposition. The honourable member was correct when he said that an application for a vehicular access bay outside the school was made quite some time ago. When it was indicated last week that renewed concerns had been expressed, inquiries were made from the Sutherland district office to the properties directorate in Blacktown.

This resulted in the district superintendent, Bob Murdoch, being advised that the properties directorate had the construction listed on an appropriate program but a source of funding had not yet been identified. I have not had the time today to look at the detail of this matter but I give the honourable member an undertaking that I will take a personal interest in this project and try to ascertain the reason for the delay. The matter has not previously been brought to my attention and I will do my best to identify a source of funding to expedite the work.

BOWLING CLUB SCORE CARDS PRINTING

Ms NORI (Port Jackson) [5.23 p.m.]: I have important advice to give to members of Parliament

and the community regarding an outrageous scam to which I unfortunately fell victim. It relates to a supposed printing company that is approaching clubs and presumably other members of Parliament asking for a donation to print score cards for clubs. I understand that South Tamworth Bowling Club Ltd has also been stung. For many years I have supported a number of clubs in my electorate in that way. When I was asked in late March or early April to sponsor the score cards for the Balmain Bowling Club I readily agreed. Pat Maguire and Bill Allan contacted my office and held themselves out to be associated with the club. They explained that the company with which I had been dealing, John Carroll and Co., was no longer doing that work and that it would be done in-house by the club. I gave the assurance that I would continue to support the club.

On 22 June I readily wrote out a cheque for $295, but the score cards have neither been produced nor received by the club. However, I congratulate John Carroll and Co., a legitimate printer that provides the service. That company asked me to sponsor the legitimate cards but kindly offered to wait to see whether the money is returned. However, I will continue to sponsor the club whether or not I receive the money. I draw attention to this scam and thank the Minister for Fair Trading for taking up the issue with vigour. To outline what the department has been doing in relation to the matter I shall quote extensively from the ministerial briefing, which stated:

> The Department of Fair Trading's Complaint Management System has disclosed two registered complaints from small businesses against D & K Sunset Press. The Department has also received a letter of complaint from J Carroll & Company Printers and Publishers Pty Limited of Campbelltown who is the approved supplier of score cards and team sheets to the majority of bowling clubs in New South Wales.
>
> It would appear that D & K Sunset Press have been approaching small businesses and bowling clubs in New South Wales stating that they have taken over the printing services provided by J Carroll & Company which is not the case.
>
> Invoices initially sent out by D & K Sunset Press requested payment to Queens Court Business Centre, Woollahra, New South Wales which is a serviced office complex. All office services supplied to D & K Sunset Press by the Queens Court Business Centre were discontinued approximately one month ago.
>
> Further investigations have disclosed that D & K Sunset Press operate from premises at 90 Heeb Street, Ashmore, Queensland and the manager is a Mr Ken Johns. The more recent invoices show Locked Bag 1009, Gordon, New South Wales as the latest address. All mail sent to this address is simply redirected unopened to Ashmore, Queensland.
>
> On 21 August 1998 the matter was referred to the Senior Investigations Officer, Office of Fair Trading, Queensland together with supporting documentation for urgent attention. By letter dated 3 September 1998 the Queensland Office of Fair Trading advised that the matter of D & K Sunset Press would be referred to an officer of that Branch for investigation. The Investigator will contact this Department once the inquiries have been completed.

I take this opportunity to warn individuals, members of Parliament and small businesses who generously participate in schemes and who may have been victims or are potential victims of the scam to check the credentials of any company that purports to provide this service and not accept what is said at face value. It is sad that people are still trying to work this scam. In the past television broadcasts have warned us about such scams, and it is appalling that community organisations such as a local bowling club could end up missing out on this genuine service because of this scam.

BURREN JUNCTION PUBLIC SCHOOL

Mr SLACK-SMITH (Barwon) [5.28 p.m.]: I speak on behalf of the staff and pupils of Burren Junction Public School, and their parents. Burren Junction school is in my home town. My father attended the school in 1924 with his brothers and sisters, and my family has since had a close relationship with it. Today it has 65 pupils, five permanent staff, an active parents and citizens association and a school council. The Burren Junction Public School has a serious and urgent need. I listened with interest to the reply of the Minister for Education and Training during question time this afternoon when he announced capital works programs for a number of schools throughout New South Wales. I hope that Burren Junction Public School is included in those capital works programs.

The school desperately needs a new or refurbished administration area, as current conditions are affecting the morale and performance of the senior school assistant. Working conditions are substandard, and the provision of space for storage of records and supplies is inadequate. Previous attempts, as late as 1996, at providing new working space have resulted in promises of relocation, but no action has been forthcoming. In 1997 a demountable classroom was promised before the beginning of first term in 1998, but that has not come to fruition. The school needs two new or refurbished classrooms that provide adequate desk and floor space for teaching programs.

No classrooms have teacher resource storerooms, so all equipment must be housed in the classrooms. Currently no year 3 to 6 classes have access to a wet area for art-craft-science activities,

and the current cramped conditions for students and staff are unacceptable. There is no adequate provision for an accident and sick room at the school. Due to distance and isolation, there are no medical facilities at Burren Junction, so ill or injured students may have to wait up to an hour for parents to arrive. No room is available to locate those children comfortably, with adult supervision, so the current practice is for children to remain in the classrooms where teachers can monitor their safety and wellbeing.

First-aid supplies and a locked medical cabinet for prescribed drugs are located in the school assistants' crowded space. The school needs a large outside storage shed. At present no space is available to house large items such as high-jump mats, trampolines and a vaulting horse. Such equipment should be stored in a shed with a cement floor. The school does not have a principal's office; at present the principal works out of the school's storeroom. There is no other exit or entry other than through the school assistants' work area or the years 5-6 classroom. There is no privacy for appointments or interviews, and the space is crowded and poorly lit.

With regard to the provision of a teaching area for the reading recovery teacher, at present the program is being conducted in the canteen because of lack of space, and on canteen days it is severely affected due to noise levels. The staff toilet is located at the back of the students' toilet block. That is inconvenient and impractical, as it is a long distance from the staff room. Visitors and staff alike are seriously inconvenienced by the location of the staff toilet. The area is a favourite spot for insects and snakes, as the septic outlet is next to the door.

Provision is needed for a permanent library facility. For a number of years the year 4 classroom has been used as the resource centre for six schools on the country area program—CAP. Because of its central location, Burren Junction has continued to support the CAP initiative through the housing of the resource centre. The demountable building has been used for a library and for Aboriginal tutoring funded by the Department of Employment, Education and Training. In recent times the school council has been concerned that the department will wish to move the demountable building and leave the school without a library.

The community of Burren Junction does not have access to a library service, but the school provides for that community need. The school library is also used for meetings and adult education initiatives. It has television and video facilities, computers, Internet and satellite connections, and radio communication for the distance education of the school's gifted and talented students. I strongly suggest that this valuable resource be retained at Burren Junction. In light of the building needs of the school I ask the Minister to assist the students, the staff and the community at Burren Junction Public School.

GERRINGONG TIDY TOWNS SUBCOMMITTEE

Mr HARRISON (Kiama) [5.33 p.m.]: I have received correspondence from the Council of the Municipality of Kiama indicating that earlier this year the Gerringong tidy towns subcommittee proposed to undertake a landscaping project behind the dry stone wall town entry marker at the Omega crossing in Gerringong. A very small portion, approximately 60 square metres, of the designated area is owned by the State Rail Authority, which has required the committee to obtain a licence to enter the land prior to the commencement of the landscaping works. Initially the committee was advised by the State Rail Authority that the preparation of the required licence would incur a cost of $700, in addition to an ongoing annual licence fee of $350, which includes a 3 per cent annual increment.

I am advised that the committee obtained a verbal agreement from the State Rail Authority that it would be prepared to decrease the cost of the preparation of the licence to $200. However, the authority would not waive the licence fee as well. Prior to that the committee managed to negotiate with the Rail Access Corporation and its contractors, Fluor Daniel, to waive the estimated $400 required to undertake a cable search in this location. The Gerringong tidy towns subcommittee has continually emphasised that this is a voluntary community project which is worthwhile to beautify this strategically sensitive location.

The committee has earnestly tried to seek co-operation from the State Rail Authority so that proposed landscaping works are kept to a minimum cost. The project is a strictly voluntary concern for the local residents of Gerringong. Because of the actions of the State Rail Authority the committee feels greatly discouraged about undertaking the project. In the interest of promoting community participation, the Gerringong tidy towns subcommittee seeks assistance from the State Rail Authority in its negotiation in regard to waiving the annual licence fee to enter State Rail Authority property.

The Kiama municipality has a proud record so far as tidy towns development is concerned. Local residents are proud that Kiama has been widely recognised in the last couple of years as the tidiest town not only in New South Wales but in Australia. Most of the work, excluding that which is done by the council, is funded by a dedicated group of volunteers who generously give up their own time, and on occasions are substantially out of pocket because of their pride in their local area. I do not believe that the State Rail Authority or any section of government administration would wish to be seen as putting obstacles in the way of the beautification of Kiama or any other local government area in the State.

Recently the Council of the Municipality of Kiama undertook substantial street improvement works in the town of Gerringong. The people of Gerringong were extremely pleased that a decision was taken to return the town's local police officer, whose services had been transferred elsewhere. Because of intervention by the Minister for Police that police officer is now back in Kiama and negotiations are taking place with the council to construct a purpose-built building to house the local police officer and the rural fire service. At present an unattractive demountable building is used. As I have said, the local community of Gerringong and the Kiama municipal council are concerned to bring out the very best in what is a beautiful little village that produces some great sporting identities, such as Mick Cronin. I believe I am bound to support any initiatives that can be taken, and I urge the Minister for Transport, and Minister for Roads to also support those initiatives.

INTERACTION DISABILITY SERVICES

Mr MERTON (Baulkham Hills) [5.38 p.m.]: Interaction Disability Services began in 1979 as a result of parents in The Hills area decrying services for their children who have intellectual disabilities. The organisation provides an extensive range of services for people in the western Sydney area with a range of intellectual disabilities. I am delighted to note that an open day will be held this Friday, which I will be pleased to attend. I was also pleased to attend the recent annual general meeting of Interaction Disability Services. It was an opportunity to meet the many parents and people associated with the various programs provided by Interaction Disability Services. With the assistance of volunteers and professionals, the organisation provides a worthwhile service for those in The Hills and western Sydney areas who have intellectual disabilities.

Interaction Disability Services offers many services, including a supported accommodation service, specialist community programs, respite options, post-school options, community options, community training programs, community support programs and recreation programs for after-school care. Those programs provide an excellent service for those in the area. The supported accommodation service—SAS—is a community group of two to four people sharing a house or flat. They can enjoy the challenge of learning to develop greater competency in their everyday life activities, with ongoing support and training from social educators. The level of support each household receives is based on the support needs of each individual in the house. Community group living situations are located in a range of typical residential settings in western Sydney.

The specialist community program—SCP—provides a specialist community group living situation for adults with a disability. The carefully structured program attempts to meet the unique needs of people with a particular disability in a way that balances the individual's autonomy with the protection and promotion of their general wellbeing. The program is the first of its type in Australia, and is funded by the State. The high supports program is financed under individualised funding made available by the Ageing and Disability Department. The program is provided for adults with a moderate intellectual disability who require 24-hour support. Respite options is available for children aged five to 16 years, and for adults aged 16 years and over with moderate to high support needs living in the family home. The program provides a flexible community-based package rather than a centre-based service.

Post-school options is a community-based program for young people with moderate to high support needs who have qualified for this funding. The community options program is funded under the home and community care program, and offers support to people with disabilities who live at home with their carers. Other criteria include being 18 years of age and over, with moderate to severe intellectual disability and complex support needs. The community training program provides in-home or in-community training for adults with intellectual disabilities living in their own accommodation or with their families. The community support program is for adults with an intellectual disability who choose to live in their own accommodation. They can receive support from visiting support workers to empower them to live independently in the community.

The recreation program for after-school care is based in The Hills area. It is available to children in

the Cumberland-Prospect area. The program provides after-school care for children with disabilities with moderate to high support needs. The programs offered by this excellent organisation are second to none. It is an organisation of which any community would be proud. As the local member, I certainly support the organisation all the way because I realise the tremendous amount of work it does for both children and adults with its programs, training and community support. Meetings are always very stimulating. One walks out with a sense of exhilaration, knowing that so many caring and committed people are trying to assist those with intellectual disabilities. It gives me great encouragement, as the local member, to know that these programs are being offered in the Baulkham Hills area.

ELIZABETH DRIVE NURSING HOME

Mr LYNCH (Liverpool) [5.43 p.m.]: I wish to draw to the attention of the House what seems to be the quite appalling standard of treatment and care maintained in a nursing home within my electorate. As a community we have a significant responsibility to ensure that proper care is delivered to the residents of nursing homes. Mainly elderly occupants are badly placed to defend their rights. Indeed, often they will simply have no capacity to do so. Residents who do not have relatives to assist them in protecting their position are in an even more precarious situation. The particular nursing home to which I wish to refer is the Elizabeth Drive Nursing Home, which is located in my electorate. For many years, the nursing home had an excellent reputation. People whose judgments I accept had always spoken highly of its standard of care. Regrettably, the situation is now very different.

Relatives of residents who praised the previous standard are now vehement in their criticism of the current standards. The change in quality of care seems to have occurred earlier this year at the same time as both the ownership and management of the nursing home changed. I will turn to a number of specific allegations in a moment. The basic point is that the new ownership and management seem to have placed a much greater demand on increased profitability of the home. That is being achieved primarily by reducing expenditure across a whole range of services. It has also been achieved by reducing staff. As I understand it, the management of the home denies both those allegations. However, I have been told that some of the staff at the home have alleged precisely that—that there has been a reduction in both staff and expenditure.

It has also been suggested to me that not only are fewer staff being employed but they are less qualified. Regardless of the accuracy of those claims, the incidents reported to me are certainly consistent with fewer staff, less qualified staff and decreased expenditure. One of the most demeaning stories relayed to me is of consistently lengthy delays when a resident rings for a pan or commode. On a number of occasions bed-ridden residents have rung the button to have a pan or commode provided so that they can relieve themselves, but frequently they have had to wait for up to 35 minutes, and sometimes for as long as an hour and a half. Those incidents occurred in the middle of the day and were observed not only by residents but by visitors. Thus they were independently verified. They occurred as recently as 26 September and 1 October this year.

Another incident involved the button being pushed at about 3.00 a.m. with no response until about 6.30 a.m. Such treatment of residents is demeaning and humiliating. Moreover, if the button were pushed for a more acute medical reason the consequences could easily be fatal. Many other complaints suggest inadequate staffing levels or contempt for the residents, or both. I have been told of residents being taken for a shower at 9.00 a.m. but not returned until 11.30 a.m. On occasions, this has involved residents waiting naked or semi-naked in corridors. It also appears that medication is inadequately monitored. On occasions medication has been left by staff on a table next to the resident, but no water was provided to allow the medication to be taken and no attempt was made to supervise the administration of the medication. The amount of food provided seems to be inadequate and insufficient.

There has been at least one example of a resident undergoing sudden weight loss. One horrifying example that occurred on 5 September this year involved a resident being provided with a banana sandwich when the banana was completely black. The bread was stale. Once again, this incident was observed not only by a resident but by a visitor. When the food was rejected—understandably, because it was inedible—no alternative food was provided. The emblematic complaint I received about that aspect was that meals were served not on plates but on saucers. That occurred as recently as 29 August. The lack of care extends as far as not putting up the sides of the beds when residents go to sleep. That has resulted in one resident falling out of bed three times. An extra horror is that when residents raise these concerns they are told to stop whingeing.

A clear example of the completely demeaning and contemptuous manner in which residents are treated is their grooming. One disgraceful instance occurred in July this year. A resident had to be taken from the nursing home to a doctor's appointment. She was taken to the appointment without a bra, without underwear, without shoes or socks and with toast stuck to what few clothes she was allowed to wear. It is almost as if somehow or another, because the residents are old and ill, they are no longer entitled to any sort of human dignity. These residents, who are often in their seventies and eighties, have made significant contributions to our society.

They have worked, paid taxes, raised families and been constructive members of our community. Many aided our war effort during the Second World War. They deserve much better than the sort of treatment I have outlined. Complaints have been lodged with the Commonwealth aged care complaints resolution scheme and the private health care monitoring branch of the New South Wales Health Department. Complaints to the latter have not brought a satisfactory result. With one exception, the incidents to which I have referred that had a specific date put on them all occurred after departmental consideration of the complaints. These matters need to be investigated and prevented from recurring.

WELLINGTON POLICE NUMBERS

Mr R. W. TURNER (Orange) [5.48 p.m.]: I bring to the attention of the House the perceived lack of police, and their perceived lack of ability to carry out their duties in the town of Wellington in my electorate. I will specifically mention a small business holder who, unfortunately, has been forced to sell her business and move away from Wellington. Cheryl Hay of the South End Store in Arthur Street, Wellington, believes that as a result of reporting a crime to the police some time ago she has been a victim of harassment ever since by a small section of the community.

Mrs Hay has been in business in Wellington for 6½ years. She is now hoping to sell that business—someone is interested in buying it—but she will lose $100,000 in the process. However that $100,000 is not all that she will lose. In the past few months Mrs Hay's daughter has been harassed at school. She has been taken out of Wellington Public School and has been put into a private school at a cost that Mrs Hay could not afford. Mrs Hay has also been the subject of harassment in the form of small, petty offences which the police say are not worth prosecuting in court, even if they could establish who was committing them. Mrs Hay has had rocks thrown on the roof of her shop, signs broken, filthy statements and mud put on the windows and she has been subjected to abusive language in the shop. As a result she has given up. This week it was reported in the local press that some people in Dubbo were doing the same thing. They had bought a home for $70,000 and spent about $20,000 upgrading it. They have now sold it for $35,000. They cannot afford to sell their home at such a loss.

I acknowledge the presence in the Chamber of the Minister for Police. I thank him for coming into the Chamber to listen to what I have to say. He is aware of what is happening in the Wellington area. For years people have been referring to the lack of police in Wellington; they have wondered about the authorised number of police in the area. One can talk about police numbers as much as one wants, but one really needs to know the authorised number of police. People in the Wellington area are concerned about the authorised number of available police and the number of police who live in Wellington as opposed to those who live in Dubbo and travel to Wellington each day. The Minister has been asked about subsidising the rents paid by police officers. Builders in Wellington are prepared to build homes and rent them out for $160 dollars a week.

The mayor of Wellington and the general manager of the council are calling on the Minister to give serious consideration to subsidising the rents of police officers. Police who are off duty should be able to be called to emergencies. We should not have to rely on officers from small outlying stations or officers from Dubbo being called to a scene long after the felons have disappeared and the possibility of them being taken into custody has been eliminated. Approximately 6,000 people reside in Wellington and many of them are on social security benefits or are unemployed. The real tragedy is that Wellington is losing fine citizens who have given up and have moved out. Businesses are being asked to subsidise police as the patrols in these areas cannot afford to pay police overtime. I quote briefly from the *Daily Liberal* of 13 October, which stated:

> But Cr Ian Wray and Chris Muir, manager of Dubbo City Centre, both condemned the proposal.
>
> If more police are required to do the job, it's the responsibility of government to provide them and government must get it right . . .
>
> It's not the responsibility of citizens to take policing into their own hands.

What a shame that businesses have to subsidise a police presence! The police are there to do a job. Often they are restricted in what they can do

because of the court system, but we must come up with an answer to the problems that are being experienced in towns like Wellington. [*Time expired.*]

Mr WHELAN (Ashfield—Minister for Police) [5.53 p.m.]: I thank the honourable member for Orange for advising me that he would make a speech about Wellington. May I say at the outset that people should not take the law into their own hands. The council is talking about private police and security officers for the Orana area, but I confirm the announcement that I made recently that, as a result of the latest allocation of 100 police, three additional police officers will be based in the Orana region, an area which has about nine towns, including Dubbo and towns like Wellington.

I make another point about Wellington. Wellington has never had, under any government, a 24-hour police station. Wellington has dedicated police officers, including the regional commander, Doug Ryan, and the local area commander, Ron Bender, who are involved in crime reduction strategies throughout the region and their local command area. They are doing a fantastic job. A robbery occurred at Wellington the other day. I do not know whether that is the robbery to which the honourable member for Orange referred. The lady who was robbed was quoted in the *Daily Liberal* as saying that the police arrived on time, they did a fantastic job and they had the forensic people there on time. Members of the New South Wales Opposition fail to understand and refuse to acknowledge New South Wales now has a record number of police. There are 550 more police in regional New South Wales than there were when I became Minister for Police in 1995.

Mr R. W. Turner: They are not living in Wellington.

Mr WHELAN: Four police officers live permanently in Wellington. I do not believe that a government should dictate where police officers and their families should live. [*Time expired.*]

CABRAMATTA THIRTEEN MOONS MURAL PROJECT

Ms MEAGHER (Cabramatta) [5.55 p.m.]: I place on the record details of the Thirteen Moons mural project being conducted at Cabramatta railway station by the Fairfield community arts network. The project has been evolving for more than a year through the efforts of dedicated community workers, members of the Fairfield community arts network and, importantly, local youth who have been active participants since day one and who continue to play a crucial role in the project. I have said before in this place how the popular portrayal of Cabramatta in the media is neither accurate nor fair to its residents and, in particular, to its youth. The project is yet another example of how the local community has transcended the stigma of the negative media image and has chosen to reinforce its own self-image through local activities and projects which display Cabramatta's rich cultural and artistic character.

Over the past 12 months on sites such as Freedom plaza and Cabramatta railway station visual and performance artists have created works that encourage and reflect the local community. By involving the local community the project's objective is to create a sacred space in the heart of Cabramatta that reflects the colour, vitality and richness of the community spirit. The project is currently working on art that can be applied to the walls of the railway station. I am pleased that the Premier, following a request from me, in an acknowledgement of the importance of this project, was able to provide an additional $2,000 to cover some of the shortfalls on its production costs.

The work has been largely completed by local young people who have selflessly devoted their time and effort towards the project. It is a reflection of their commitment to their community as well as to their self-esteem and pride. In completing this work together community members and youth artists have reclaimed their environment and given birth to the concept and understanding of community spirit. Cabramatta is an evolving and changing community. One of the artists, Peta Ridgeway, who participated in this project, captured its importance in a few words. She said:

> The evolution of Cabramatta continues and will for ever more. It is a great honour to be conscious of this river of change through the people of this place. In being aware we can recognise opportunity. We have claimed this opportunity to implement spirit, create harmony and restore beauty and resonate peace. Change is the eternal medicine.

To increase public awareness about Cabramatta and about this project the Fairfield community arts network has recorded the production of this mural and other local artistic activities on video. During Carnivale 98 a short video documentary of the Thirteen Moons project introduced the positive side of Cabramatta to audiences around New South Wales. From 14 to 21 September the wall at the end of platforms 5 and 6 at Town Hall station was one of the sites used, and the viewing cube at the Museum of Sydney projected the images to mass audiences in the street during September-October

after sunset. Public spaces are ideal for the presentation and promotion of artistic and cultural projects. It is commendable that such spaces, which are often bombarded with advertising, are utilised for altruistic endeavours as well.

On behalf of the Government I thank the participants of this project for their contribution to the community. The project director, Ms Samiramis Ziyeh, and the artists and local youth who contributed deserve particular recognition, as well as the various contributors and sponsors, including the Australia Council, the New South Wales Ministry for the Arts, the State Rail Authority, Fairfield City Council, New South Wales Carnivale and the Museum of Sydney. The value of art projects cannot be measured in dollars alone. The projects create ideas, understanding and education and the participants learn long-lasting skills. If members would like to see the initial results of their efforts, all 30 metres of the mural and mosaics will be installed at the station by 24 October and the project will be launched at 19 Arthur Street, Cabramatta, on 5 November. I urge all members to attend.

SOUTHERN HIGHLANDS RAILWAY STAFFING

Ms SEATON (Southern Highlands) [6.00 p.m.]: I speak tonight about threats to railway station services, staffing levels and security in the electorate of Southern Highlands, particularly at Bowral railway station. As many honourable members would be aware, CityRail is in the midst of a job and work redesign process. That process has caused considerable stress and uncertainty to staff at railway stations in the Southern Highlands, and no doubt across the State. As well, significant concern has been expressed to me by Southern Highlands residents, railway users, school students and the elderly, many of whom appreciate a helping hand or advice from station attendants. The matter has also been of concern to local chambers of commerce, who realise that there is a link between a properly manned railway station and the accessibility and atmosphere of a local shopping centre.

I want to refer to some of the problems that have already been experienced at stations in my area that are not adequately manned. Graffiti has appeared on Bowral station, which until now has been manned seven days a week, during unmanned hours. The graffiti was obviously placed there in the late hours of the evening and early hours of the morning. Graffiti has appeared on the station almost every Saturday evening for the past two years. On 11 October at about 4.00 a.m. there was a break and enter at the station. One printer was lost and considerable damage was caused. I understand that some design aspects of Bowral station could be improved to prevent these offences, such as the installation of bars on windows.

About a year ago there was an arson attack at Bundanoon station. A large part of the station building, which has considerable heritage value and plays an integral part in the Brigadoon festivities each year, was burned down. The State Rail Authority heritage unit has still not yet decided when it will be rebuilt, if at all. I sincerely hope the matter is resolved very soon. Last year, in the main strip of shops in Bundanoon, troublemakers who had arrived by train consistently caused malicious damage. They alighted at Bundanoon because it was an unattended station and wreaked considerable havoc on many local businesses. That has been of considerable concern to the local people.

Some troublemakers plan their assaults for a time when a station is unattended. The railway stations are gateways to shopping centres at Moss Vale, Mittagong and Bowral. In the CityRail job and work redesign process documents the Minister gave a commitment that the hours during which stations would be attended would not be reduced. That is not true. The stationmaster rostering information from the human resources officer of the south-east CityRail sector clearly documents that even though Bowral station has been attended Monday to Friday from 5.30 a.m. to 8.30 p.m. seven days a week, as of late October that will change and the station will be unattended after 5.30 p.m. on weekdays and all day on Sundays. I cannot understand how the Minister for Transport can claim that there will be no downgrading of hours of duty for attendants in the face of that documentary evidence.

I am also told that it is usual procedure for stationmasters to be given a 28-day period in which to work through proposed rostering changes. In this case they will have only 14 days to work through the issues. I call on the Carr Government to reverse its decision and ensure that Bowral station remains attended seven days a week. I also ask the Government to ensure that Mittagong, Bundanoon and Moss Vale stations maintain their operating hours. Safety, security and convenience are all vital to local communities, to rail users who depend on railway stations and to the chambers of commerce and businesses that rely on these facilities. I call on the Carr Government to reverse this ridiculous decision and to make sure that Bowral station is fully manned seven days a week.

BODY IMAGE AND EATING DISORDERS

Mr WATKINS (Gladesville) [6.05 p.m.]: I am pleased to draw to the attention of the House the launch this week of the final report of the New South Wales Ministerial Advisory Committee on Body Image and Disordered Eating. I was pleased to be a member of that committee, on which I represented the Minister for Health. During the past twelve months the committee has done important work in highlighting the problem of disordered eating. It has also outlined a range of initiatives to combat and prevent the terrible problems that arise from disordered eating. It became clear to me while serving on the committee that disordered eating was inextricably linked to the body image that young people, especially young women, have of themselves.

When discussing eating disorders it is important to acknowledge that a range of problems is involved, including those relating to poor self-image and dieting through to the life-threatening diseases of anorexia nervosa and bulimia nervosa. Anorexia nervosa results in extreme weight loss, while bulimia nervosa is characterised by recurrent episodes of binge eating. Clinical eating disorders affect only a small percentage of the population but require extensive and long-term treatment, and may even be fatal. However, the prevalence of poor body image and disordered eating is far more common. Numerous studies have shown that large numbers of Australians, especially women, are dissatisfied with their bodies. Low self-esteem appears to increase susceptibility to concerns about body image. It is now clear that body dissatisfaction is well established in adolescents and that concerns about body image are prevalent in people from diverse cultural backgrounds.

One of the largest studies that has examined dieting behaviours, weight concerns and physical and mental health measures is the Women's Health Australia Project, a longitudinal study of 41,500 women. Results to date indicate that 90 per cent of 18-year-olds to 22-year-olds surveyed in December 1996 were dissatisfied with their body shape, and almost 50 per cent had dieted to lose weight. Of particular concern was the large number of young women of a healthy weight, or even underweight, who are dieting or consider themselves to be overweight. Recent studies in New South Wales and Victoria indicate that alarming proportions of adolescents are following dangerous weight loss practices, such as starvation, laxative abuse or vomiting. A recent survey revealed that 28 per cent of teenage girls admit to vomiting as a means of weight control. It is significant that 15 is the average age of the onset of those eating disorders, which are exacting a terrible price from our young people, and overwhelmingly from young women.

The population most at risk of eating disorders is young women aged 15-30 years of age. However, eating disorders have been diagnosed in children younger then 10 years old. The committee realised that it was important to raise the level of concern and awareness of eating disorders, but that it was equally important to acknowledge the sociocultural context of those conditions. That meant that it was essential to develop a preventive early intervention model that concentrates on the self-image of young people. The committee made clear that unless we as a community address the unreal, idealised image that is presented of women in the fashion industry and media outlets, eating disorders will continue to impact badly on young women. If we can assist young women to develop a more positive self-image by introducing self-esteem measures, then we can begin to address the causes of eating disorders. Accordingly, it is essential that the problem is viewed as a national health problem and that action to address it is part of an integrated mental health strategy.

A person's self-esteem relates to a positive self-image, the development of which begins in childhood. The home, the family and the peer group at school are very important in the development of a person's self-esteem. The committee stated that our education system has a special role in addressing these issues. Accordingly, a video called *Unreal Images* was produced. It will be made available to all New South Wales schools. It seeks to develop self-awareness and to provide some insight into the fashion industry and the way it idealises and perverts the image of healthy young women through the media. It is hoped that that video will be used as an educational resource throughout the State.

The committee has proposed a widely focused approach to prevent disordered eating by addressing self-esteem. This requires co-operation across the government departments of education, health, sport and recreation; assistance and support from private bodies in fashion and the media; and effective intervention from health professionals. Above all, however, it requires families to provide loving environments in which girls are valued for their personalities, skills and gifts—for who they are rather than how they appear. I am also very pleased that through the actions of the committee the New South Wales Healthy Body Imaging and Disordered Eating Association has been formed from the several community groups involved in this issue. This will enable the development of a group that can give

advice and support to individuals and families affected by disordered eating. It was a great privilege to serve on the committee and to represent the Minister for Health. I hope its work gathers strength and that it is overwhelmingly successful. Our children—especially our young women—deserve nothing less.

LEGUME TO WOODENBONG ROAD UPGRADE

Mr RIXON (Lismore) [6.10 p.m.]: I refer to the road that joins the Darling Downs in south-east Queensland to the north coast of New South Wales. Mt Lindesay Road, MR 622, between Legume and Woodenbong is the missing link in a high-standard road from the Darling Downs to the northern rivers and is 70 kilometres shorter than the route through Casino and Tenterfield. Based on 1996 traffic figures and estimates, $10 million spent would produce yearly savings of $43,600 in maintenance, $269,400 in vehicle operating costs, $810,000 in travel time costs and $308,000 in accident costs, a total of $1,431,000. Considering the expenditure required to simply maintain the current asset, the expenditure of $10 million would produce a cost benefit ratio of at least 6.7:1. With the additional benefit from transportation of stock to the Northern Co-operative Meat Company Ltd the cost benefit cost ratio rises to 8.2:1.

The Warwick to Casino route is a strategic part of the domestic and commercial interaction between northern New South Wales and southern Queensland. The current condition of the road adversely affects many people and companies, and impinges on the viability of export industries. Multimillion dollar operations at Warwick and Casino have specific plans for expansion which involve increased truck movements. Tourist traffic would increase with the better access to the spectacular scenery of the numerous national parks in the area. The floods of May 1996 demonstrated that the Legume to Woodenbong road is a vital part of a flood-free alternative route between Brisbane and Sydney. The Pacific Highway was blocked at Grafton and the New England Highway was blocked at Cunningham's Gap.

The Legume to Woodenbong road is already part of a route with reasonable grades from the Summerland Way to the Darling Downs. The height of the coastal area is 75 metres, while the height of Warwick is 425 metres. On the coast to Warwick via Legume the maximum height reached is 610 metres. On the coast to Warwick via Tenterfield route, which most trucks are forced to use, the maximum height reached is 930 metres. So not only is the Warwick-Legume-Woodenbong-Summerland Way route 71 kilometres shorter, to be exact, than the route through Tenterfield but, because the height climbed is 320 metres less, the energy required to haul freight is considerably reduced. There is no doubt that once the road is improved, with better curves and better surfaces and a 43 per cent reduction in travel time, traffic will increase.

The proposal is to provide a carriageway 9.4 metres wide with a bitumen pavement seven metres wide over the entire length from Legume to Woodenbong. At 18 specific locations major improvements to alignments are planned. These realignments reduce the total distance by nearly five kilometres. The shortened route plus the realignments would reduce travelling time by almost 20 minutes. A short section eliminating five curves at Gumdale recently completed illustrates the value of the work proposed. One of two companies that would greatly illustrate the benefits this road would provide is Big W, which currently services 48 stores out of Warwick, but by the year 2000 expects to service 60 stores. The value of produce moved down to the Legume to Woodenbong road exceeds $90 million per year. Big W intends to increase that usage.

The other company is the Northern Co-operative Meat Company Ltd at Casino, which currently relies on the delivery of cattle out of south-east Queensland. Currently deliveries from south-east Queensland average 40 semitrailers per week or approximately 2,000 cattle. This number represents one-third of the throughput at the abattoir. However, over the time frame for the Legume to Woodenbong road upgrade the number of cattle freighted from south-east Queensland could be expected to go through to half of what the company requires. The Queensland Department of Transport also sees this as an important route and has classed the road as equivalent to a State highway class 3. I ask the Minister for Transport, and Minister for Roads to take note of the higher priority that should be given to this road and to work towards its improvement. It would be of great economic benefit to the north coast of New South Wales in that it would provide a more efficient, less costly and far better transport route between the north coast of New South Wales and the important supply centre of the Darling Downs in Queensland.

WESTLAKES HEALTH SERVICE TORONTO POLYCLINIC

Mr HUNTER (Lake Macquarie) [6.15 p.m.]: Tonight I wish to inform honourable members of the completion of the Westlakes Health Service Toronto

Polyclinic, a community-backed project. On Monday, 28 September 1998 the polyclinic was officially opened by the Minister for Health, a local school student, Bernadette Lawrence, and me. This issue has been raised on numerous occasions in this House—at the opening the Minister said that I had raised it ad nauseam. Every member of Parliament knows of the fight to improve health services for the western side of Lake Macquarie and the construction of the polyclinic. For many years the local community has pushed for improved health services on the western side of the lake. In fact, this was one of the projects of my father, the former member for Lake Macquarie, Merv Hunter. He was partially successful because in early 1988 the then Minister for Health, Peter Anderson, announced that the Labor Government would construct a polyclinic for the western side of Lake Macquarie.

Unfortunately, the coalition Greiner Government was elected and decided not to proceed with that project. In fact, the current Leader of the Opposition pointed out quite clearly in a letter to the then member for Lake Macquarie that the coalition had no intention of building the facility. In 1991 the current Minister for Health made the commitment that if Labor was elected the polyclinic would be built. He reconfirmed that commitment in 1995. I am very pleased to say that a polyclinic has now been constructed in Toronto. New health services are up and running and the building cost some $5 million. The official opening was a fantastic day. Bernadette Lawrence, of the Wangi Wangi Public School, represented the local schools. She was the runner-up in a poster competition run by the area health service. She quite ably assisted the Minister and I cut the ribbon to open the new polyclinic. The winner of the competition was Lauren Henderson, who unfortunately could not be present on the day as she was overseas with her parents.

I thank the members of the community who provided entertainment on the day: the Toronto Brass; Les Saxby, the didgeridoo player; the Minimbah Dancers from Hunter Sports High School; and the Westlakes Mabuhay Filipino Women's Dance Group. We were provided with wonderful multicultural entertainment prior to the opening of the polyclinic. In addition, a time capsule was buried by Pat Gregson, from the Lake Macquarie and District Historical Society; Jack Marshall, from the Toronto Senior Citizens; and Robert Smith, known as Uncle Bob, who is a local Aboriginal elder. There was also a tree planting ceremony, with representatives from local high schools, West Wallsend High School, Toronto High School and Morisset High School. After the official opening, tours of the facility were conducted. A few hundred people were in attendance on the day. The Acting-Speaker, the member for Wallsend, was there, as was the honourable member for Port Stephens. I thank them for their attendance.

Special thanks should go to Toronto Workers Club, which assisted with the opening, the New South Wales Police Service, the New South Wales Fire Brigades, the New South Wales Ambulance Service, local primary and high schools, Lake Macquarie City Council, the Lake Macquarie and District Historical Society, all the performers, and Kookaburra Carers, who catered on the day. I thank the organising committee, in particular the commissioning officer of the polyclinic, Mary Downey, Halina Paczynski, and my electorate officer Helen Bristow for the work that they did. With the completion of the polyclinic at the end of July community health workers were happy to close the doors of their inadequate and dilapidated demountable building located in The Boulevarde, Toronto.

They moved into the new building to run the existing community health services from that time. During the next six to eight weeks new services were brought on line. One of the most important services for the people of the western side of the lake is the after-hours medical service which has pathology and X-ray facilities. It is a first for the west Lake Macquarie area and something the residents of the area have needed for years. It is great that it is finally available. I thank the Minister for Health for fulfilling his commitment to the people of Lake Macquarie in building the Toronto Polyclinic. Health workers in the area should be congratulated. For years they have put up with dilapidated and inadequate facilities. It is good that they now have a state-of-the-art building and are providing the most modern health services to people in the area.

Dr REFSHAUGE (Marrickville—Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [6.20 p.m.]: I am delighted to tell the House about the opening of the polyclinic at Toronto. It is a great joy for the area. The community really wanted the facility and argued very strongly for it. As the honourable member for Lake Macquarie pointed out, just before the 1988 election Peter Anderson said that a Labor government would build the polyclinic. He was right about that: a Labor Government did build it. Unfortunately, there was a long period of seven years when Labor was in opposition and the coalition Government refused to provide the polyclinic.

Without the strong commitment of two people the polyclinic would not have occurred. The former member for Lake Macquarie, Merv Hunter, was a great advocate for his area inside and outside this Chamber. He was always strongly advocating for his area. His successor—his son, Jeff Hunter—the present member for Lake Macquarie, has made an outstanding effort highlighting the issue and making sure that it was never off the agenda. As I said at the official opening, I do not think any member of this House would not have known that Jeff Hunter supported the polyclinic and wanted it to happen. Jeff, congratulations, it has.

TELARAH PUBLIC SCHOOL VANDALISM

Mr BLACKMORE (Maitland) [6.22 p.m.]: I bring to the attention of the House an act of vandalism which occurred at Telarah Public School, particularly the kindergarten unit. The incident occurred on the weekend of 5 and 6 September. The *Maitland Mercury* of 8 September carried a headline "Police say damage the worst they have seen: Vandals trash school". Vandals devastated the kindergarten room, trashing the contents. Young children attending kindergarten are proud of their work: they put it on display for the day when parents can come to see what they have done. I was shocked to see a video of the damage. Cans of paint were tipped down the back of pianos and across the floor. All the work done by the children was stripped from the blackboard area and around the walls. There was graffiti throughout the school. I asked the Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs on notice about the priority of the provision of the security system at Telarah Public School. I was disturbed by the Minister's response. He stated:

> In comparison to other high risk NSW schools, Telarah Public School has been exposed to a relatively small number of serious incidents and has sustained minimal losses.

It appears that this is the eighth reported act of malicious damage and theft at Telarah Public School this year. No damage or loss was sustained from two of the incidents and in three other incidents the costs involved were less than $1,000. The total cost of repair and replacement of equipment at Telarah Public School from security incidents in 1998 is not yet available as rectification work is still to be completed. The estimated cost of rectification is $17,838. The Minister responded to my question about when a security system would be installed at Telarah Public School by stating:

> It is expected that based on the current risk rating of Telarah Public School and the available program funding, the installation of the alarm system should occur during 1999. In the interim, security at the school will continue to be monitored by the School Security Unit in consultation with the school.

That differs somewhat from the comments made by the principal of the school. He was quoted in the *Newcastle Mercury* in late August as saying that the education department had assured him that the school was a priority for a security system. The school is very old: the original buildings were opened for education in about 1870. It is a proud school with a proud record. Kindergarten students had to be kept out of the building: staff were concerned about the effect on the little ones of seeing the vandalism. Such vandalism is inexplicable. If only the police could catch the vandals. Perhaps the community could have a form of neighbourhood watch to provide information.

As a former teacher the honourable member for Wollongong would be well aware of the devastating effect of such damage. The enjoyment the vandals get is beyond me. Paint, glue and paper were strewn over the floor. Equipment was vandalised and a cassette recorder was painted bright blue. Police have taken fingerprints and I hope they are successful in catching the offenders, who, it would appear, are young people. I urge the Government not to wait until 1999. The school community cannot afford to have more vandalism such as this in the ensuing holiday period. [*Time expired.*]

INJURIES AUSTRALIA

Mr MILLS (Wallsend) [6.27 p.m.]: Last week I attended the inaugural meeting to form a regional chapter in the Hunter of the organisation Injuries Australia. The meeting was held on Wednesday, 7 October at the Cardiff Senior Citizens Centre in the Wallsend electorate. Forty to 50 people attended to start the process of setting up a committee to run the chapter. The chairman of the relatively new organisation Injuries Australia is Ian Faulks. His name would be known to a number of people in the Parliament. Ian has a deserved good reputation because of his work as director of the Staysafe committee. In his spare time he has been involved with organisations seeking to help injured people, particularly people injured in road crashes. In a message to the meeting Ian stated:

> Injury and traumatic injury death has enormous health and financial impact on individuals, families and on the Australian community. The treatment and rehabilitation from injury is a continuing drain on valuable resources that would otherwise be available to the Australian economy in other needed areas. The prevention of injury in the workplace, on our roads and in our homes and communities, is a major goal.

> Injured people need a voice in these processes.

The meeting was co-chaired by Peter Wessel of Wallsend and Andrew Tudhope of Sydney, both directors of Injuries Australia. The mission of Injuries Australia is as follows:

> To provide a consumer voice for injury prevention and rehabilitation in Australia through:
>
> - Promoting injury prevention;
> - Providing comprehensive services to our members;
> - Representing the views of injured persons to governments, regulators and the community;
> - Networking referral and support services and facilities for those directly or indirectly affected by injury.

Some 40 to 50 people were present. Also present were George Cooper, a director of Injuries Australia from the Nelson Bay region, Judy Marty and Sean Morgan from the Law Society of New South Wales, and Andrew Tudhope, Peter Wessel and Bill Weston, who also comes from the Hunter region. In late July Advocates for Workplace Safety changed its name to Injuries Australia when it amalgamated with two other organisations, the Injured Persons Association and the Injured Employees Association of New South Wales. Injuries Australia—and its contributing groups before the merger—has made significant progress in representations to Government ensuring that the rights of the injured are not eroded. It has been particularly active in the areas of workplace injury and road injury.

The mission of Injuries Australia encompasses three main areas: prevention, advocacy and support. The intention is to expand nationally and set up regional chapters that will provide regular support group meetings and networking activities for members and their families. In return members of Injuries Australia can provide the organisation with details of issues that are affecting them. That will enable Injuries Australia to formulate suggestions and proposals for policy changes, and to lobby governments, industry and the insurance and health sectors for change.

This is the first group to begin with a national focus for all injured persons and a determination to co-ordinate injured persons groups into one large organisation. Injuries Australia intends to work closely with professional groups and networks of safety, health and rehabilitation workers. It wants to retain a focus on the needs of injured workers by amalgamating to consolidate members, giving some real political clout and widening the funding base. I quote from the *Newcastle Herald* of Wednesday, 7 October, which reported the meeting. The article stated:

> The group, Injuries Australia, has about 700 members . . .
>
> Injuries Australia spokesman and board member Bill Weston said the groups had heeded advice from the Australian Plaintiff Lawyers Association that a combined voice was the best way to get their message across.

Injuries Australia has a noble objective and worthy goal. If it is successful, it will be a great help to many injured people and their families. I wish Injuries Australia well.

EDWARD RIVER IRRIGATORS

Mr SMALL (Murray) [6.32 p.m.]: For many years I have sought assistance for Edward River pumpers. I raise the matter now on behalf of Charlie Arthur, Ray Zanatta and Peter Kaylock. More than 19 irrigators or pumpers on the Edward River system are being denied an entitlement to an allocation of water. They require only 4,500 megalitres, which is not a lot of water when shared between 19 land-holders and it is unfair that they should be treated in this manner. They can only secure water for irrigation when there are floods or when flows are in excess of the requirements that allow non-allocation water to be available. Fortunately that is the present position. However, when there are high river flows or floods all irrigators receive the benefit of that rainfall and therefore that is not the time when water is crucial. It is vital that these irrigators be given the security of a water allocation to water their pastures and cereal crops in these dry areas where only 16 inches, or 400 millimetres, of water is recorded.

I know of no other irrigators in southern New South Wales who are treated as badly as the Edward River pumpers. Their requests for an allocation of water have not been received favourably. Past history has shown that the matter has been put in the too-hard basket, and that is unfair. Water is vital to the survival of land-holders in this area and I appeal to the Minister for Agriculture, and Minister for Land and Water Conservation and his departmental officers to do something about the matter. Over the years I have also taken the matter up with the former Minister, the Hon. Kim Yeadon.

This year the Minister was good enough to visit my electorate and meet with representatives of the Edward River irrigators. I spoke with him as late as this evening and I had hoped that he would be present in the Chamber—although I concede that I gave him little notice. I am most anxious that this matter be resolved. Some years ago the Wakool

River pumpers were given security of a water allocation when they took up the matter with the Minister. They had held pumping licences for more than 60 years yet up until that time had never received a full allocation. However, that has changed and I believe the Edward River irrigators should be afforded the same opportunity. I ask the Minister to take this matter on board and as soon as possible accede to my request to provide 4,500 megalitres of water to allow these irrigators to produce the necessary crops for their survival.

SYDNEY POPULATION GROWTH

Mr SULLIVAN (Wollongong) [6.37 p.m.]: The population of Sydney reached four million at 7.00 p.m. on Monday, 12 October. I quote from the *Sydney Morning Herald* home page, which stated:

> Sydney got its 4 millionth citizen. That person may have arrived here via a maternity ward or by a plane, train or automobile.

It is quite an achievement that Sydney has that population, one that is growing at the rate of 89 people a day or 3.7 persons per hour. Sydney's population growth shows an interesting pattern and I quote again from the *Sydney Morning Herald* home page as follows:

> Sydney clicked over 3 million in 1972, 2 million in 1958 and 1 million in 1926 and at current rates of growth the city will top 5 million in 2024.

Sydney's population growth is a matter that some people take great pride in. However, it causes me some concern. The Australian Bureau of Statistics bulletin, "Australian Demographic Statistics" for the March 1998 quarter, which was issued in September, shows the population of New South Wales as 6,329,800. If four million is deducted from that figure, the population of the remainder of the State is 2.3 million. The total population of South Australia, Western Australia, Tasmania, the Northern Territory and the Australian Capital Territory—in other words, all of Australia except for Victoria and New South Wales—is 4.278 million. Clearly, Sydney's population is growing rapidly and in fact dominates the Australian population.

All Australians, particularly residents of New South Wales, pay a price for Sydney's population growth. Residents of Sydney pay that price by way of all the inconveniences involved with a large population located on the coastal plain—albeit around a beautiful harbour—hemmed in by major highlands to the north, west and south. As summer approaches, concentrated pollution is trapped in the western area of the Sydney plain centring on the Hawkesbury-Nepean river system. We also have the problems of traffic densities, simple growth pressures on the environment, and desperately trying to ameliorate the negative impact of population growth.

Numerous attempts have been made to address regional development and decentralisation, dating back to immediately after World War II with the Cumberland plan, which was to limit Sydney's growth by setting an outer physical limit on the Cumberland plain. Of course, all that came to nothing. During the Whitlam Government era designated growth centres became the fashion. Bathurst-Orange and Albury-Wodonga were two such centres. Unfortunately, the Whitlam Government was in office for only three years, and of course nothing really came to pass. Sooner or later State and Federal governments must address the issue of decentralisation and regional development. The later it is left, the more damage will be done to the Sydney environs and further neglect and decay will occur in regional areas. I do not discount Newcastle and Wollongong when I use the word "decay", because that is a major feature that is affecting the populations of those cities and their urban areas. [*Time expired.*]

[*Mr Acting-Speaker (Mr Mills) left the chair at 6.42 p.m. The House resumed at 7.30 p.m.*]

NURSES AMENDMENT (NURSE PRACTITIONERS) BILL

Second Reading

Debate resumed from 24 September.

Mrs SKINNER (North Shore) [7.30 p.m.]: New South Wales is the first Australian State to set up a nurse practitioner project, although, as the Minister mentioned in his second reading speech, this position is already recognised in a number of other countries, namely, the United Kingdom, Canada and some States in the United States of America. In 1991 the former coalition Government initiated this program when the Hon. Peter Collins was the Minister for Health. In 1993 he approved funding for 10 nurse practitioner pilot schemes throughout New South Wales. Both the Nurses Association (New South Wales) and the New South Wales College of Nursing have acknowledged that it was an initiative of the former coalition Government. I should like to read part of a briefing paper provided by the College of Nursing, which shows exactly the importance and value of nurse practitioner positions:

> Registered nurses in rural and remote settings in NSW have for some time had extended roles because of the nature of the context in which they provide services and the needs of the communities for which they care. Many of these settings have scarce resources and medical support is minimal or even unavailable. The nurses in such circumstances may work for long periods alone with little contact with other health care professionals, yet the community in which they live and work relies on them as the sole providers of health care advice, management and support.
>
> Such situations require the nurse to be competent across a spectrum of health concerns from contraceptive advice and birthing to triage, stabilisation and transport of the critically ill. The nurse also becomes the social worker, physiotherapist, and counsellor to individuals, carers and families in a community, thus amassing a wealth of experience and skills—

rather like the mother of a family—

> Despite the demands placed on nurses in such contexts there has been an unwillingness to recognise the complexity of their roles either through legislation or career advancement. They have been unable to initiate medications such as antibiotics, which in the case of a child in a remote area may be critical. They are even unable to provide women with a contraceptive pill (if that is their choice), which may prevent a further slide into the poverty cycle for a family.
>
> Such dilemmas place these nurses in untenable positions, leading to practices which may be technically outside their legal boundaries. Yet without such nurses, communities would be isolated. For years nurses and consumers have lobbied to ensure that if nurses are to work in this environment with little support, then they deserve acknowledgment of and legislation for their extended scope of practice.
>
> In August, 1998 the present NSW Government announced that they would implement Nurse Practitioner Services in Rural and Remote NSW. This has been overwhelmingly celebrated by nurses and by rural and remote communities. The New South Wales College of Nursing has been a key player in this development over the years and acknowledges the part played by both political parties in NSW, beginning in 1991 with the Liberal Government particularly boosted by The Hon. Peter Collins, and Ron Phillips . . .

The Nurses Association makes similar comments. I am extremely proud to be part of a political party that has always provided enormous support and recognition for the nursing profession, and which recognises the importance of the role nurses play in providing services and health care to the community. It was under the former coalition Government that the position of nurses was improved. Rates of pay were improved, career paths were extended and professional paths were opened up. Not only were the first nurse practitioner pilot projects established, but nurses in New South Wales at that time were the best paid in Australia. Enterprise agreements were entered into whereby nurses' salaries were increased, more flexible working practices operated, and positions such as the chief nursing officer in the Health Department and a professional chair in clinical nursing research were established.

It pleases me greatly that this legislation will take another step forward for nurses, whom I regard as playing an important role in the provision of services. I will refer now to specific matters in the bill. I note that the Minister acknowledged a number of matters in his second reading speech, particularly the three guiding principles: that the practice will be based on collaborative interprofessional planning, practice and evaluation—which he described as essential—and should remain as a key feature in the implementation of future development of nurse practitioner services; that there must be a locally agreed need confirmed prior to establishing a service that includes a nurse practitioner; and that only registered nurses who can demonstrate an ability to perform at an advanced level will be able to gain accreditation as nurse practitioners.

The Minister also referred to the establishment of a statewide implementation committee comprising relevant nursing, medical and pharmaceutical experience to monitor and evaluate the implementation of nurse practitioner services across the State. Although the coalition absolutely and strongly supports the concept of nurse practitioners and will not oppose the legislation, I wish to raise some concerns about the bill and its drafting. I ask the Minister to address these concerns in his reply. I note that because of the shortcomings of the bill it is likely that in the not too distant future it will need to be enhanced through regulation or amendment. I do not think the Minister would be at all surprised to know that the matters to which I refer were raised by the Australian Medical Association, but they are valid concerns.

In his second reading speech the Minister referred to a number of matters that are not specifically referred to in the bill. The bill contains no reference to the representative consultative committee to develop collaborative interprofessional planning and to identify local areas of need. It does not refer to the statewide implementation committee to monitor and evaluate the implementation of the nurse practitioner service. The Minister referred to establishing appropriate accreditation criteria. I am aware, for example, that a National Health and Medical Research Council paper on nurse practitioners in obstetrics is due to be released within the next few weeks. That paper will specify the need for the role of nurse practitioners to be clearly and scientifically defined in terms of what drugs can be used, for what purpose and in what dosages.

What will the accreditation criteria be for the appointment of nurses to nurse practitioner roles? The bill does not cover the designated areas of need

and the practice guidelines for nurse practitioners within those boundaries. It is often said that these positions will be located in remote and rural New South Wales, but there is no provision for that in the bill. Will the Minister indicate whether they will be covered by regulation? Other questions have been raised that need to be answered. What additional training, if any, is proposed to enhance the skills of nurses to enable their appointment as nurse practitioners? We also need details of the curriculum. It would be useful for honourable members to have an understanding of the kind of skills deficit that might exist.

We should know what training will be made available to nurses so that they can bring their skills up to a standard that will enable them to become nurse practitioners. Will the Minister assure honourable members that this will not cut into initiatives designed to attract doctors to rural New South Wales? The other big issue concerns medical indemnity for nurse practitioners in the event of an adverse outcome or a vicarious liability should others be engaged in filling out a prescription or carrying out a service required by a nurse practitioner. Those matters are not addressed in this legislation. It is appropriate for me to ask the Minister to provide answers to those questions when he replies to this debate.

In summary, the coalition is proud of the work it did in initiating this project. It looks forward to ensuring that remote and rural communities in particular, those where there are no doctors, will benefit enormously from the services of nurse practitioners. The coalition is determined—and I am sure that the Minister is equally determined—to guarantee to people in country New South Wales that this is not intended as a measure to undermine the position of the local general practitioner. I heard on a recent trip I made to the country that it is intended as an enhancement for those communities which have had difficulty attracting doctors. It is designed as an additional support mechanism for doctors when treating their communities. The coalition has pleasure in supporting the bill.

Mr MILLS (Wallsend) [7.43 p.m.]: I have great pleasure in supporting the Nurses Amendment (Nurse Practitioners) Bill. I congratulate the Minister for Health, Dr Refshauge, who is in the Chamber, on introducing this legislation. It is about time that we had legislation such as this; it is a welcome step forward. I thank the Opposition for indicating its support for this legislation. That will ensure the speedy implementation of nurse practitioners in New South Wales. I declare at the outset my non-pecuniary interest in this matter. I am happily married to a nurse of wide experience, and my mother was also a nurse. The term "nurse practitioner" describes a registered nurse as a nurse with extensive knowledge and skill, operating at an advanced level of practice. A nurse practitioner may provide a broader range of services than a registered nurse and may also be authorised to prescribe medications—an option not available to registered nurses. Looking at the overview of the bill three things will be achieved:

(a) to allow the Nurses Registration Board to authorise certain registered nurses to practice as nurse practitioners, and

(b) to allow the Director-General of the Department of Health to provide guidelines relating to the functions of nurse practitioners, and to allow such guidelines to make provision for the possession, use, supply and prescription of certain substances by nurse practitioners, and

(c) to prevent an unauthorised person from using the title "nurse practitioner" or otherwise holding themselves out to be a nurse practitioner.

The nurse practitioner project in New South Wales is following reasonably well established models. That profession exists in the United Kingdom, Canada and some States of the United States. The nurse practitioner pilot project in New South Wales has operated over a seven-year period, so we know where we are going with this legislation and we know what position we are establishing—the profession of nurse practitioner. Evidence from the research conducted by the pilot project demonstrates that nurse practitioners are safe and effective in their roles and provide quality health services in a range of settings. The report written as a result of that pilot project found that a high level of co-operation occurred between nursing, medical and allied professionals involved in the project.

After reading the Minister's second reading speech and after reading the bill honourable members will see that there is a lot of caution in the introduction of this concept. That caution is necessary to ensure the success of the nurse practitioner profession from the word go. In other words, Parliament is not proceeding in this matter like a bull at a gate; it is attempting to ensure that the new profession will be successful. I referred earlier to the fact that the Director-General of the Department of Health issued some guidelines. Item [35] of schedule 1 sets out the statutory basis for the guidelines under which nurse practitioners will operate. Honourable members should read that item and item [13] of schedule 2 to the bill, which deals with amendments to the Poisons and Therapeutic Goods Act and sets out guidelines for the way in which nurse practitioners will prescribe medications.

The nurses are on side, and the Parliament is united on this legislation. Health workers throughout rural and regional New South Wales will be delighted to see the introduction of nurse practitioners. We have seen a bit of opposition from the Australian Medical Association. An article written by Anna Patty in the *Sun-Herald* on Sunday, 11 October, states that a new class of nurse, able to write prescriptions and order diagnostic tests, will be introduced following the passage of this legislation. The article makes reference to a concern expressed by the AMA and it states that the base salary being negotiated for nurse practitioners might be higher than the salaries paid to junior doctors resident in a hospital. The article reads:

> Dr Chris Merry, doctors-in-training representative on the AMA federal council, said the wage proposal for nurse practitioners was a "slap in the face" for resident doctors battling to get into private practice.
>
> It is saying to country people they don't even deserve doctors for their health-care needs.

The article then refers to conversations that were held with some nurses. Jill Iliffe, manager of professional services in the New South Wales Nurses Association, said:

> This is not a competition between doctors and nurses . . . What junior doctors earn is irrelevant to us.

Reference is then made in the article to the experience that nurse practitioners would have to have in order to achieve that title. Initially the AMA was supportive of this measure. The reports of the pilot project indicate co-operation between doctors and nurse practitioners. But it seems that the AMA now has a negative view in relation to the project. The way in which that story arose was a bit sleazy. The AMA introduced the politics of envy to try to scare the community and its own membership. My advice to the AMA is that nurse practitioners are being seen by this Parliament as vital to delivering quality medical treatment in parts of New South Wales where nurse practitioners are needed for health care services, and especially in places where the doctors will not go, which is mainly in rural areas. When the Australian Medical Association organises a scheme to ensure that rural and remote communities are serviced by doctors who live in those communities, the association will have some credibility on this issue. I support the bill.

Ms FICARRA (Georges River) [7.49 p.m.]: I compliment the many parties who have played a role in the development of this landmark legislation. The bill has resulted from the dedication and commitment of a wide range of health professionals across New South Wales over an eight-year period. The legislation transcends party politics and will receive bipartisan support as it will benefit the provision of health care in New South Wales. A letter dated 7 October from the New South Wales Nurses Association to its members stated:

> The review into the establishment of nurse practitioner services in the public health sector in NSW was initiated by the NSW Liberal/National Coalition Government in 1991 when Peter Collins was the Minister for Health. The current Bill is the result of eight years of negotiation, consultation, and piloting. The twelve month nurse practitioner pilot projects demonstrated 96% support by the clinical review team (medical practitioners and nurses) for the nurses' clinical assessment and management and a 99% support for the nurses' recommendations for medications, diagnostic investigations and referral. The pilots also demonstrated that nurse practitioners are well accepted by the community and by the medical practitioners with whom they work at a local level.

That sums up the present position. Health practitioners were involved in 10 nursing practitioner pilot projects, and they worked co-operatively and professionally together. They have contributed to the establishment of a working interdisciplinary model that will improve access to a high standard of health care service throughout the State. Specially trained and accredited nurse practitioners will be able to make diagnoses and prescribe and supply medication. That is a significant extension of their former nursing roles into a domain that was previously reserved for medical practitioners.

The introduction of nurse practitioners could be the source of bitter dispute if the process is not handled professionally from the beginning. The AMA has predictably echoed some of the ill-informed concerns of its members. Once this legislation is bedded down, AMA members will realise that they have nothing to worry about. Although the AMA still has some concerns about the salary levels of nursing practitioners when compared to those of junior doctors, I believe that such issues will be satisfactorily resolved between the relevant health professional associations. The Minister may care to address the issue of co-operation between nurse practitioners and doctors in his reply; it is within his domain.

The Nurses Registration Board will be responsible for nursing practitioner accreditations. Reaccreditations must be issued every three years. The board will review accreditation criteria within two years of the concept of nursing practitioners coming into operation. That specialised group of nurses must be able to demonstrate 5,000 hours of current practice at an advanced practical level and meet the competency and speciality standards in the context in which the accreditation is sought. They must be able to demonstrate complex skills and

knowledge, including pharmacology and clinical assessments. The establishing of a statewide implementation committee to monitor and evaluate the introduction of nursing practitioner services is a professional and correct approach. The committee will be chaired by the Director-General of the Health Department and will have nursing, medical and pharmaceutical representatives.

The concern as to the overlapping roles of the proposed nurse practitioners and medical practitioners could be minimised if the Minister gave a reassurance that the new nursing service will be limited to certain areas. It was originally claimed that nursing practitioners would perform work in rural and remote areas that are not adequately serviced and would not be used as a substitute for mainstream medical care in locations that do not have a scarcity of medical practitioners. How will the number of medical practitioners be determined? What restrictions will apply to the use of nurse practitioner skills? What systems will be put in place to resolve any interdisciplinary conflicts that will inevitably arise from time to time? Those legitimate concerns are shared by medical practitioners and consumers in general.

As honourable members know, doctors and nurses are put through rigorous training programs to enable them to practise. The same will apply to nurse practitioners. It is our responsibility to maintain the integrity of the various health care disciplines and to preserve the traditional and respected roles of nurses, nursing practitioners and doctors. They have served the country and society well throughout our history. I ask the Minister in his reply to expand on the success and duration of the trial of the scheme, and other relevant feedback, from the United Kingdom, Canada and the United States of America where nursing practitioners have been operating for some time. Has the Health Department gleaned any valuable information from those overseas trials?

The process involved in arriving at this point has been lengthy. The 1990 annual conference of the New South Wales Nurses Association led to the release of a discussion paper entitled "Role and Function of Nursing Practitioners in New South Wales", which generated more than 300 written responses. As a result, a working party was established in 1992. The working party was independently chaired and consumer, nursing, medical professional and industrial associations and the New South Wales Department of Health were represented on it. The working party proposed the 10 local pilot studies to examine the feasibility, safety, effectiveness, quality and cost of nursing practitioners. The considerable financial contribution to the project by the Commonwealth Government is to be acknowledged.

The programs showed that the role of the nursing practitioner was a feasible one. It added value to existing health services, provided a new and valuable additional service and, at times, provided the only service. Nursing practitioner services led to improved access by patients. The services satisfied patient expectations, achieved interdisciplinary collaboration, and provided a service to people who would otherwise have fallen outside the boundaries of conventional health care services that city dwellers take for granted. The standard of quality service was due to the high level of professional behaviour and management capability. That level of service was reflected in the consistent and positive consumer reports.

The final report of stage three of the project was publicly released in 1996 and highlighted the level of co-operation that was evident between nursing, medical and allied professionals involved in the pilot projects. That co-operative framework has been pivotal to the future success of nursing practitioners in New South Wales. From the recommendations that flowed it was obvious that certain guiding principles had to be closely followed: first, that a local agreed need had to be confirmed prior to establishing the nurse practitioner service; second, that collaborative planning, practice and evaluation are the foundation of relationships across these professional boundaries; and, third, that the nurses must achieve an advanced practical level as well as an academic level of skills and knowledge to be able to gain accreditation and subsequently deal with health care services such as diagnostic imaging, pathology and authorising medications.

Schedule 2 to the bill addresses the prescribing rights of nurse practitioners, which will be limited to schedule 3 and schedule 4 pharmaceuticals, as approved by the Director-General of Health after expert advice from the department's pharmaceutical services branch. That approval process is to be reviewed after five years. Is the Minister prepared to comment on the flexibility of choice within these defined pharmaceutical groups so as not to unduly influence normal competitive forces within the pharmaceutical industry? For example, when prescribing antibiotics or antihypertensives, will nursing practitioners be able to use drugs from the normal extensive range that is available to most medical practitioners in all of the major schedule 3 and schedule 4 category groups?

It is reasonable to further investigate the issue of schedule 8 drugs of addiction under the Poisons and Therapeutic Goods Act. Protocols and clinical guidelines need to be developed, with further consideration given to monitoring and evaluation measures. Those medications are required for midwifery and palliative care, so that matter needs to be urgently addressed. In relation to referrals to medical specialists, where possible nurse practitioners should work via the patient's nominated general practitioner, that is, in consultation and with ongoing feedback being maintained. Nursing practitioners should be able to refer patients directly to outpatient clinics, community health centres and allied health practitioners. That will also ensure the continuation of communication with the patient's general practitioner. The Nurses Registration Board and the New South Wales Department of Health will require at least twelve months lead time for the optimal operation of this legislation.

I compliment the board on its professionalism. It is pleasing to note that the area health service, in consultation with key stakeholders, will be responsible for planning services receptive to the interests of the local community and within available resources. That multidisciplinary approach involving general practitioners and local pharmacists will empower local communities to determine their local health care services. Is the Minister able to tell the House how the multidisciplinary team is to be chosen within individual communities? Will the area health service determine nomination categories and final selections? How often will the selections occur? Will those nominated and selected be approved by the Minister, and what role does the Minister play in that process?

I also seek clarification of statements made in the publication issued by New South Wales Health regarding nursing practitioner privileges not being defined by geographical location of practice. What exactly does that mean? Surely the nursing practitioner scheme must be somewhat restricted to servicing rural and remote areas. If nursing practitioners were allowed to operate in adequately serviced communities, that is, in those adequately serviced by medical practitioners, I can envisage some conflict. Perhaps the Minister could elaborate on that. In its letter dated 7 October the New South Wales Nurses' Association further states:

> Throughout the debate, the Association has maintained the position that all nurses who meet the criteria for accreditation as a nurse practitioner must have access to accreditation.

I ask the Minister whether there will be any limitation on the numbers. How is that to be regulated? The letter continued:

> We are opposed to accreditation being directly linked to availability of employment positions. While we support implementation beginning in the remote and rural areas of New South Wales where the need is greatest, the Association does not see the implementation of nursing practitioner positions being limited to specific geographical areas in the future.

I ask the Minister exactly how it will operate. The resolution of those fundamental issues will dispel a great deal of the discord with the Australian Medical Association. In relation to professional indemnity cover for nursing practitioners, I ask the Minister to comment on the necessity for personal indemnity insurance and whether that will be a cost to the Department of Health if the nursing practitioner is within the public system. What is the average cost of insurance for nursing practitioners? Is the same type of professional indemnity cover provided to other public health-care providers? Amendments to the Nurses Act and the Pharmacy Act will be necessary as a consequence of this legislation. Does the Minister have a timetable for that action?

What has been the response to the bill from the New South Wales branch of the Pharmacy Guild of Australia? Nursing practitioners working with rural doctors and allied health professionals will ensure the expansion of quality health services in New South Wales. Consumer equity and access to basic health care will be boosted as long as they work within a regulated environment of professional co-operation for the good of all patients. The coalition supports the bill and looks forward to the monitoring of its implementation. I also look forward to the Minister replying to some of the concerns I have spoken about.

Dr MACDONALD (Manly) [8.04 p.m.]: I also support the bill and commend the Minister and his predecessors for the comprehensive process that has been undertaken in the past six years. It is landmark legislation, even though it is only a small step forward. However, it will ultimately mean that we will need to change our concept of nursing. I took the opportunity to look at the definition of "nursing" in the *Macquarie Dictionary*. There are various definitions but they are all based on the concept of tending to the sick rather than diagnosis and prescribing treatment. The bill seeks to haul the nursing profession into a much more modern era. When I say that—I have to add that in a sense nurse practitioners are nothing new, as the Minister would appreciate—those of us who went to medical school cannot forget the nursing sister dragoons who used to marshal the young medical students. They knew a great deal more about medicine than the students ever did.

The senior members of the nursing profession are highly professional, highly qualified, and highly trained. They can knock the spots off many doctors, so this presumed demarcation is quite artificial because in reality the disciplinary boundaries overlap. I confirm that I lived in fear of many of those sisters until I had enough experience to stand on my own two feet. I want to publicly state my indebtedness to the senior nurses of Kings College Hospital in London in the late 1960s.

The legislation is undoubtedly overdue. Senior nursing sisters and nursing managers in the intensive care units and the accident and emergency units across this country have remarkable skills and qualifications. They are independent; they are able to work very much on their own if a senior emergency care doctor is available but not on the spot; they make life and death decisions everyday. That is only one example of highly specialised treatment, but through the various aspects of the nursing profession there are similar high-quality, extensively trained people who would certainly be able to assume the fairly modest responsibilities provided for in the legislation.

In my view nurse practitioner services will be a value-added element of health services. In a broader sense the services will officially break down some of the anachronistic boundaries that exist between the nursing and medical professions and will lead to the overdue dismantling of demarcation issues. I have not been intimately involved in the process, but I have had an opportunity to read some of the documentation. The comprehensive report has been measured, staged and evaluated. As I understand it, the working party has reported twice since 1992 and the final report of the steering committee was produced in 1995. Among other things the report stated:

> The evidence from the research conducted by each of the pilot projects and the across-project research supports that nurse practitioners are feasible, safe and effective in their roles and provide quality health services in the range of settings researched.

Importantly, the report also stated:

> The strong evidence emerging from these pilot projects shows that in the areas of the research studies, the role of the nurse practitioner was a feasible one which variously had: added value to already existing health service; or provided a new and valuable additional service; or provided the only available service.

So the concept of nurse practitioners is not about displacement or direct competition; it is about value-adding. The report went on to state:

> At the very heart of the recommendations, however, is the strong opinion of the Steering Committee that the role of the nurse practitioner is feasible only on the basis of a local agreed need for such a service being established by a local interdisciplinary group of stakeholders.

That remark is enough to comfort me and dispel concerns about the need to set geographic areas. I do not think we need to buy into any argument about artificial boundaries. Enough checks and balances come through in the reports. For instance, the local area health service must indicate that there is a need. The remarks of some of the earlier speakers seemed to suggest that perhaps nurse practitioner services should be limited to remote and rural areas. Such distinctions are not needed. The report continued:

> In recognition of the key role of general medical practice in the provision of primary health care it should be noted that where the representation of the medical profession is nominated throughout this document, representation must include general medical practice.

The general nursing profession would not dispute that. I regard nursing practitioners and general medical practitioners as primary health care providers working together. In August of this year New South Wales Health produced a document called "Nurse Practitioner Services in New South Wales", which outlined the implementation of this concept. Last year the Minister established the actual process. He prioritised four areas: the criteria for accreditation, which are included in the document; legislative requirements, which we are talking about tonight; clinical guidelines; and the policy for nurse practitioner services.

I have no argument with the criteria and the framework set up for accreditation of nurse practitioners in this State: one can have no dispute with them. The principles for the development of the guidelines for nurse practitioners by health services appear to be based on a multidisciplinary approach. However, I place on record that I do not want the development of nurse practitioner services to be used by any government as a way of providing a discounted medical service. We have to be very careful. There should never be an attempt to use nurse practitioners as replacements for the medical profession, which might cost more. I hope that the nurse practitioners who provide a service which is complementary to and of the same standard as services provided by the medical profession, in whatever area—remote or metropolitan—will be paid the same as medical practitioners and appropriately.

There are safeguards in the bill and there is goodwill in the debate tonight but no future

government should attempt to use nurse practitioners in the way I have warned against. The Minister outlined in his second reading speech the monitoring and evaluation of the scheme. The statewide implementation committee, under the chairmanship of the Director-General of the Health Department, will monitor and evaluate services across the State. That will protect the public by establishing levels of competence, skills, experience, et cetera. As I said earlier, I am delighted that the high levels of skills of the nursing profession are being acknowledged. I welcome the breaking down of the artificial boundaries between the nursing profession and the medical profession.

I was surprised at the allusion in the letter I received from Professor Lumby last month to the Australian Medical Association expressing concern. I understand from everything that has been said that the AMA has been involved in the process from the beginning. I have had no representations from the medical profession on this legislation. That is a little surprising. One would think that a doctor, a person with a background in the provision of primary health care, would be targeted as a member of Parliament for representations. I am a little disappointed: I hope that the AMA is not beginning to squeal at the last minute when it has been involved all along. I suggest that members of the medical profession read the second reading speech, the legislation, the series of reports finalised in 1995 and the document produced last month by New South Wales Health, "Nurse Practitioner Services in New South Wales". They will be not only reassured and comforted; they will be delighted with this development.

Mr SLACK-SMITH (Barwon) [8.16 p.m.]: I speak on the Nurses Amendment (Nurse Practitioners) Bill on behalf of my constituents in Barwon, the third largest electorate in New South Wales. The Opposition does not oppose the bill but we have to ask why the bill has been brought before the House at this time. I believe that the reason is that the Government has finally realised that in country New South Wales health services are failing. This initiative was proposed in 1991. That is when the wheels started to turn and the idea started to grow that nurse practitioners were needed in rural New South Wales.

The bill is before us tonight quite simply because in rural New South Wales today there are 87 vacancies for general practitioners. The doctors we do have are overworked and burning out. Some of them are working 16 hours a day and are on 24-hour call. There is a crisis which, unfortunately, is worsening. Medicare figures show that government spending on health in New South Wales is five times more per capita in the city than in the country—$350 per person in the city and $70 in the country. It is little wonder that rural areas are in crisis.

Some area health services in New South Wales cannot pay their bills: they cannot register cars, pay food accounts and fuel bills. Services have been cut. My home town of Wee Waa is typical. The maintenance officer at Wee Waa hospital went on five weeks leave and the heavy bottles of oxygen for the patients had to be lifted by the nurses, which is totally unacceptable. The groundsman at Wee Waa hospital has left and the hospital now shares the groundsman with Narrabri hospital, whereas previously there was one groundsman for each hospital.

Nurses have been providing major services at country hospitals for more than 30 years, because two of my children who were born at Wee Waa hospital were delivered by nurses. They did a good job because one is a lawyer and one works for the Commonwealth Rehabilitation Service. Perhaps if they had not been delivered by nurses they could have been farmers like me!

Rural New South Wales has more sickness than its city counterpart. The honourable member for Bathurst will confirm that farming is the second most dangerous occupation in New South Wales. I have a large Aboriginal population in my electorate. Aboriginal health is a disgrace. The life expectancy of Aborigines is 15 to 20 years below the State average, and the deaths of Aborigines between the ages of 25 and 44 is five times higher than the State average. From 1986 to 1992 diabetes in the Aboriginal population doubled, while infectious diseases among the Aboriginal population is 12 times the State average. Pneumonia in Aboriginal children is 80 times more than the State average.

Rural New South Wales is deprived of much-needed doctors. For example, in Bondi there is one general practitioner for 400 patients, while in Narrabri—which is 50 miles east of where I live—there is one doctor for 4,000 patients. In Wee Waa—which is 25 miles west of Narrabri—there is one doctor for 5,000 patients. Medical practitioners are an important part of the community and rural communities wish to assist doctors in their work. This bill goes some way towards achieving that. Last year the doctor in Bingara resigned. Although I do not know the reason for that, the town has lost three doctors in the past five years. It is now without a doctor and a nurse could fulfil the role of doctor in that town. Nurses have been doing this work for years.

When I was a kid and lived in my home town of Burren Junction—25 miles west of Wee Waa—the bush nursing station was all that was available. Those nurses used to deliver babies, put in sutures and prescribe medicines. They did a damn good job. They had the experience and if doctors cannot be attracted to rural areas we should fully support our nursing staff. Many of them have had vast experience in local areas. This bill is a clear message to the Minister that rural health under this Government has failed dismally. It is important that rural New South Wales have a first-class medical service and one way of achieving that aim is to support the bill.

Dr REFSHAUGE (Marrickville—Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [8.23 p.m.], in reply: The co-operation between nursing, medical and allied professionals, which was demonstrated with the pilots, is also a key feature of the implementation process now being undertaken by the Government. The co-operative framework is critical to the successful implementation of nurse practitioner services. The actual process for identifying and introducing nurse practitioner services will begin with the Health Department requesting rural area health services to identify the potential for these services in their areas. Areas will be responsible for ensuring that the process outlined in the framework is followed—namely, consultation with a local multidisciplinary team, planning services responsive to the interest of the local community and operating within available resources.

As part of this process clinical guidelines will then be developed, again in consultation with relevant professional organisations. These will include reference to any medications which the nurse practitioners will be able to prescribe. Finally, the guidelines will be approved by the director-general with expert advice, including advice from the Health Department's pharmaceutical services branch. This process will also ensure that local agreed need remains central in the development of nurse practitioner services across New South Wales as recommended by the stage three final report. In addition, a statewide implementation committee will oversee the implementation of nurse practitioner services in New South Wales. This committee will be chaired by the Director-General of the Health Department and includes membership with relevant nursing, medical and pharmaceutical experience.

I thank honourable members who have contributed to this debate, though some have been under a misconception. Nurse practitioners are not to replace doctors. The Government recognises the profession of nurses and the fact that a nurse practitioner is a registered nurse working at an advanced practice level as an expert nurse. A nurse can only practise as a nurse practitioner where he or she has been authorised by the New South Wales Nurses Registration Board following demonstration of extensive knowledge, skills and experience. The scope of practice will be defined by the clinical context of practice in which authorisation has been sought and by clinical guidelines developed and endorsed by the local multidisciplinary team.

The amendments in the bill will provide for nurse practitioners to prescribe, supply and dispense drugs listed in schedules 1, 2, 3 and 4 of the Poisons and Therapeutic Goods Act. However, the proposed amendments will not result in carte blanche prescribing of drugs by nurse practitioners. Clinical guidelines, which will include the ordering of medications, will govern the activities of nurse practitioners, who will only be able to order medications listed in those guidelines. A nurse practitioner initiating medication will be required to follow approved clinical guidelines developed specific to the specialty context of practice. In addition, the nurse practitioner is guided by the collaborative framework of the multidisciplinary team under which he or she will work. The guidelines, including any formulary, will not come into effect unless approved by the Director-General of the Health Department following advice from expert advisers.

The authorisation to prescribe drugs under the Poisons and Therapeutic Goods Act will only be available where guidelines have been approved. Medications that nurse practitioners will be permitted to prescribe as part of the clinical guidelines will be limited and specific to their area of practice. For example, nurses caring for people with sprains and strains may prescribe pain-killers; nurse practitioners caring for people with infections will be able to prescribe some common antibiotics; and public health nurses working in this area will be able to prescribe common vaccines. The proposed amendments will not alter the legal situation applying to drugs of addiction listed in schedule 8 of the Poisons and Therapeutic Goods Act. Provisions already exist under the poisons legislation allowing a registered nurse to initiate the administration of a schedule 8 medication in accordance with an approved standing order. "Approved" refers to a clearly stated medication order written by a medical officer noting drug dosage, route, amount, frequency and reason for use.

Standing orders are used in a range of clinical settings, including maternity care, palliative care and

emergency departments, and are developed following a process of consultation with the multidisciplinary team. Administration of a medication as per a standing order must be countersigned by the attending medical officer within 24 hours of administration. As a registered nurse, a nurse practitioner could initiate administration of a schedule 8 medication in accordance with an approved standing order if the standing order relates to the speciality context of practice. For example, a midwife nurse practitioner, provided she operates in compliance with current standing orders, will be able to initiate administration of pethidine 75 to 100 milligrams IMI for pain relief during birth.

The New South Wales model is a collaborative model and does not promote nurse practitioners to work in independent practice unless they do so in a collaborative way with doctors and other health professionals. It should be recognised that apart from the limitations on access to drugs under poisons legislation there is nothing under the present New South Wales law to prohibit a nurse operating in private practice. Indeed, some nurses already operate in private practice.

The limitations on more nurses pursuing this option largely arise from other limitations, including the lack of reimbursement for services under Medicare. At this stage New South Wales Health is implementing nurse practitioner services only in rural and remote New South Wales, with a target of up to 40 positions. This has always been a carefully considered process, and it will be continued to be monitored and evaluated. As I indicated in my second reading speech, a statewide committee will be established by New South Wales Health to monitor and evaluate the implementation of nurse practitioner services.

When introducing new services such as nurse practitioner services, a range of mechanisms are employed to allow for smooth implementation. The legislative changes have been drafted to conform with the recommendations of the steering committee, and are designed to set the parameters of practice. Within those strict legislative parameters, administrative approaches such as the formulation and content of clinical guidelines have been employed. A real issue also arises in ensuring that the process is not overburdened with bureaucracy to the point that it is ineffective. The framework document has been adopted as policy for the New South Wales Health system, and chief executive officers of area health services will be expected to ensure the framework is followed in their respective areas.

There will be a substantial lead time of at least 12 to 18 months before the framework can be applied in the public sector and nurse practitioner roles are actually established. This is due to the need for the New South Wales Nurses Registration Board to establish an accreditation committee and process, and to provide enough time for the development of any regulations that may be necessary. The accreditation process will involve the development of rigorous criteria that nurses will have to meet to be accredited by the board. There are no "grandfather" provisions for existing nurses. All prospective nurse practitioners will be required to be assessed by the board.

A statewide committee will be established by the New South Wales Health Department to monitor and evaluate the implementation of nurse practitioner services. The statewide committee to advise the director-general will include representatives from the New South Wales Nurses Association, the New South Wales College of Nursing, the Royal Australian College of General Practitioners (New South Wales), the New South Wales Health Department, the Rural Doctors Association, the Australian Medical Association (New South Wales Branch) and consumer representation. With regard to indemnity, nurse practitioners will be employed by the public sector. Normal employer-employee indemnity vis-a-vis vicarious liability will apply. Accreditation is not linked to geographic position but to the individual and his or her ability to meet the criteria yet to be determined. Accreditation is not being determined on geographical location. The position is identified, but the individual cannot take a position from one rural community to another without the entire process having been followed for the new position.

I have dealt with all of the sensible questions that have been raised. I thank the honourable member for Wallsend for his contribution and recognition of the need to progress the nursing profession with the establishment of nurse practitioners. I thank also the honourable member for Manly for his contribution. In some way his personal experience seems to mirror mine, and I support many of the views he expressed. Although, at one stage he was moving in to see that nurse practitioners were replacing doctors. I reiterate that nurse practitioners are not replacing doctors. I thank also the honourable member for North Shore for her contribution. However, I point out that she omitted to mention one of her colleagues who played a role in the matter. The Hon. John Hannaford was Minister for Health and Community Services in June 1992 when the stage one discussion paper was released.

The honourable member for Georges River certainly did a lot of homework. I think she is vying for the shadow spokesperson position! It seems that she talked only to the Australian Medical Association, but at least she had a lot of questions to ask. I hope I have answered them. I was unsure whether the contribution of the honourable member for Barwon had any relevance whatsoever to anything, apart from the time of night of the debate. He said that presently there are 87 vacancies for general practitioners in New South Wales. That is the reason for introducing nurse practitioners. About five years ago when the Labor Party was in opposition members of the medical profession in country New South Wales pointed out to me that there were more than 100 vacancies for general practitioners in New South Wales. So if the crisis is a problem now, it was even worse in those days. It seems that the honourable member's understanding of the issue probably deserves no further comment than to thank him for trying to contribute to debate on this initiative, which obviously has great bipartisan support.

The passage of the bill has involved a long and important process. It is a celebration of nursing. I thank Sandra Moait, the General Secretary of the New South Wales Nurses Association, and Jill Illiffe, the Professional Education Officer of the Nurses Association—who are present in the gallery—for the major role they played recently, along with their colleagues, in ensuring a great win for nursing tonight.

Motion agreed to.

Bill read a second time and passed through remaining stages.

AGRICULTURE LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Land and Water Conservation) [8.37 p.m.]: I move:

That this bill be now read a second time.

This bill makes amendments to four Acts administered by my department: the Apiaries Act, the Exotic Diseases of Animals Act, the Stock Diseases Act and the Stock Medicines Act. Those Acts are all scheduled for competition policy reviews. However, the desired amendments cannot be deferred until the implementation of the review recommendations as they are designed to overcome matters that have frequently caused problems in administration of the legislation. First, I will refer to the amendments to the Apiaries Act. When the Apiaries Act was enacted there was no known method to test bees or honey for disease status. Adequate testing methods have recently been developed and this bill inserts a new provision which gives inspectors the power to test bees, beehives, appliances or apiary products for diseases and residues or to order the beekeeper to have such tests done.

The bill proposes to extend the power of entry of inspectors to allow inspectors to bring assistants, vehicles and equipment onto premises if needed. It also allows inspectors to request the assistance of police officers, if the inspector believes he or she will be obstructed in performing his or her functions, or to request the assistance of other persons if the inspector believes they will help him or her in carrying out any functions under the Act. The bill also proposes an amendment with respect to land described in documents issued under the Act. This amendment provides that land is sufficiently described in a document if that description clearly identifies the land to which the document relates. An example of when this section might be relied on is in a situation where the description of land is changed due to a subdivision but the original description leaves no doubt as to which land is being referred to.

The amendments to the Exotic Diseases of Animals Act were identified as being needed as a result of its recent use late last year during the outbreak of the exotic disease avian influenza. The outbreak of avian influenza was successfully contained using the Act. However, the proposed amendments should improve the effectiveness of the Act should future outbreaks occur.

The amendments allow an inspector to quarantine land on suspicion of infection with an exotic disease rather than wait until the disease has been confirmed. To wait until the existence of the disease has been confirmed by a laboratory, or until an infected place order can be made by the Minister or the Minister's delegate, may compromise the early containment of the disease. This expansion will allow swift containment of a disease as inspectors visit premises as soon as the suspicion of infection is notified. The definition of "exotic disease" is also amended so that the disease is declared from the date of signature of the order rather than the date of gazettal. The bill also provides that the order must then be gazetted within 14 days of signature.

Under the current provisions of this Act an inspector may only order the owners of premises to disinfect themselves. This power has been extended to provide that an inspector may order any persons visiting the premises to disinfect themselves or to disinfect things on or about them. Under the proposed amendments inspectors will also be able to require the assistance of employees and any other person on the premises concerned if needed. Another amendment included in this bill will allow inspectors to accept a quarantine undertaking from the owner or occupier rather than issuing a quarantine order. Such an undertaking will include the necessary requirements for containment of the disease and it will be an offence to fail to comply with these requirements.

This amendment will allow the necessary controls to be put in place in the spirit of consultation rather than confrontation and therefore has my complete support. I might add that a similar provision exists in the Stock Diseases Act and this provision has been successfully used on many occasions. During the avian influenza outbreak last year it was found that it would have been desirable for the efficient eradication of the disease to specify the method of destruction and disposal of animals, carcasses and property. This bill includes an amendment which provides for this option in any future outbreaks.

Another power that was recently identified as being useful was a power to allow an inspector, on the direction of the Minister, to order specified persons within a control area to take such measures as the inspector thinks fit to contain or eradicate an exotic disease. This bill includes the necessary amendments to ensure inspectors have this power if required. A final amendment to the Exotic Diseases of Animals Act is one aimed at ensuring New South Wales produce can trade in overseas markets. Under world trade organisation guidelines our trading partners are entitled to place restrictions on produce from a country which has experienced an exotic disease outbreak unless the infected country can show by scientific evidence and relevant inspection, sampling and testing methods that the disease is no longer prevalent.

These restrictions can apply for a period of two years and accordingly this bill provides that an inspector may use the search, entry and other powers in relation to places that have been quarantined or declared infected within the preceding two years. All of the proposed amendments to the Exotic Diseases Act are aimed at improving the containment of future outbreaks of exotic diseases. Such outbreaks can have devastating effects on our agricultural industries and accordingly it is vital that all necessary measures are available to ensure prompt and efficient containment and eradication of exotic diseases in New South Wales.

I will now turn to the proposed amendments to the Stock Diseases Act. These amendments are required to overcome issues that are presenting themselves as frequent obstacles to the smooth administration of the legislation. Under the current provisions of the Stock Diseases Act, stock, carcasses, fodder, fittings and animal products can be restricted in protected areas. However, only stock can be restricted in quarantine areas, quarantine lines and undertakings. This is an anomaly in the Act and this bill therefore proposes amendments which provide that stock, carcasses, fodder, fittings and animal products can be restricted in all such areas.

The bill also provides for the creation of "protected (control) areas". A "protected (control) area" is defined in the bill as one with a moderate prevalence of a disease and the current protected area is defined as one with a lower prevalence of the disease. The creation of "protected (control) areas" will allow different measures to be taken in areas with differing prevalence of the disease concerned. Several minor amendments have been made to the offence provisions contained in the Act. Currently it is an offence to remove a tag attached to stock if the stock have been purchased within the preceding 28 days. This provision is for trace back purposes.

There are, however, circumstances where it is desirable to allow a tag to be removed within the 28-day period and accordingly the bill provides that tags may be so removed if they are removed in accordance with the regulations. An example of a situation that may be prescribed in the regulations is if a person purchases animals with the pink HGP-free tags and treats the animals with hormonal growth promotants within the 28-day period. Any regulations which may be prescribed will not compromise the ability of an inspector to trace the origin of the animal, provided that good management practices are in place.

The proposed amendments to the Stock Diseases Act also expand the circumstances in which special slaughter-only sales can occur. Presently, such sales are limited to stock infected with footrot, sheep lice or brucella ovis. The proposed amendments extend these sales to stock infected with any other diseases declared by the Minister. These amendments also provide an exception to the offences of moving or selling infected stock in relation to feedlots and include an additional offence of bribing a public official. The

final amendment in relation to the offence provisions is that the offence of selling diseased stock is extended to cover any stock which have been on land on which there has been diseased stock in the previous 12 months.

This will overcome the difficulty presently being encountered by inspectors of determining the precise time when the stock were actually diseased. The final amendment to the Stock Diseases Act is one which extends the regulation-making power so as to allow this Government to make regulations with respect to schemes of identification. This will allow the Government to make regulations aimed at improving the integrity of stock identification in New South Wales and also regulations required to implement endorsements given by the agriculture and resource management council of Australia and New Zealand.

The final comments I wish to make on this bill are with respect to the proposed amendments to the Stock Medicines Act. The first of these amendments is to clarify the power of the director-general to make orders under this Act. It is quite clear that the director-general can make orders with respect to stock treated with a stock medicine. However, there has been some confusion whether such orders can also be made with respect to stock not treated with a stock medicine. My department has always maintained the view that the director-general's power does cover both situations and this amendment is proposed simply to clarify any confusion which may exist in the minds of those who are affected by this Act.

One immediate consequence of this amendment is to clarify the validity of the director-general's order with respect to hormonal growth promotants. This is particularly important, as the validity of the order may have implications for the export of produce to the European Union. This bill also makes minor modifications to the powers of inspectors under this Act by extending the seizure powers of inspectors in situations where the inspector believes there has been a contravention of the Act and allowing an inspector to require production of and to copy documents relating to the advertising of a stock medicine. I believe that the inclusion of these additional powers will help maintain the integrity and workability of this Act.

The final matter I wish to draw to the attention of the House is that this bill inserts definitions for the terms "tag" and "prescribe". The current Act contains no definitions for these terms and the amendments are included for the sake of clarification only. Although there are a significant number of amendments included, in this bill I wish to point out once again that they are all of a minor nature and are aimed at improving the efficiency and effectiveness of the Acts concerned. Although minor, they are nevertheless important, as they will assist my department in the administration of the various Acts, which in turn will be of benefit to the agricultural industries in this State. I commend the bill to the House.

Debate adjourned on motion by Mr Slack-Smith.

RURAL LANDS PROTECTION BILL

Bill introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Land and Water Conservation) [8.49 p.m.]: I move:

That this bill be now read a second time.

The Rural Lands Protection Bill is designed to continue the important task of protecting rural lands. Rural lands protection boards have existed in some form for over 150 years. In 1902 the first Pastures Protection Act was passed. This was followed by the Pastures Protection Acts of 1912 and 1934 and the Rural Lands Protection Act 1989. The bill which I now bring before the House will replace the Rural Lands Protection Act 1989. Whilst this bill maintains all of the traditional board functions that have evolved over time, it will change the manner in which the 48 boards operate. The role of the rural lands protection boards is to be changed to allow boards more autonomy.

The bill will also establish a State council which will replace the existing Council of Advice. The State council is to perform an overseeing role to ensure board accountability and to co-ordinate board services across the State. The Pastures Protection Act 1934 and the Act that succeeded it, the Rural Lands Protection Act 1989, covered a range of matters. These include management of travelling stock reserves, control of vertebrate pests and noxious insects, implementation of animal health policy and identification of stock activities. These Acts were drafted in a very prescriptive manner leading to inflexibility with regard to the manner in which boards undertake their duties. In 1994 a working group was set up to review the legislation. Also Coopers and Lybrand were commissioned to undertake a broad-based review of boards and the role of the Council of Advice.

The Coopers and Lybrand review highlighted the need for change within the board system, including the lack of accountability of individual boards. Coopers and Lybrand also recommended a number of changes to improve the management of boards and to make boards more accountable for their actions. In 1996 I established a task force to examine the feasibility of implementing the recommendations in the Coopers and Lybrand report. Finally, in late 1996 I formed a new review team made up of representatives of the original working group and the task force to complete the review of the Act. The bill is substantially the result of recommendations made by the review team and reflects a great deal of consultation with the Council of Advice and rural lands protection boards.

The bill provides for the continued operation of the 48 rural lands protection boards in a new and improved framework. The State Council of Rural Lands Protection Boards will consist of representatives of each rural lands protection region in the State. Unlike the present Council of Advice, the State council will be a statutory corporation with supervisory powers over the boards. There will be consequential changes to the responsibilities and accountabilities of the boards. The framework will also be shaped by new administrative schemes and procedures, particularly in respect of pest control, which are designed to be more effective and efficient.

The boards will be given greater autonomy in the exercise of their functions. However, they will be accountable to the State council for the implementation of general policies. These policies will be determined at the State conference of the Rural Lands Protection Association. State conferences will be held annually to determine, among other things, the general policies to be implemented by boards and the setting of the budget for the State council. The State council will be able to issue guidelines in respect of the exercise of any function of the boards as well as directions to boards to take specified action in certain circumstances. If a board fails to comply with a direction, the State council will be able to take any action necessary to give effect to the direction.

The State council will also be able to request the Minister to appoint an administrator to exercise the functions of the board. The State council will be subject to the control and direction of the Minister in the exercise of its functions. The State council will also be required to enter into a memorandum of understanding with the Director-General of the Department of Agriculture. This memorandum of understanding will relate to the exercise of the animal health functions of the director-general, the State council and the boards, and the exercise of any other functions agreed to. This will allow flexibility in the functions performed by boards in particular and will improve the working relationship between the Department of Agriculture and the boards.

This relationship is vital to the maintenance of a high standard of animal health throughout the State. Failure by the State council to enter into or to comply with the memorandum will be one ground upon which the Minister may appoint an administrator to exercise some or all of the functions of the State council. The accountability of the State council and all boards will be improved by making the State council and boards subject to the Public Finance and Audit Act 1983. An example of the less prescriptive nature of the proposed legislation is the provisions in the bill relating to how boards are to manage travelling stock reserves. Details of management requirements are no longer to be contained in the legislation.

They will be transferred to function management plans, which each board will be required to prepare for travelling stock reserves within its district. This is an important recognition of the boards' responsibilities in maintaining the sustainability of travelling stock reserves and the natural and cultural heritage that these reserves represent. In addition, boards will have to prepare a function management plan for any other matter, as directed by the State council. Further examples of the flexibility of the proposed legislation are the rating and pest control provisions. Boards will be able to raise special purpose rates for particular programs. Under the present legislation this is not possible. The only rates that are able to be levied are specifically named in the Act.

The bill will enable boards to levy one or more special purpose rates when the board considers it necessary to do so for new initiatives. The pest provisions will enable an order to be made by the Minister declaring an animal, bird, insect or other member of the animal kingdom to be a pest either in a particular locality or generally in this State. The order will be able to impose or confer the appropriate obligations or powers necessary to control that pest on the land concerned. This is referred to as a pest control order. A range of obligations may be imposed by such an order. Examples include an obligation to eradicate any pest on certain land by a certain method and an obligation to notify a board when pests are detected on the land. A pest control order may also empower a board to make more specific eradication orders that take into account local conditions and, where appropriate, modify aspects of the pest control order.

The savings provisions in the bill will enable the Minister to make an order on commencement of the legislation regarding existing pests, being wild dogs, the European strain of wild rabbit and feral pigs. This will ensure continuity for the present statewide programs in place to control these serious pests. It has been decided that the definition of wild dog will no longer include the dingo, if it is held in captivity. This means that the pest control provisions will relate to the dingo only if it is living in the wild. Dingoes that are domestic pets will be subject to the Companion Animals Act 1998, as are other dogs. Also the pest control provisions will relate only to the European strain of wild rabbit. Accordingly, people will no longer need the Minister's permission to keep as pets any other breed of rabbit.

An important change is the relationship between district veterinarians of boards and the Department of Agriculture. Under the present legislation although district veterinarians are required to be employed by boards, they are subject to the direction of the department. Under the bill this relationship will be removed and district veterinarians will be under the sole control of their employer boards. As a consequence, boards will become accountable for the vital animal health work undertaken by the district veterinarian and other board employees. This obligation will be set out in the memorandum of understanding.

The department will continue to provide animal health services to people in the western division, whose boards do not have to employ a veterinarian. This bill is the culmination of a government initiative to improve the administration of the rural lands protection boards. It represents a significant improvement in the administration of boards and heralds a new era in improved accountability. This will benefit rural land-holders through improved management of significant issues such as animal health, pest animal and insect control, and the sustainability of travelling stock reserves. I commend the bill to the House.

Debate adjourned on motion by Mr Slack-Smith.

MINES LEGISLATION AMENDMENT (MINES SAFETY) BILL

Bill introduced and read a first time.

Second Reading

Mr MARTIN (Port Stephens—Minister for Mineral Resources, and Minister for Fisheries) [8.59 p.m.]: I move:

That this bill be now read a second time.

The Carr Labor Government and I, as the responsible Minister, have a strong commitment to improving safety and health in the mines of this State. The mining industry in New South Wales is a major employer and export earner. Our safety standards are world class, but as recent events have shown, constant vigilance and improvement are still needed. The legislative framework for mining safety is contained specifically in two statutes, namely, the Coal Mines Regulation Act 1982 and the Mines Inspection Act 1901.

In the last session Parliament passed a series of amendments to the Mines Inspection Act, which put it in complete conformity with the International Labour Organisation's convention on safety and health in mines. Those amendments also incorporated changes recommended by the Government's mine safety review. Not long after I announced the mine safety review four men were killed at Gretley colliery, near Newcastle, when their mining machine broke into the flooded workings of an old coalmine that had been abandoned more than 80 years earlier.

I promptly ordered a judicial inquiry into the causes and circumstances of that accident. Judge Staunton, who headed the inquiry, handed down a 750-page report on 7 July. The report of the Gretley inquiry made 43 recommendations. At the time of its release I made a public commitment to implement each recommendation. A number of the recommendations concern amendments to the Coal Mines Regulation Act. Fortunately, many of the changes could be made quickly and could be included in the Government's legislative program for this session of Parliament.

Consultation has taken place with industry and unions, many of whom took a close interest in the Gretley inquiry and the mine safety review. Other changes recommended by the inquiry are being looked at by a special task force, convened by the Department of Mineral Resources and comprised of both industry and union representatives. The Gretley judicial inquiry was the first such inquiry into a coalmining disaster since 1979, and the first inquiry conducted under the current Act. As such, the experience of Gretley has led me to propose some amendments to the provisions dealing with the formal investigation of occurrences at mines, to provide some cost-effective alternatives and to remedy some unforeseen shortcomings in existing provisions of the Coal Mines Regulation Act.

Dealing first with the changes arising from the Gretley recommendations, amendments will be made to section 60 of the Coal Mines Regulation Act to make it clear that persons who are being interviewed by an inspector of coalmines are obliged to provide their answers straight away, not after an interval of 24 hours. A mistaken view had arisen in the industry that inspectors did not have the right to have their questions answered immediately. Judge Staunton criticised that view and recommended that the legislation be changed so as to make the true position clear. However, a person who genuinely cannot answer a question immediately can be given time to check facts so as to ensure that the answer, when given, is complete and accurate.

The amendments allow an inspector to give the interviewee sufficient time to come back with the answer. However, in the interests of timely investigation and reporting, the amendment provides that the interval cannot exceed 24 hours. At present, accidents and dangerous occurrences at coalmines are investigated by the district inspector, who also has other roles in the administration of the Act. These include various approvals and consents required by the Act and the regulations under it. Sometimes those roles may be seen to conflict. For that reason, the Gretley inquiry recommended that there should be an autonomous investigations unit.

It is intended that the unit conduct investigations of fatalities and other serious occurrences, especially where an earlier approval or other action by the district inspector or other departmental personnel may have borne some relationship to the event under investigation. The mine safety review also advocated a special investigation group, with independence and special expertise, within the Department of Mineral Resources. The amendments to both Acts create a statutory office of investigator, giving such persons the relevant powers of inspectors. These will include power to enter premises, inspect documents, interview people and compel answers in the same way that an inspector presently can.

Offences relating to the obstruction of inspectors and the giving of false answers will be extended to aid the role of investigators as well. The investigations unit will be answerable to the Director-General of the Department of Mineral Resources, in the interests of keeping it independent of the present inspectorate and at the same time ensuring that it is properly accountable. The functions of the investigators are set out in new section 93C. Most importantly, an investigator will investigate all future fatalities in mines. This will ensure a uniform approach to all such incidents and provide the Department of Mineral Resources with essential information with which to determine whether there have been breaches of the mine safety legislation or the Occupational Health and Safety Act.

The investigations unit will therefore have an important role to play in the department's new enforcement policy, which has been developed in the wake of the Gretley findings. The amendments allow the Director-General to give the unit a pro-active role, as well as one of response to particular incidents. It can look into issues relating to safety and health across all mines, into occurrences that presently are not prescribed as reportable, into the conduct or discipline of people in mines, and into the practices at mines which have safety and health implications or which might otherwise be relevant to the operation of the principal legislation.

Independent expert consultants can also be appointed temporarily as investigators to assist the unit or to conduct special investigations on the department's behalf. When members of the unit conduct an investigation at a mine, the normal government inspectors and union-elected check inspectors continue to carry out their respective functions, with the exception that the Government inspector cannot interfere with the unit's investigation. In turn, the unit will not interfere with the regular inspector's monitoring of safety within the mine.

Protocols will be drawn up and agreed with the mining union to ensure that the union's district check inspectors are kept abreast of investigations and given opportunities to liaise closely with the investigators during the course of investigations. Judge Staunton's report noted that there was nothing explicit in the Act that required the inspector to make any kind of report on the investigation of that event. The amendments take this recommendation forward and incorporate it into a new system for conducting preliminary investigations and providing interim reports. The director-general of the department will nominate an officer or officers to receive each preliminary report and to forward on specified categories that need a decision as to whether further investigation is merited, and if so, by whom—be it the district inspector, another inspector or members of the investigations unit.

One of the practical problems that arose from the aftermath of the Gretley tragedy was the question of what was to be done about the shafts of the old, abandoned mine that caused the flooding. Judge Staunton recommended that section 121 of the Coal Mines Regulation Act be amended to provide

that complete backfilling of mine entrances may be required when the mine is being abandoned. Section 121 presently refers to actions such as fencing off entries and closing them with barriers, plugs or seals. Complete backfilling provides a further safe option in appropriate circumstances.

The Gretley inquiry was conducted by a body known as the Court of Coal Mines Regulation. This is constituted by a judge of the District Court, and usually assisted by lay experts known as assessors. These people are drawn from the industry, so that the court can have the benefit of advisers with appropriate qualifications and experience. The last judicial inquiry into a coalmining disaster was held in respect of the Appin explosion in 1979, under the previous Coal Mines Regulation Act 1912. Judge Goran, who sat on that inquiry with assessors, acknowledged in his report how useful the assessors had been.

Unfortunately, the provisions in the 1912 Act were not completely carried through to the present 1982 Act, with the result that Judge Staunton was unable to appoint assessors to help him in the Gretley inquiry. That shortcoming is to be corrected with an appropriate amendment to section 151 of the Act. Judge Staunton, with his wide experience of major public inquiries, made a further recommendation regarding the protection of witnesses who testified against the interests of their employers.

That is a sensible recommendation, given that the inquiry had the same powers as coalmine inspectors, and, as such, could compel answers to questions under section 60 of the Act, even if those answers were capable of incriminating others. I have developed that concept further to insert a new section 168A to the Act. This section will extend witness protection to anyone who co-operates with inspectors, the investigation unit, a court holding a judicial inquiry or others, to whom I will refer shortly.

Any employer who dismisses an employee or disadvantages someone in their employment because that person has co-operated with the authorities will be guilty of an offence. The maximum penalty will range from $4,400 to $11,000. There will be an affirmative defence available to employers who can demonstrate that the dismissal or disadvantage was justified for reasons other than the co-operation with the authorities. When implementing the Gretley recommendations, it was noticed that some of the reforms could usefully be extended beyond the coalmining sector to metalliferous mines and quarries. For that reason, the Mines Inspection Act is to be amended as well. In particular, the formation of the investigations unit, the procedures connected with preliminary investigation and reporting, the powers of inspectors and investigators, and the investigative functions of union check inspectors will be mirrored in the Mines Inspection Act. So will provisions for offences connected with frustrating the work of inspectors, investigators and others.

The special reporting and judicial inquiry provisions of the Coal Mines Regulation Act were invoked for the first time in the life of the Act as a result of the tragedy at Gretley. The resulting close analysis of those sections revealed other issues which it is worthwhile to attend to at this time. The scope of special reports to the Minister under section 94 of the Coal Mines Regulation Act is very limited. At present it is only possible for a Minister to direct a report into an accident causing death or serious bodily injury, or a so-called dangerous occurrence. This expression, along with serious bodily injury, is closely defined in regulations, thus narrowing the range of issues that can be reported on.

Furthermore, the Minister can seek such a report only from an inspector of coalmines. If the Minister is concerned about mining practices which might be adverse to the health and safety of workers, there is presently no alternative, in terms of a formal investigation, but to institute a judicial inquiry. Amendments to section 94 will firstly broaden the range of matters covered. Apart from prescribed types of accident and dangerous occurrence, the range will include anything relating to the safety, health, conduct or discipline of persons in mines, any relevant practice at a mine, or any occurrence that is not of a prescribed kind. Again, this power can be used pro-actively.

The broadening of section 94 underscores the modern attitude to safety at work, exemplified by the Occupational Health and Safety Act. In seeking special reports, the Minister of the day will be able to direct persons other than inspectors to provide them.Thus members of the new investigations unit, or mine safety officers, may be directed. It will also be possible to request a special report from someone other than a departmental employee, for example, a private sector expert on the management of gas outbursts. In such a case that person will be given appropriate powers of investigation while the material for the report is being gathered.

The special reporting provisions of the Mines Inspection Act will also be amended to mirror the changes to the Coal Mines Regulation Act. The current arrangements for special or formal

investigation under the Coal Mines Regulation Act are limited to special reports on named subjects and judicial inquiries. Although they have their place, judicial inquiries involve significant time and expense. Sometimes the issue to be considered does not warrant the administrative and financial cost of mounting a full judicial inquiry. There should be a middle way. This bill therefore allows for the constitution of a board of inquiry to conduct a public inquiry into the sorts of issues that might previously have been dealt with by a judicial inquiry.

The board is constituted by a person nominated by the Minister. This gives some flexibility as to who is to be appointed, but of course the person appointed must be suitably competent, qualified and unbiased. The board will also be assisted by assessors appointed by the Minister. It will be able to take testimony on oath, and will be supplemented with appropriate powers like those of departmental inspectors and investigators. The procedure at boards of inquiry is intended to be as informal as possible. A board will not be bound by rules of evidence, and it will have discretion as to whether or not parties may have their legal representative present. It goes without saying, though, that the board will treat people fairly, and observe the principles of natural justice.

These initiatives are intended to cut through the delays inherent in formal legal proceedings and cut the cost, both to government and to parties to the inquiry. They also have the advantage of being less threatening to witnesses, thus encouraging them to speak more frankly. The Minister who calls a board of inquiry into being can stipulate that it must report within a given time. Due to the broad range of issues that can be dealt with by a board of inquiry, the Minister can also give more specific terms of reference. This is intended to speed up the business of the inquiry, and encourage the board to report as quickly as possible. Similar provisions are being introduced into the Mines Inspection Act. That Act presently does not contain any provisions for formal or judicial inquiries.The present provision for judicial inquiries in the Coal Mines Regulation Act will be retained, so that the most important matters can still be investigated by a judge and assessors.

I turn now to a series of amendments recommended by the mine safety review. As well as a separate investigations unit, the review recommended that the mining and coalmines inspectorates be supported by appropriately qualified persons, described as mine safety officers. As their name implies, mine safety officers will be concerned with a broad range of safety issues in mines. The amendments to the Coal Mines Regulation Act and Mines Inspection Act give those officers some statutory roles and functions, including investigative functions and selected powers to support them. It is envisaged that mine safety officers will be able to investigate a variety of occurrences that do not cause death or injury, and which would otherwise take up the time of inspectors.

To that end, the mine safety officers will be given inspectors' powers to enter mines and relevant workplaces, question persons found there, and obtain relevant documents, samples and other evidence. They will also be able to notify mine officials of matters of concern. However, safety officers will not have powers to stop production at mines, or issue improvement notices: these more serious actions will remain the exclusive province of inspectors. The inclusion of these functions in both Acts will enable mine safety officers to operate in both the coal and non-coal sectors. An investigation into a mining incident will often require the people doing the investigation to visit some place other than a mine. For example, they may have to visit the premises of an equipment manufacturer or supplier.

The current wording of section 60(1) of the Coal Mines Regulation Act only allows an inspector to obtain protected statements from persons found at a mine, or found elsewhere but employed at the mine. This can be an impediment to the inspector getting to the bottom of the matter being investigated. It is therefore proposed that inspectors, and people who have the same relevant powers, be given the power to obtain protected statements from persons employed at some place other than the relevant mine. This is, of course, provided that the power is used in aid of an investigation into a mining incident. This important caveat underscores the separate roles of government mining inspectors and industrial inspectors employed by the WorkCover Authority. It is also intended to translate these amended provisions into the Mines Inspection Act to cover the non-coal sector.

Lastly, the bill contains some consequential amendments to the Defamation Act 1974. That Act presently gives absolute privilege to special reports under section 94 of the Coal Mines Regulation Act. Certain reports under the Mines Inspection Act were also given absolute privilege by amendments passed last session. The further amendments capture the broader range of reports that will be generated by inspectors, investigators, boards of inquiry and mine safety officers under the present amendments. The Gretley inquiry also observed that reports of investigations should be more easily available to the public. Protection from defamation action is thus an

important part of the whole picture. The amendments to the Defamation Act will give the makers of departmental reports an opportunity to report frankly, without fear or favour.

In concluding the formal component of my speech on this important piece of legislation, I believe that this series of reforms is an important part of this Government's ongoing commitment to the improvement of safety and health in the State's mines. This Government is totally committed to mine safety. There have been 22 deaths in the mines since this Government has been in office. We cannot afford to have precious positions taken by any vested interest to oppose these changes. The change is vital; it has been identified in the mine safety review; it has been identified by Judge Staunton.

This is not an overhaul of the Mines Inspection Act or the Coal Mines Regulation Act; this is the implementation of those changes that were recommended by His Honour Judge Staunton and Susan Johnston in her inquiry. In the past few days there was concern about what might be in the legislation. The bill reflects the recommendations of both inquiries. I commend the bill to the House and I ask for the full support of every fair-minded person in New South Wales to ensure that the provisions become law at the earliest possible moment.

Debate adjourned on motion by Mr J. H. Turner.

BILL RETURNED

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

Protected Disclosures Amendment (Police) Bill

TOW TRUCK INDUSTRY BILL

Bill introduced and read a first time.

Second Reading

Mr SCULLY (Smithfield—Minister for Transport, and Minister for Roads) [9.21 p.m.]: I move:

That this bill be now read a second time.

The Tow Truck Industry Bill provides for a comprehensive restructure of the tow truck industry, an industry that is in urgent need of reform. This bill will improve regulation of tow truck activities at an accident scene, tighten fit and proper requirements for those who can be involved in the industry, and provide for a stronger regulatory authority with an improved enforcement and policy focus and a more effective and modern disciplinary process. Members will recall that in March this year I appointed a former police Minister, the Hon. Peter Anderson, to conduct a comprehensive review into the tow truck industry following an escalation of violence in the industry. After extensive consultation with the industry and interest groups Mr Anderson submitted his thorough and well-written "Tow Truck Industry Review Interim Report" on 31 May.

The findings of the report were disturbing. Mr Anderson described an industry infiltrated by criminal elements and pervaded by fear of intimidation, physical harm and property damage. It was clear that the existing regulatory system was not providing the community and honest tow truck drivers adequate protection from thugs and that the Tow Truck Act 1989 was not able to discourage dangerous and illegal practices. The most significant incentive that has given rise to unscrupulous and dangerous practices is the high proportion of tow truck operators paid "drop fees" by smash repairers. Drop fees are secret commissions that smash repairers pay to tow truck operators for bringing in smash repair work. These drop fees are then loaded into vehicle repair costs. That means that motorists are paying higher insurance premiums than would be the case in an industry that is better regulated.

Drop fees and the structure of the industry encourage tow truck drivers to race to accident scenes and persuade drivers in car accidents to allow them to take their cars. It is usual for more tow trucks than are needed to arrive at the scene. Further, it has also become common for tow truck operators to have several tow trucks on the road at once to ensure that they can respond quickly to the report of an accident. That means that there are unnecessary cost burdens for tow truck operators that they must pay to enable them to compete for a relatively low number of accident tows.

All the trucks compete against each other for the job and in the process they often harass and intimidate drivers of damaged vehicles to get the business. There are also regular complaints of tow trucks placing other motorists and the public at risk while racing to an accident in an attempt to be first at the scene. Some tow truck drivers have even gone so far as to follow injured motorists into ambulances in order to get their signature to do the tow. Ambulance workers have also complained that they have been obstructed from helping those injured in an accident by tow truck drivers harassing the injured for approval to tow their car.

That is unacceptable. At the scene of an accident motorists are at their most vulnerable; they are often in a state of shock. It is a time when people need a clear process in place which protects the motorists' rights as consumers and ensures that their vehicles are taken to repairers of their choice. It is also unacceptable that tow truck drivers race to an accident scene putting members of the public at risk. Fierce competition in the tow truck industry has also led to an escalation of violent behaviour by some operators and drivers towards their competitors. There have been many instances of competing tow truck drivers coming to blows over who gets the tow at an accident. Unscrupulous operators have also been conducting campaigns against competitors, including fire bombing and sabotaging their competitors' trucks. Informal zones of operation have also emerged where tow truck operators claim an area as their own and any newcomers are kept out of the area by existing operators through threats, intimidation, physical harm and property damage.

The bill will overcome a number of these problems by improving the management of an accident scene. It is designed to prevent tow truck drivers from intimidating motorists, the public and other tow truck drivers. It will give additional powers to the police, emergency services workers and other authorised officers to better control the actions of unscrupulous tow truck drivers and operators. The bill provides that licensed tow truck operators and drivers will be allowed to attend an accident scene. That means that car owners will have more control and say over where their cars will be towed. There will be strong penalties for non-compliance of a range of offences to ensure that the public is protected.

Further, tow truck drivers and operators will have to meet much more stringent accountability requirements. They will be required to complete and maintain well-documented tow authorisations, which show that a vehicle has been towed to a destination authorised by the motorist rather than to a place where the tow truck operator wants the car to go. The Tow Truck Act 1989 has not dealt with the infiltration within the industry by criminal elements. The black market in drop fees that has existed in the industry for some time has attracted undesirable elements into the industry and this has contributed to the rise in violence and criminal activity. We need to get the cowboys and thugs out of the industry so that honest tow truck operators can go about their business without fear and so that the rights of the general public are protected.

Industry standards will be upgraded so that applicants who have been convicted of certain criminal offences or whose driver's licence has been cancelled or suspended will not be able to enter the industry. Operators will have to keep records that show that they employ in their businesses only those who are licensed to work in the industry. An audit program will be implemented to monitor the records and activities of tow truck drivers and operators.

As well as strengthening the fit and proper requirements for applicants, the bill eliminates a major loophole in the current Act. Currently people of ill repute, particularly those with serious criminal records, have been able to avoid the "fit and proper person" assessment by using a "front person" who is able to pass the eligibility criteria for a licensed operator. This means that criminals and disreputable people have been able to stay in the industry by legitimising the business and retaining control of their tow truck business from behind the scenes.

The practice of using a "front person" to legitimise businesses will no longer be possible under the new legislation, as greater controls will be placed on the industry. The bill makes it mandatory for tow truck operators to declare the involvement or interest of silent partners and any other "associated person" with the management and operation of towing businesses. Associated persons will also be required to meet the "fit and proper person" criteria. As all applicants and associated persons will have to pass a tougher character test, the bill will ensure that people who have committed certain criminal offences do not enter the industry.

The bill provides for a more effective regulatory system that will be better able to respond to developments in the industry and to carry out important enforcement and disciplinary functions. The industry is currently regulated by the Tow Truck Industry Council, TTIC, which has proved ill-equipped to cope with a difficult set of circumstances. The bill replaces the Tow Truck Industry Council with a new Tow Truck Authority, TTA, which will have clear responsibilities for policy development, enforcement and licensing improvements.

The Tow Truck Authority will provide a much stronger enforcement and policy focus so that the industry will be provided with a far more responsive and effective regulatory structure. The Tow Truck Authority would be supported by a Tow Truck Industry Advisory Council—TTIAC—that provides input to the authority on industry views regarding

regulatory improvements and performance. Membership of the council would be drawn essentially from the industry groups currently on the Tow Truck Industry Council with additional representation from the Police Service, the Department of Transport, the Department of Fair Trading and country towing interests. The existing self-funding arrangements would apply so that the restructure is implemented at no cost to the Government.

Under the existing Act, the disciplinary process is extremely slow, inconvenient and bureaucratic. At present, the council's own enforcement officers, members of the public or other tow truck operators and drivers complaining about other operators can lodge complaints with the Tow Truck Industry Council. The council's tribunal is required to consider all matters, which may vary from relatively minor to much more serious complaints or breaches. Regardless of the level of seriousness, all complaints require the same resources, effort and time for preparation and consideration by the tribunal. This means that enforcement officers spend too much time in the office compiling reports on minor offences and not enough time out in the field ensuring that accident scenes are properly managed.

This legislation will streamline the disciplinary process, making it much faster and more effective. The bill recognises that much of the work done previously by the council's internal disciplinary tribunal can now be dealt with as part of the administrative functions of the Tow Truck Authority without having to go to the extent of holding disciplinary hearings on straightforward matters. Under the bill any appeals regarding decisions made by the Tow Truck Authority will be referred to the Government's newly established Administrative Decisions Tribunal—ADT—to ensure that decisions were made according to the legislation. This means that matters are dealt either as clear-cut offences or through simplified administrative processes without the need for the Tow Truck Authority to go through a cumbersome disciplinary process.

Another important feature of the new legislation is that it strengthens the enforcement role of the new authority by broadening the number of offences in respect of which infringement notices can be issued rather than through the more drawn-out process of taking disciplinary action, as is currently the case. Since infringement notices are to replace the majority of matters dealt with by the current tribunal, its workload will be significantly reduced. This approach will mean that the bill will deliver a stronger, more responsive Tow Truck Authority and a modern, more streamlined disciplinary process that is consistent with the Government's Administrative Decisions Tribunal legislation. This disciplinary process is strongly supported by Mr Anderson.

Enforcement of the bill is also being supported by increases in penalty levels for fines to make them reflect the severity of offences and to act as effective deterrents. Those not willing to pay the penalty can dispute the matter in the Local Court. A major recommendation of the Anderson report is that a centralised job allocation scheme be established. This is supported by the Government as an essential component of the Government's reform package. An allocation scheme is also supported by the current Tow Truck Industry Council, peak industry associations, the insurance industry and vehicle owner representative organisations which were consulted during the review process. As well as strengthening the regulatory structure of the industry this bill lays the foundation for an allocation scheme to be introduced next year.

By having a centralised job allocation scheme, the safety of the public and tow operators will be improved in several ways. Firstly, tow truck drivers will not race to an accident as they currently do in order to be first at the scene to beat their competitors to the job. Secondly, individual tow truck operators will be allocated a specific vehicle to tow. Therefore, there will no longer be several tow truck drivers at an accident scene harassing drivers of damaged vehicles for the most lucrative towing job. By removing the ability of unscrupulous operators to aggressively seek smash tows the scheme will create fairer working conditions within the industry.

By having a centralised centre that allocates towing jobs, cost structures and administration records will be more visible and accountable, providing a clear audit trail, which will help to eliminate corrupt payment practices, particularly drop fees. The details of the job allocation scheme and project milestones will be set out in the final report of the Anderson review, which is due for completion in late November this year. The scheme will be self-funding and its development will also be assisted by the Independent Pricing and Regulatory Tribunal, which has been asked to advise on how to deal with economic regulation issues associated with the scheme; for example, entry requirements and maintaining fair roster conditions within the industry.

The reforms introduced by this bill are targeted at reducing the operating costs of tow truck

operators, thereby resulting in reduced vehicle repair costs and in turn the potential for lower insurance premiums. The whole community will benefit from the reform package, particularly as the bill provides protection against those acting illegally to obtain both tow work and smash repair work. I am confident that the new legislation will receive strong industry support and will significantly reform the operations and management of the tow truck industry and remove many of the undesirable and unlawful practices that currently pervade that industry.

Finally, I would like to thank the Hon. Peter Anderson for his report and his work as Chair of the Tow Truck Industry Council. As former Minister for Police he has brought to the task his vast knowledge, skills and expertise. Further, in an industry with a range of converging interests he has developed a set of recommendations that have been strongly supported by all sections of the industry. His report has provided the basis for the Government to move forward with a comprehensive package of reforms that will provide the people of New South Wales with a safer, more efficient and effective tow truck industry. I commend the bill to the House.

Debate adjourned on motion by Mr Fraser.

TRAFFIC AMENDMENT (TYRE DEFLATION—POLICE PURSUITS) BILL

Bill introduced and read a first time.

Second Reading

Mr SCULLY (Smithfield—Minister for Transport, and Minister for Roads) [9.36 p.m.]: I move:

That this bill be now read a second time.

The purpose of this bill is to allow the New South Wales Police Service to trial the use of tyre deflation devices in high-speed police pursuits. The trial will assess the potential of tyre deflation to reduce the risk to members of the public and police officers in a high-speed pursuit. This bill amends the Traffic Act 1909 to allow a general exemption for police officers to deploy tyre deflation devices. Currently the Local Government Act 1993, the Roads (General) Regulation 1994 and the General Traffic (Pedestrian) Regulations 1937 make it an offence for a person to place objects such as glass or road spikes on a road or a road-related area.

The bill retains the general prohibitions against placing objects onto the road or a road-related area but provides the New South Wales Police Service with an exception to these current provisions. Although many pursuits are short-lived and do not result in injury or damage, a significant number of these pursuits have posed a threat to other road users and their property. The profile of serious offenders pursued by police includes offenders driving stolen motor vehicles, under the influence of drugs and alcohol, and failing to stop for police.

This year alone police have pursued 228 vehicles involved in serious criminal offences, including drug offences, ram raids, armed robbery, kidnapping, break, enter and steal, and home invasions. A further 330 pursuits involved stolen motor vehicles. If police discontinue the pursuit, allowing the offender to continue on creates an even great threat of serious injury or death to other innocent law-abiding motorists and members of the community.

The Government wants to save lives by developing better methods for deterring high-speed pursuits and, where they do occur, for improved handling of police pursuits of offenders. The Government and the Police Service have been working together to examine a number of strategies that can be used to reduce risks in these pursuits. The option of using tyre deflation devices or road spikes offers significant potential benefits. The devices themselves are metre-long triangles of foam encasing hollow steel spikes. I am advised that road spikes can be used in lengths from three to five metres, either locked into one another or placed in a nylon sleeve. As the offending vehicle travels over the device, the spikes detach and lodge in the vehicle's tyres, which uniformly and gradually deflate so that the vehicle slows down within a short distance.

Police tests under controlled road conditions have demonstrated the success of these devices in stopping high-speed vehicles. These devices have also been successfully deployed in the United States of America and in New Zealand. There are significant potential benefits to utilising tyre deflation devices in certain pursuits: namely, that police engaged in high-speed pursuits will have an opportunity to stop speeding offenders more safely by deploying road spikes; they will halt pursuits more quickly, reducing the risk of injury; they will act as a deterrent to engaging in high-speed pursuits with potentially fatal behaviour, resulting in a greater likelihood of apprehension and subsequent reduction in the necessity for police pursuits in the future; and will make our roads safer for motorists.

The initial trial by the police will assess the operational effectiveness of road spikes and examine

any safety implications for New South Wales police and the public. The trial is about ensuring the safety of the police and the community on our roads. Before any trial commences the Police Service will draft standard operating procedures to cover the deployment of the spikes. These will be subject to approval from the Roads and Traffic Authority with input from the Attorney General's Department. These guidelines will build on existing rules for New South Wales police when they are engaging in pursuits and urgent duties. Only senior officers trained in using road spikes will be able to deploy the devices. Their training will emphasise safety requirements in using the devices. Road spikes will only be deployed in a pursuit with authorisation from a duty operations inspector or a local area commander.

During the trial period the police will use the devices at selected sites in metropolitan and rural areas, and then only according to the standard operating procedures. The trial will run for 12 months. The New South Wales Police Service and the Roads and Traffic Authority will then evaluate the effectiveness of the trial and submit a report to me as Minister. The overriding concern in this trial is the safety of the police and the community. The Government is committed to making our roads safer and ensuring that police are provided with sufficient resources to play their part in assisting to achieve road safety. The trial of tyre deflation devices sends a clear message to irresponsible and criminal offenders behind the wheel who attempt to evade enforcement. They will be apprehended by police. The use of road spikes in police pursuits is another one of the many road safety initiatives introduced by the Carr Government for the people of New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr Fraser.

HOME INVASION (OCCUPANTS PROTECTION) BILL

Second Reading

Debate resumed from an earlier hour.

Mr McBRIDE (The Entrance) [9.42 p.m.]: I support the Home Invasion (Occupants Protection) Bill, the object of which is to protect occupants of dwelling houses from home invasion and its consequences. The bill declares that it is the public policy of the State that its citizens have a right to enjoy absolute safety from attack within their homes by intruders. The bill sanctions the use of physical force by an occupant in defending himself against an intruder if the occupant believes on reasonable grounds that it is necessary to do so, and it provides immunity to occupants from criminal and civil liability arising from anything done by them that is sanctioned under the proposed Act.

The Government intends to make the law of self-defence in the home clear and simple. It wants it to be known that the law will protect the innocent and punish the guilty. In 1995 the Government amended the Crimes Act so as to provide that an intruder who entered a residence knowing there were people at home automatically faced a higher maximum penalty of 20 years gaol. But increasing penalties is not always the answer. The bill builds on that earlier change in the law and is designed to ensure that home owners know their rights when they seek to protect themselves and their families.

The bill addresses the growing confusion and concern about people's rights when defending their homes, other people or property. It ensures that a simple test will be applied to self-defence in the home. If the test is satisfied, there can be no finding of criminality on the part of a victim of a home invasion. Put simply, victims of home invasions who reasonably believe they are in danger will be able to defend themselves. The bill does not allow people to act as vigilantes. The current common law of self-defence is not easily ascertained. Often it is only to be found buried in law reports or legal textbooks.

I turn now to the key provisions of the bill. Clause 6 seeks to codify the existing law of self-defence as it relates to occupants of dwelling houses who defend themselves against intruders. Those asserting self-defence must honestly believe on reasonable grounds that it was necessary to do what they did in self-defence. That definition is balanced in two ways. First, the person asserting self-defence must have actually believed that the degree of force used was necessary. Second, that belief must have been based on reasonable grounds. Those two elements build into the law the crucial concept of proportionality. Of course, in all serious matters a defendant will have the right to have the question of whether he or she acted in self-defence, in accordance with the test, determined by community members acting as a jury.

Clause 7 ensures that an identical test applies to acts undertaken in defence of other people. Clause 8 codifies the position in relation to the defence of property. The common law in this area has been rather unclear. The clause makes it clear that occupants can act in defence of property provided they believe on reasonable grounds that it was necessary to do what they did. Again, the defendant must have actually believed that the degree of force

used was necessary. The belief must also have been based on reasonable grounds. Clause 9 codifies the interpretation that has been placed on the element of reasonable grounds. It states that the reasonable grounds requirement should be interpreted with reference to the position and perception of the accused and not with regard to some completely objective analysis. The purpose of the bill is to codify the rights of individuals who are subject to a home invasion and believe on reasonable grounds that it was necessary to apply force to protect themselves.

Statistics indicate that the incidence of home invasion is not high. For example, in 1995 there were 158 cases of home invasion in New South Wales, in 1996 there were 174 cases, and in 1997 there were 164 cases. Those figures indicate a continually increasing level of home invasions. The statistics for offences of break and enter of dwellings show that in 1995 there were 61,336 incidents, in 1996 there were 74,546 incidents, and in 1997 there were 79,388 incidents. Those figures indicate a steady increase in the number of offences of break and enter. However, as I pointed out earlier, the figures in relation to home invasions have remained much the same.

The reason codification of the laws in regard to home invasion is needed is not the high statistics but the nature of the crime itself. The crime of home invasion involves the offender entering a person's home when it is occupied. As we often read in the newspapers and other media, home invasion is not only a crime of break and enter, it is a crime against the person. It is a crime against the sanctity of one's home and one's family. A home invasion is an attack on the individual. The bill is necessary to codify the law so that persons who are subject to home invasions—not those who invade homes—believe they have the protection of the law. That is the way the law has been interpreted in the past.

The law is not always satisfactory. The safety of our community is a matter of great concern to me, the Government and, I am sure, all members of Parliament. As a measure of the seriousness with which the Government views this issue, it has implemented a package of administrative and legislative initiatives aimed at enhancing the security of members of our community and restoring confidence in the institutions responsible for the administration of justice. For example, the Government has established the Council on Crime Prevention. The council is chaired by the Premier, and its membership includes the Attorney General, other Ministers whose portfolios are relevant to crime prevention and non-ministerial members.

The Council on Crime Prevention is supported by the crime prevention division of the Attorney General's Department. The overall purpose of the division is to help co-ordinate efforts to achieve a reduction in the incidence of crime through the development, promotion and implementation of effective strategies designed to prevent crime. The division also aims to establish an effective partnership between the Government, the community and the private sector for the reduction and prevention of crime. Providing more police officers and legislating for increased penalties is not the solution to our problems in the community. We must look at how Government, the community and the private sector can work together for the general benefit of our community.

I am sure any enlightened person would agree that simply putting people in gaol is not the answer. I am sure parents would agree from their dealings with their own children that penalties are not a sufficient answer to many problems. The Government is taking an enlightened approach and is seeking an effective partnership between the Government, the community and the private sector.

The specific goals of the crime prevention division are to promote and implement a co-ordinated approach to crime prevention by all responsible New South Wales government agencies—it is not just a problem for the police—to reduce the level of community concern surrounding crime and to address the causes of crime. The causes of crime are not just those who commit the crimes. When cases are reviewed we often find that a whole series of events preceded the crime. Further goals are to reduce the opportunities for the commission of crime, reduce the severity of the consequences of crime and promote effective crime prevention strategies.

Although the Parliament may determine maximum penalties for the offences, it is for the courts to determine appropriate sentences in any case. It must be acknowledged that to formulate an appropriate sentence is a complex task and involves the consideration of numerous factors, in addition to the maximum penalty prescribed by legislation. As I stated earlier, the Government introduced legislation that increased the duration of the penalty for up to 20 years, but that has not stopped the crimes from being committed. The level of home invasions remains the same. As has been reported many times, it comes down to the judiciary. The announcement

of the Premier on Tuesday in the House, following the decision by the New South Wales High Court to issue sentencing guidelines, was a major step forward.

Chief Justice Jim Spigelman will be given vastly extended powers to set sentencing guidelines for all crimes. A major criticism I have heard many times from both sides of the Parliament is not that we have not legislated an appropriate sentence for the crime but that the judiciary has not enacted the sentence. We will now see change in the courts. Until now, the judiciary has had to wait for a test case before establishing a sentencing regime, but the historic decision on Monday to issue stringent sentencing guidelines to gaol dangerous drivers has resulted in Justice Spigelman being allowed to set guidelines for other crimes. The Premier stated:

> We are backing yesterday's landmark decision but we are seeing it is applied across all criminal offences.
>
> Behind this, of course, we are seeking to encourage an ethic of personal responsibility.

Under the Government's proposed legislation to be introduced in Parliament by December, the Attorney General would ask the Court of Appeal to review the sentencing regime of a specific crime. The Attorney General said he expected a raft of crimes to be reviewed by the court for new guidelines to be established in the near future. Notwithstanding the mealy-mouthed comments of the Leader of the Opposition, who said that all we are doing is passing the buck from the Parliament to the courts, any honest member of this Parliament will acknowledge that sentencing has always been the responsibility of the court. We have all been disappointed with the court's failure to enact the available sentencing procedures. The President of the Law Society, Ron Heinrich, lauded the new guidelines as improving consistency in sentencing.

Mr Fraser: But there is nothing about it in this bill.

Mr McBRIDE: We are talking about home invasion, crime and having effective penalties for crime.

Mr Brogden: You were talking about the judiciary and penalties a moment ago.

Mr McBRIDE: This is a major initiative announced in the Parliament this week by the Government.

Mr Fraser: There is nothing in the legislation about sentencing.

Mr McBRIDE: There is no single solution to crime. It would be a great disappointment to both me and everyone else in this House if honourable members opposite did not think crime was a major issue. There is no single solution to crime. To prevent crime action needs to be taken that addresses the causes that lead to crime occurring in the first place. The causes of crime are complex and, increasingly, it is recognised that traditional law enforcement responses that deal with crime once it has occurred, such as tougher penalties and more police, cannot by themselves prevent crime completely. What we need is co-ordinated action that is tough on crime and tough on the causes of crime.

Mr Oakeshott: Here come the campaign strategies.

Mr McBRIDE: Members representing country electorates know better. The honourable member for Port Macquarie should know better. I could expect someone from the city to be laughing, someone like the honourable member for Pittwater, but the honourable member for Port Macquarie should not be laughing.

Mr Brogden: You closed Mona Vale police station. Tell me about Mona Vale police station. There is no-one at Mona Vale police station.

Mr McBRIDE: The honourable member for Pittwater should not be laughing because the issue is the community working together with government to promote crime prevention. That is what it is all about. It is not just a simple matter. I have visited country towns, and the honourable member for Port Macquarie knows that crime in country towns is not a simple matter. It is more than someone committing a crime. It is about the problems within the communities. It is about time the honourable member took more interest in it. As I said, I can understand the honourable member for Pittwater behaving like that, but I cannot understand the honourable member for Port Macquarie and other members from country electorates behaving like that.

Strong laws and more and better policing provide the bedrock for the plan in which the whole criminal justice system is working in partnership to create a world in which the criminal will find that punishment is certain, swift and fits the crime. All honourable members would have to agree that they have been disappointed that judges have not delivered, that there have been inconsistencies in sentencing. That is one issue that has been raised in this Parliament.

Mr Fraser: Do something about it.

Mr McBRIDE: We are.

Mr Fraser: You are doing nothing about it.

Mr McBRIDE: We are. It is obvious that the honourable member for Coffs Harbour does not listen when he sits in the Chamber. Reforms to the New South Wales Police Service have meant not only increased numbers of police on our streets but improvements in the way officers work through the use of smarter and more strategic policing techniques. I can testify to that in my electorate. I have seen the changes enacted by the police. We now have a co-ordinated attempt to control crime. We plot crime throughout the whole of the central coast. There have been major successes as a result of the changes.

Mr Brogden: You've got my police! That's no surprise.

Mr DEPUTY-SPEAKER: Order! I would have thought the honourable member for Pittwater had learned his lesson earlier in the week. I suggest that he remain silent while the honourable member for The Entrance concludes his contribution.

Mr McBRIDE: New legislation has been put in place. An innovative youth justice system makes young offenders face the consequences of their actions through facing their victims and working out ways to make amends directly to them. The Government has given police extra powers to curb knife attacks, by making it against the law to carry a knife in a public place or school unless there is a very good reason for doing so. I am disappointed by the attitude of the honourable member for Coffs Harbour, the honourable member for Pittwater, the honourable member for Port Macquarie and the honourable member for Strathfield in relation to crime prevention in our society and trying to ensure that the sentence fits the crime.

Mr GLACHAN (Albury) [9.57 p.m.]: There is no doubt that the provisions in the bill have been needed in New South Wales for some time. In my view there should never have been any doubt about the rights of individuals in their own homes to protect themselves and their families from attack. The Government has been talking about doing something about it for a long time. When the Labor Party was in opposition it talked about doing something about it. It has taken a long time for the Government to introduce the legislation, but I am pleased that it has finally arrived. The bill will give certainty of action to people who are attacked in their homes and who try to protect themselves and the people for whom they care. One of my constituents and his family, who live on a farm in an isolated area of New South Wales quite a distance from town, had a frightening experience in relation to a home invasion.

Late one night, when he and his family were about to go to bed—his young children were in bed and he and his wife were in their night attire—they suddenly noticed lights approaching the house along the track leading to their home. This was an unusual occurrence. They were not expecting anyone to visit them at that time of night. They went to the window and noticed that as the car got closer to the house it began to do what are commonly called "wheelies" in the paddock in front of the house. They were a bit disturbed and upset, but they thought perhaps eventually the car would go away. The car continued to drive around in the paddock for some time. It finally drove directly at the house and crashed through the fence in front of the house into the garden.

A number of people were in the car. Two of them got out of the car, rushed to the front of the house and began to pound on the front door, calling out to the owner and threatening him with violence. He and his wife were distressed. Their children were terrified. My constituent went to the back of the house and picked up a shotgun. The two people who got out of the car continued to pound on the door and demanded that he open it. They also continued to threaten him with violence. He says now that, foolishly, he unlocked the door and opened it in the hope that he could talk with the people, reason with them and get them to leave the premises. Unfortunately, when he unlocked the door and opened it slightly, they forced the door open, forced their way in and forced my constituent back along the hallway of the house, struggling with him as they went.

In the struggle the shotgun discharged and one of the assailants was shot in the leg. The shock of the shot and the sound of the gun forced these two men, who could have been drunk or under the influence of drugs—it seemed to my constituent that they were out of their minds—to leave the house and go into the front yard. The man who had been shot in the leg collapsed on the ground and the other man ran off across the paddock and left the other occupants in the car and his wounded friend lying on the ground. The owner of the house and his wife, who had rung the police, went out to attend to the wounded man and they gave him first aid. When the police arrived they were still attending to this man and were trying to help him in the best way that they could.

The police searched the car and found drugs and other items in the car which these people should not have had. The people who had assaulted this landowner were known to the police because of other crimes they had committed. The police called an ambulance and the man who had been shot was taken away. The police then arrested the owner of the property and took him to the police station, much to the surprise of his wife and children. He was questioned about the incident and was then charged with a serious offence. My constituent, his wife and everyone else could not understand why that happened. This caused my constituent grave concern. Imagine the thoughts that went through his mind as the door of his home was forced open and two people, almost beside themselves with rage, threatened him with violence, forced their way into the house and forced him down the hallway of the house.

My constituent's wife was ready to go to bed and his children were already in bed. What were he and his wife feeling? To their surprise, when everything had calmed down and the wounded man had been taken away, my constituent was arrested, taken to the police station and questioned like a criminal. All he was trying to do was protect his home, his wife, his children and himself. A number of months elapsed before the matter went to court. This whole incident caused my constituent and his family much distress. It cost him a lot of money for legal representation—money that he could ill afford to pay—but he had to have that representation. The person who heard the case dismissed the charges against my constituent because he had been acting in self-defence.

The matter should be forgotten by the police and everyone else, but it is not something that my constituent will forget that easily. It was a night of terror that he and his family will remember for many years to come. To add insult to injury he was arrested and charged with a serious offence when he was simply trying to defend himself and his family. Something must be done about home invasions. People who act in the way that my constituent acted should be congratulated and given support rather than being charged with a serious offence. Because of the experiences of my constituent I am delighted that people will now have some certainty when they act in self-defence to protect themselves, their families and their homes.

Mr CRITTENDEN (Wyong) [10.04 p.m.]: It is my pleasure to support the Home Invasion (Occupants Protection) Bill. If we have regard to the statement made earlier by the honourable member for Albury, we realise that this bill is precisely what we need to ensure that police do not charge people who are acting in self-defence and in the defence of others. In the case outlined by the honourable member for Albury, his constituent was acting in defence of his family. This legislation will leave the police free to pursue real criminals and prevent real crime. One of the basic tenets of any civilised society is for people to feel safe in their abodes. It is a basic human necessity, just as food and clothing are basic human necessities. It is no good having shelter unless that shelter is a safe haven for families, people who live by themselves and older people.

In the Wyong electorate, which I am proud to represent, many aged people live by themselves. Home invasion is a matter of major concern to them. In the 1997 calendar year there were 164 home invasions. I am sure every honourable member would agree that that is 164 home invasions too many. In a sense, home invasion is relatively new to our society. There are a number of reasons for that. Some honourable members have referred to the fact that drugs have played a part in escalating this sort of crime. I suspect that, because of increased security at banks and petrol stations, these criminals have been forced to invade the territory of good, law-abiding citizens. I am not a lawyer, but I have a passing interest in this legislation, albeit at an amateur level.

I believe that it sends a message to everyone in New South Wales: the law is on their side. They can use reasonable force to ensure their own safety by defending themselves and others. This legislation, which codifies common law, will ensure that people feel secure when defending themselves and others. The legislation deals also with the defence of property. It alters the common law to assist a defendant who is an occupant of a house through the creation of a subjective element to the test of the reasonableness of his or her conduct in respect of the defence of property. On 24 September the Minister for Police said in his second reading speech:

> This bill ensures a simple test of self defence applies to the home. If the test is satisfied there can be no finding of criminality on the part of a victim of home invasion. Put simply, a victim of home invasion who reasonably believes that he or she is in danger can defend himself or herself.

The Minister went on to say:

> It does not allow people to act as vigilantes.

I turn now to the kernel of this legislation. In criminal law we determine what a reasonable person would do in certain circumstances. In this legislation we are attempting to determine what people might

reasonably believe, given the circumstances facing them. It is all very well for us in this Chamber—we are safe and secure—to be reasonable and to put forward reasoned arguments. But we have to place ourselves in the shoes of the constituent of the honourable member for Albury to know how we would react in those circumstances. Everything that the honourable member for Albury said was subsequently validated in the courts—his constituent acted reasonably. A law-abiding citizen who is going about his business should not be put through that sort of trauma or have to incur that sort of expense. Police resources should not be misdirected on such cases.

The people of New South Wales must be given certainty in relation to this matter. We must be aware of the circumstances confronting a person such as the constituent involved in the incident referred to earlier by the honourable member for Albury. That is the crucial element here, and I hope that is realised by every person in New South Wales, because that is the purpose of this legislation. It is not about having a hairy chest or saying that we are tough on crime. It is about making the law clear and precise so that all citizens in this State clearly understand that they can reasonably defend themselves and others. The legislation does not use the legal test of "beyond reasonable doubt" or "on the balance of probabilities"—those nice phrases that lawyers use in criminal courts; it simply states our rights if faced with a crime in specific circumstances. This legislation is important. It will provide protection to the community and will ensure a safer community across New South Wales.

Mr FRASER (Coffs Harbour) [10.10 p.m.]: The Opposition supports this legislation. I make it clear that I support this legislation only because it has been introduced in the lead-up to the election on 27 March 1999 in the hope that the Opposition will make a fool of itself by opposing it. It is nothing but window-dressing. The honourable member for Wyong said that the legislation will make the law clear and precise. He said that he was not a lawyer, but that lawyers have a field day in courts using phrases such as "reasonable doubt". I draw the attention of the honourable member for Wyong to clause 10, Onus of proof in criminal proceedings, which provides:

> If in proceedings against an occupant of a dwelling-house the occupant seeks to rely on the provisions of section 6, 7 or 8, the prosecution has the onus of proving, beyond reasonable doubt:
>
> (a) that the occupant did not have the belief alleged, or
>
> (b) that the grounds for the occupant's belief were not reasonable grounds.

Lawyers will have a field day pulling apart these provisions. The bill applies a simple test in clause 9, Reasonable grounds, which provides:

> Whether grounds are reasonable grounds for the purposes of section 6, 7 or 8 is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be.

A smart barrister will pull that clause apart in a courtroom. The people of New South Wales should have every reason to believe that they have common law rights which have been defined by the courts. But the bill does nothing to clarify those common law rights in any way, shape or form. The Government waffles on about why we should support the bill, but it gives us no confidence that the bill will provide any more protection than already exists. This bill, introduced five months out from an election, is designed to win votes in western Sydney and other areas that suffer from what are commonly understood as home invasions.

People in my electorate understand, as the general populace understands, that a home invasion is committed when an intruder comes into a home uninvited, binds and gags the occupants, often threatening them with physical injury, and takes off with cash or jewellery. We know from media reports that home invasions are prevalent in the Asian community. However, the term "home invasion" is not defined in the bill. Part 1 defines the terms "confrontation with an intruder", "dwelling-house" and "intruder". They are the only definitions to be found in the bill. It does not define the terms "occupant" or "home invasion". Although the bill is entitled the Home Invasion (Occupants Protection) Bill, it does not refer to the protection of an occupant or property.

The bill refers to reasonable force. My understanding of the common law is that I have the right to use reasonable force to protect my dwelling, my family and my property. What is a dwelling? Is it a dwelling as defined under the Department of Lands Acts? Is the boundary of one's property part of a dwelling? If someone is caught stealing fence posts from the boundary of a rural property, what force can be used by the owner of the property to stop the person from stealing the posts? Can the owner hit the offender with a fence post, a star picket? The bill is silent in that regard. It is not specific. Such matters as a person's belief are not defined. The courts have to determine such matters as what is reasonable force and what are reasonable grounds for a person's belief. Once again it will be for the court, the judge and jury, to decide.

This bill does not attack the causes of crime. Recently the Government legislated to establish drug

courts in this State. At the same time, Police Commissioner Ryan stated that 70 per cent of crime in this State is committed by people addicted to drugs. That means that 70 per cent of offences are drug-related. Therefore, 70 per cent of offences will be referred to the drug courts. Is the Government going to apply the parameters provided in its drugs court bill to 70 per cent of the courts in this State? This is a desperate attempt by a desperate Government, a desperate Minister and a desperate Premier to convince the public that they are doing something constructive about crime and drugs. Today I read about an attempt by drug traffickers to bring half a billion dollars worth of heroin into the electorate of the honourable member for Port Macquarie. Drug barons are not worried about the Government's laws. To them this bill and other legislation, such as that to set up the drug courts, are not worth the paper they are written on.

If the Premier were serious, he would get tough on drug-related crime and legislate mandatory life sentences for those found guilty of such offences. It has been reported that 14 people were arrested in the drug bust today in Port Macquarie. Given the Premier's ramblings, the Opposition and the public expect nothing less than 14 life sentences for those arrested. However, I predict that there will not be 14 life sentences.

Mr Oakeshott: There were 18 people.

Mr FRASER: The honourable member for Port Macquarie said that 18 people have been arrested.

Mr Martin: They have not even stood trial yet.

Mr FRASER: They have not stood trial but they have been arrested during a drugs bust. The Minister for Fisheries lives in a coastal electorate where drugs are being brought into this country. These people were caught with $500 million worth of heroin, and all the Minister can say is that they have not stood trial! I accept they have not had a trial, but anyone in possession of that much heroin is guilty, in my opinion. It is the attitude of the Government and the honourable member that is responsible for the high incidence of drug-related crime in this State.

Mr Martin: On a point of order. The honourable member should be reminded of the rules that apply to sub judice in this State. The matter has not yet been before the courts.

Mr FRASER: On the point of order. I remind the Minister that the 18 people—I have not named them—who were arrested today have been brought before the courts, but those same courts have not been instructed to impose appropriate penalties. I am not in breach of the sub judice rules; I have not named anyone. The matter was the subject of a news bulletin tonight and it will continue to be referred to in this place over the next few days. The point of order is not valid.

Mr DEPUTY-SPEAKER: Order! No point of order is involved. However, I suggest that the honourable member confine his remarks to the subject matter of the bill, which relates to home invasions and not to the arrest of drug importers.

Mr FRASER: As I have said, the term "home invasion" is not defined in the bill. The issues are wide ranging and, therefore, I believe I should not be confined in my arguments. However, it is obvious that home invasions and burglaries are committed by those who have a craving for drugs, as stated by the Commissioner of Police, and this bill should target such offenders. It must also protect those whose homes and lives are violated by drug addicts. Although the term "home invasion" is not defined, it is well understood by the community at large. This measure will prove to be ineffective in the long term; it does not define "occupant" ," home invasion" or "dwelling". Recently in my electorate, during a festival in Bellingen, a local service station was held up by someone described in the local media as a person affected by drugs. [*Extension of time agreed to.*]

The offender left the service station with some cash and disappeared into the crowd attending the festival. That person, it was assumed, and I believe quite rightly, was affected by drugs and needed money to support his habit. That was tantamount to the invasion of a family business; however, such premises are not covered in this bill. Nor are taxis and corner stores covered in the bill. If the Government were serious about this matter, it would give protection to businesses and the owners and occupiers of businesses that deal in cash. In my view, "invasion" means the invasion of one's rights or space. Owners of businesses and dwelling houses must be given the right under common law to defend themselves against people who enter their properties uninvited, threatening violence and seeking to cause damage.

This bill, however, does not provide such protection or right. It is merely window-dressing and

is not nearly good enough. The Opposition demands legislation with teeth, legislation that will clearly define one's rights, and legislation that will allow property owners to protect their properties. The Government, in its attempt to steal ideas from the Opposition, has failed to produce effective legislation; this bill does not go far enough. Whilst the Opposition supports the bill, it suggests that the Minister and the Government should do what they can to strengthen it today, to make it something of which the Parliament and its members can be proud, rather than at some later stage in the run-up to the election on 27 March 1999.

[*Debate interrupted.*]

BUSINESS OF THE HOUSE

Extension of Sitting

Motion by Mr Whelan agreed to:

That the sitting be extended beyond 10.30 p.m.

HOME INVASION (OCCUPANTS PROTECTION) BILL

Second Reading

[*Debate resumed.*]

Mr SULLIVAN (Wollongong) [10.25 p.m.]: It is with pleasure that I speak to this bill, which will clarify a great deal of uncertainty in the community. This bill has been introduced in the interests of good government of the State. At the outset I wish to comment on a number of the matters raised by the honourable member for Coffs Harbour. He maintained that the bill did not define the terms "dwelling" and "dwelling house".

Mr Fraser: Where are they defined?

Mr SULLIVAN: In clause 3, which provides in part:

> ***dwelling house*** includes:
>
> (a) any building or other structure occupied as a dwelling, and
>
> (b) any building or other structure with the same curtilage as a dwelling-house, and occupied in connection with the dwelling-house or whose use is ancillary to the occupation of the dwelling-house.

Clause 4 provides:

> **Who is an intruder?**
>
> A person is an intruder for the purposes of this Act if:
>
> (a) the person makes an unlawful entry into a dwelling-house, and
>
> (b) an occupant of the dwelling-house believes that the person, in addition to the unlawful entry, has committed, or is committing a crime in the dwelling-house against an occupant in the dwelling-house or the property of, or within, the dwelling-house.

Where has the honourable member been? I shall now deal with the terms of the bill. In summary, it sets up the simple test that no finding at law will be possible against a person who reasonably believes that in the circumstances he or she or his or her family is in danger provided the use of force is not excessive. Secondly, it means that for the first time the law will be contained in statutes so that legislation will clarify existing precedent. Thirdly, it will ensure that a person who is protecting himself or herself or his or her family or family home from a home invader is prevented from being sued if the perpetrator is injured. Finally, it will confirm the right of an individual to defend himself or herself in the family home. I suggest that that is pretty clear-cut. This area of the law has caused many ordinary citizens a great deal of concern because they simply do not know what the law is in this regard. Often when they read sensationalised articles in their local papers and in the national Sunday papers they feel that they have no right to take any action to defend themselves lest it is found that in doing so they acted illegally. The bill seeks to address that problem, which has plagued the community for many years. Briefing Paper 17/98 of the New South Wales Parliamentary Library Research Service, which is entitled "Home Invasion and Self-defence: an Update", states, inter alia:

> Of the reforms announced by the Premier on 8 September 1998 *The Daily Telegraph* editorial comment stated: "It is tough legislation, necessary in the face of statistics that show there is an armed home invasion virtually each day in NSW". According to the NSW Bureau of Crime Statistics and Research, using figures from the NSW Police database, COPS, the 1995-1997 figures for home invasion, defined as "**armed robbery in the home**", for NSW and Sydney are as follows:

NSW	1995	158	Sydney	1995	127
	1996	174		1996	139
	1997	164		1997	116

That is what one would expect, given that Sydney has two-thirds of the State's population, and that home invasion is more likely to occur in Sydney than in other areas for a whole range of reasons. The briefing paper continues:

> Statistically, this shows a relatively stable picture, with the variations from one year to another probably being too small in the overall context to be significant. The 127 incidents of armed robbery in the home in the Sydney Statistical Division represented a rate of 0.3 incidents per 10,000 resident population. Local Government Areas in the Sydney Statistical

> Division which recorded the highest rates of armed robbery in the home in 1995 were: Sydney (2.7 incidents per 10,000 resident population); South Sydney (1.1 incidents per 10,000 resident population); Blacktown (0.9 incidents per 10,000 resident population); and Fairfield (0.7 incidents per 10,000 resident population). These regions, according to the NSW Bureau of Crime Statistics and Research, had rates about two times or more the average for the Sydney Statistical Division. However, the Bureau also states that the number of incidents was "very small". In all areas noting that in the Sydney Local Government Area the police recorded "just two incidents of armed robbery in the home . . . in 1995". A perspective on the incidents of home invasion relative to the **break and enter of dwellings** is gained from the following figures for the latter offence, again supplied by the NSW Bureau of Crime Statistics and Research:

NSW	1995	61336	Sydney	1995	43481
	1996	74546		1996	53192
	1997	79388		1997	56456

What we are saying is that this crime has a relatively minor incidence. Nonetheless, it has a significant emotional impact on the population. It is intolerable and unacceptable for somebody to walk into a home and threaten the occupant when the occupant feels that he is not in a position to defend himself. If the honourable member for Coffs Harbour wishes to make an issue of this, I ask him what he did between 1988 and 1995. Nothing. I refer to editorials in the two major Sydney newspapers. The *Sydney Morning Herald* editorial of 10 September 1998 headed "Self-defence in the home" stated:

> Like most law and order issues, the question of protection against attacks in the home is invariably discussed at two levels of reality. At one level is a region of political chest-thumping and bold statements of policy, laying down the law, as it were, in clear, no-nonsense terms. At another level, there is another reality, one that matters far more to the people involved in real events, where the courts decide how in fact blame and responsibility will be decided in cases arising out of home invasions.

That is the core of this issue. It is taking the matter out of the lottery of what a judge or a court will decide and giving surety and certainty to the people involved when they are faced, slight though the chance may be, with a home invasion. The editorial continues:

> In announcing in the Parliament 'the Government's intention to make the law of self-defence in the home clear and simple', the Premier, Mr Carr, said: "This law is not made by judges but by the community for the community . . . This is another stage in the Government's push to give more power to the victims of crime, to make the legal system a justice system."

In the *Daily Telegraph* of 10 September under the heading "Invasion of the vote snatchers" the following editorial appeared:

> Legislation to provide immunity to NSW householders in the event of a home invasion is commonsense and long overdue.
>
> For residents to face assault charge or civil damages action when defending their homes and families from intruders is an absurdity.
>
> The Home Invasion Bill, to be introduced into the Legislative Assembly in a few weeks with the support of the Carr Government, will give householders the right to use force—including the use of firearms—in defence of their homes, without fear of prosecutions.
>
> Sensibly, the only proviso is that it must be established that excessive or unnecessary force was not used.
>
> It is tough legislation, necessary in the face of statistics that show there is an armed home invasion virtually each day in NSW.

Mr Fraser: Where are you quoting that from?

Mr SULLIVAN: The *Daily Telegraph* editorial of 10 September.

Mr Fraser: There is nothing in the bill about firearms.

Mr SULLIVAN: As the honourable member probably well knows, the terminology used in the bill provides that cover. The key to the legislation is the removal of doubt. If it were not for the sense of frustration caused by uncertainty the bill would be unnecessary. Many people have to contemplate facing an invader in their home and they do not know how far they can go in defending themselves, or what they can do to defend themselves—whether they have to simply throw their hands up and, as with the advice given to British wives last century, think of England. They seem to be offered nothing else. They simply have to accept it. This bill provides a simple test of self-defence and that is the key to it. It gives me great pleasure to speak in favour of the legislation introduced into the Parliament of New South Wales.

Debate adjourned on motion by Mr Martin.

BILL RETURNED

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

Lotteries and Art Unions Amendment Bill.

House adjourned at 10.38 p.m.