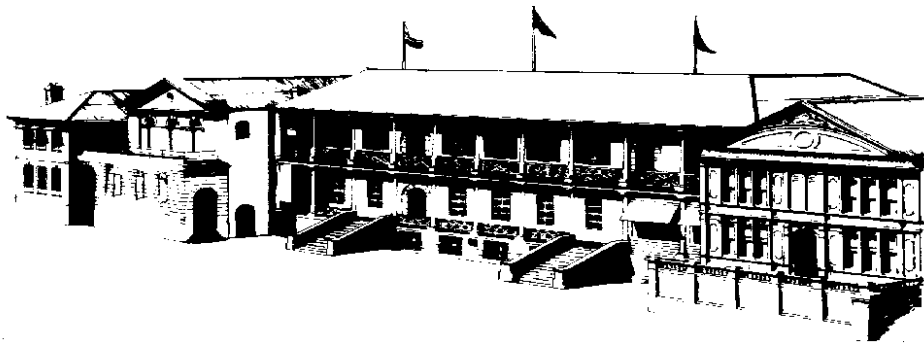




NEW SOUTH WALES



Legislative Assembly

**PARLIAMENTARY
DEBATES**

(HANSARD)

**FIFTY-FIRST PARLIAMENT
SECOND SESSION**

OFFICIAL HANSARD

Tuesday, 10 November 1998

LEGISLATIVE ASSEMBLY

Tuesday, 10 November 1998

Mr Speaker (The Hon. John Henry Murray) took the chair at 2.15 p.m.

Mr Speaker offered the Prayer.

ASSENT TO BILLS

Assent to the following bills reported:

Commonwealth Places (Mirror Taxes Administration) Bill
 Legal Profession Amendment Bill
 Nurses Amendment (Nurse Practitioners) Bill
 Police Service Amendment (Special Risk Benefit) Bill
 State Revenue Legislation (Miscellaneous Amendments) Bill
 Evidence (Audio and Audio Visual Links) Bill
 Industrial Relations Amendment (Unfair Contracts) Bill

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

Mr Speaker announced, pursuant to the Independent Commission Against Corruption Act 1988, receipt of the report entitled "Report on the Investigation into the Conduct of an Alderman on Fairfield City Council", dated November 1998.

BILL RETURNED

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

Charles Sturt University Amendment Bill

STANDING COMMITTEE ON PUBLIC WORKS

Reports

The Clerk announced receipt of the following reports dated November 1998:

National Conference of Parliamentary Public Works Committees
 National Conference of Parliamentary Public Works Committees' Seminar: *Land Transport in the 21st Century*
 National Conference of Parliamentary Environment Committees
 The Tilt Train

PETITIONS

Governor of New South Wales

Petitions praying that the office of Governor of New South Wales not be downgraded, received from **Mr Collins**, **Mr Ellis**, **Mr Hazzard** and **Mr Photios**.

Drugs Zero Tolerance

Petition praying that a zero tolerance drugs policy be implemented, received from **Mr Fraser**.

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 Collins** and **Mr Phillips**.

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**.

Kings Cross Policing

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

Sir David Martin Reserve

Petition praying that the Sir David Martin Reserve be returned to the public following the Olympics, received from **Ms Moore**.

Gymea Bay Public School

Petition praying that a classroom burnt down at Gymea Bay Public School by vandals be rebuilt, received from **Mr Phillips**.

Gymea TAFE Carpentry and Joinery Relocation

Petition praying that relocation of carpentry and joinery classes from Gymea TAFE to Chullora TAFE be opposed, received from **Mr Phillips**.

Residential Parks Bill

Petitions praying that the Residential Parks Bill be enacted, received from **Ms Andrews, Mr Crittenden, Mr Martin and Mr Price**.

Same Sex Relationship Rights

Petition praying that same sex relationships be accorded the same status, rights and benefits as heterosexual relationships, received from **Ms Moore**.

Belrose Parkland Development Proposal

Petition praying that the development proposal for the Belrose abandoned road corridor west of Forest Way be rejected and that the area be kept as open space parkland for passive recreation, received from **Mr Humpherson**.

Cooranbong F3 Noise Reduction Barriers

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

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**.

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**.

Forestville Underground Electricity Supply

Petition praying that the mains electricity supply to Forestville be underground, received from **Mr Humpherson**.

QUESTIONS WITHOUT NOTICE**PERISHER SKI FIELDS ACCOMMODATION**

Mr COLLINS: My question is to the Premier. Given that a commission of inquiry has recommended the expansion of accommodation in the Perisher ski fields by at least one-third, will the Premier now fully support and implement the inquiry's findings? Will he give a guarantee that he will not simply ignore the advice of the independent umpire as he did with Lake Cowal?

Mr CARR: If only the Leader of the Opposition knew how the planning legislation worked in this State.

Mr SPEAKER: Order! I place the honourable member for Georges River on three calls to order.

Mr CARR: If he did, he would know that not only will the Government consider the report, but also the Government is legally obliged to consider the report, which has been received by the Government. The Minister who has the consent authority assures me he will shortly make an announcement.

Mr SPEAKER: Order! There is far too much interjection. I call the honourable member for Vaucluse to order.

WAVERLEY WAR MEMORIAL

Mr WATKINS: My question without notice is to the Premier. What is the Government's response to the attack on Waverley Park ANZAC Memorial?

Mr CARR: The desecration of ANZAC memorials arouses the profound repugnance of the House. Such an act constitutes an attack on the core Australian values that ANZAC has come to embody. The news this morning that a statue of a digger in Waverley Park had been vandalised deeply saddened me. I note that the State President of the Returned Services League, Rusty Priest, described the act as an outrage, and I concur. This morning I learnt that Waverley Council was unable to repair the statue before Remembrance Day tomorrow as the council's

stonemason was on leave. Accordingly, I asked the Minister for Public Works and Services to provide the services of two stonemasons of his department to assist Waverley Council to restore the statue by tomorrow.

I am pleased to inform the House that Waverley Council accepted the offer. The two workmen were dispatched this morning and work began immediately. I am told that the statue will be fully repaired and returned to its former state by late this afternoon. I am sure that all members of this House will join with me in thanking the workers of the Department of Public Works and Services who leapt into action and are working as we speak to ensure that the memory of ANZAC will not be tarnished on one of our most precious days.

PERISHER SKI FIELDS ACCOMMODATION

Mrs CHIKAROVSKI: I address my question to the Minister for the Environment.

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

Mrs CHIKAROVSKI: Given that the expansion of accommodation at the Perisher ski fields has been endorsed by an independent commission of inquiry, will the Minister now undertake to fully back the project, or does she support calls by the National Parks Association for the Government to reject the inquiry recommendations?

Mr Hazzard: Answer that!

Ms ALLAN: I shall try, I shall try very hard. I refer to the answer just given by the Premier, which was expansive on the subject. The Premier reiterated the point that the person responsible for receiving the commissioner's recommendations is our colleague the Minister for Urban Affairs and Planning, who is undertaking—

Mr Photios: On a point of order. A question was asked of the Minister for the Environment. She offered to give an answer. She is now failing to answer the question. The Minister is treating the question at hand as irrelevant and is passing it off to another Minister. I request that you ask the Minister to do what she offered and answer the question.

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

Ms ALLAN: In conclusion—

Mr Photios: On a point of order.

Mr SPEAKER: Order! I will not hear the honourable member on a further point of order.

Ms ALLAN: In conclusion, I am well aware that my colleague the Minister for Urban Affairs and Planning is currently considering the matter.

POLICE POWERS

Mr McMANUS: I ask the Minister for Police what is the next stage in the Government's plan to help police solve crime.

Mr WHELAN: I thank the hard-working member for his question.

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

Mr WHELAN: Since the shooting attack on the Lakemba police station on Sunday, 1 November, two limitations in police powers have been identified—gaps, or deficiencies—which if allowed to remain could limit the effectiveness of police response. The Carr Government will move very quickly to close those gaps. Until now police powers to stop and search vehicles have been limited to a particular vehicle. For example, if police suspect that a bomb is in a car at a particular location, existing provisions do not allow for a search of all vehicles at that location. Further, if a person escapes from prison and police suspect that the person is travelling along a particular route, police do not have the power to establish a roadblock and search vehicles.

The Government will give the police the power to stop and search vehicles—by roadblock if necessary—if there is a serious risk to public safety or if there is a reasonable suspicion that this kind of vehicle may have been used in the commission of a serious offence. Apart from traffic offences, in relation to serious offences police have not had the power to demand from a vehicle's owner the name and address of a driver of the vehicle. Those provisions are about to change. The Carr Government will give police the power to require the owner to identify drivers and passengers in a vehicle if police reasonably suspect that the vehicle was used in a serious offence.

Failure to stop at a roadblock, failure to disclose names and addresses, and the giving of false information will carry penalties of large fines or goal terms. The powers will be reviewed in 12

months and will be monitored by the Ombudsman. It is worth mentioning that under this Government 98 per cent of the recommendations of the royal commission have been or are being implemented. The result is a more honest Police Service—a Police Service that is better equipped than ever to serve our community. The Government has entrusted the Police Service with increased powers to help make our community safer. This proposal is stage two of the Carr Government's plan to increase and consolidate police powers in this State. I shall remind the House about stage one.

Earlier this year the Carr Government gave the police the powers to move on gangs intimidating or harassing others, to search people for knives and other dangerous weapons, to confiscate knives and weapons and to demand names and addresses. Those powers have been overwhelmingly endorsed by the community. The powers are being used by the police, and the facts show that they are effective law reform. For example, the extremely successful City Safe operations have demonstrated that police on the streets are using the powers to drive crime down. Between April and September City Safe saw police move on 477 people in the Sydney central business district, Kings Cross and other inner-city areas.

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

Mr WHELAN: An intergovernmental task force has been established to consolidated police powers. I am pleased to advise the House that the task force is proceeding well. The Government will when re-elected next year introduce the consolidated police powers legislation, which is stage three of the Government's plan. In the name of public safety, police require the extra powers. The Carr Government wants to help police to help the community. Those who break these laws should be warned: The new offences will carry the hefty penalty of a \$5,500 fine or 12 months in prison.

NORTH-EAST FORESTS

Mr ARMSTRONG: I address my question to the Minister for Regional Development. Has the Minister consulted the mayor of Grafton over her concerns that the State Government's regional forest agreements will cause a devastating loss of jobs in the north-east? What guarantees has the Minister sought from the Premier that existing sustainable forest vital to the future of the timber industry and the region is not turned into national parks?

Mr WOODS: Of course I have consulted widely in my electorate and with many people

intimately involved with the forest industry on the north coast of New South Wales.

Mr SPEAKER: Order! I call the honourable member for Northern Tablelands to order. I call the honourable member for Murwillumbah to order.

Mr WOODS: I have consulted with the Forest Products Association, local mill owners, loggers, farmers and the mayor of Grafton, to whom I spoke on this subject as recently as last weekend. This Government is committed to a fair and balanced outcome in the management and protection of our forests. As with the Eden forest agreement, in the north-east the Government is seeking an agreement that establishes a comprehensive reserve system and supports a value-added sustainable timber industry.

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

Mr WOODS: All parties that have a stake in the debate have been involved in negotiations, and discussions are ongoing. The New South Wales Government has been unprecedented in the amount of consultation it has held in the community with the unions and with industry on this matter. That contrasts greatly with the effort made by the coalition when it was in office, because the coalition continually agreed with the idea of guaranteeing the resource but it never delivered. This Government has delivered guaranteed supply. That is the big difference between Labor and the coalition when in office. The Government is guaranteeing certainty for the industry, for jobs in the industry and for the future.

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

Mr WOODS: In consideration of that, the Government will make its decision about the north-east forests during this session of Parliament.

ILLAWARRA FLOOD-DAMAGED ROAD REPAIR

Mr MARKHAM: My question without notice is to the Minister for Transport, and Minister for Roads. What is the Government doing to restore flood and storm damaged roads in the Illawarra?

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

Mr SCULLY: I commend the honourable member for Keira for his concerns about his

constituents. Honourable members will remember the violent storms which lashed the Illawarra on 17 August and the severe flooding which followed. They were some of the worst storms in the Illawarra in living memory. Suburbs such as Dunmore and Oak Flats were inundated, while Figtree and Fairy Meadow also sustained damage from flash flooding. The rain gauge on Mount Ousley Road recorded a rainfall of 422 millimetres in a 24-hour period. That is 17 inches on the old scale. Many families were forced to evacuate their homes in dramatic circumstances to find shelter on higher ground. In some cases residents were unable to return to their homes for many days.

The intense storms and flooding wreaked havoc on the road network, cutting major arterial routes. Access to Sydney was cut at Mount Ousley Road and at Bulli Pass. The coast road was also closed and many regional and local roads were badly affected. Immediate steps were taken by the Roads and Traffic Authority to restore temporary access for the Illawarra community. Mount Ousley Road was open the following day and the coast road was restored within two days. Major works were undertaken at the Bulli Pass and temporary access was restored within three days. Access on other affected roads was restored by local councils and by the RTA. Longer term restoration works are being undertaken by both the RTA and local councils.

While such work is vital, it is also expensive and a strain on the resources of many councils. The Carr Government is committed to funding the cost of the emergency works and the restoration works for State and regional roads. In addition, the Government will fund the majority of the cost of the repair of local roads. I am pleased to announce that the Government has set aside \$5.8 million for the restoration of roads in the Illawarra that have been damaged by floods and storms. I am not sure the honourable member for Keira heard what I said, so I repeat that the Government has set aside \$5.8 million for the repair of damaged roads in the Illawarra. That is a sign that the Carr Labor Government is getting behind the people of the Illawarra and fixing their roads.

Those funds will be available to reimburse local councils in the Illawarra for works undertaken and not yet funded, and for longer term restoration works. The funds are in addition to the \$72 million funding package announced by the Government in Bathurst yesterday—and wasn't the Opposition upset by that announcement! Some of those opposite were not even aware of the announcement, but members on this side of the House are very interested in it. It takes a Labor Government to appreciate the concerns of district councils and shires.

Where did the Leader of the National Party stand on this issue? He made no representations to me. I had to expedite the work by sending the RTA out to work closely with the shires and councils. The Government sounded the clarion call to get the work done so that the farmers and graziers of this State could get to the silos, the railheads and the State highways. That is why the Government has found the money: it must make sure that the good people of country New South Wales can go about their business on their farms and get their crops and stock in. Some of the mischief-makers from the Opposition were trotting around the State suggesting—

Mr Photios: Who are they?

Mr SCULLY: The Opposition wants a name: Mark Kersten. About an hour after the Government announced the \$72 million funding package, \$39 million of which is for the western division, Mark Kersten put out a press release claiming that the western division is not getting enough money. The New South Wales Farmers Association issued a supportive press release congratulating the Government on responding to the need to upgrade the roads in country New South Wales. The Government is fully aware that communities across regional and rural areas of the State have been anxious for reassurance that their roads will be restored to their pre-flood condition as soon as possible. That is exactly what the Government is doing and intends to continue to do. With the harvest season already under way it is particularly important for rural industries that rural and regional roads be restored as quickly as possible. The support from the New South Wales Farmers Association is most appreciated by the Government. I make it clear that the \$72 million allocated to date is not a final allocation.

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

Mr SCULLY: If more funding is needed to fix the roads in country New South Wales the Government will find the money. I know the honourable member for Murray well; he is a decent bloke. At the end of the week I want Gentleman Jim to sound the clarion call to his electorate and give the bipartisan message that it has taken a Labor Government to fix country roads in this State. Some of the funding has already been paid to councils which have undertaken emergency and other works. As I said earlier, if the final estimate exceeds the present allocation of \$72 million the Government will certainly find the additional funds needed to restore the roads.

A total of 700 new real jobs will be generated in rural and regional New South Wales as a result of the funding allocation. Country New South Wales is delighted that the Government is doing the right thing. Two big ticks for the Government! But what about the Federal Government? The State Government has done its bit; it has told councils to get on with the job and it will pay the bills. I have written to Mr Anderson, the Federal Minister, and said two things. First, I congratulated him on his appointment. Second, I said, "Hand over some money, you miserable sod! We want \$30 million for the New England Highway and the Newell Highway."

The honourable member for The Entrance has been up there; he knows how crook the roads are. Where is the honourable member for Northern Tablelands? The New England Highway is a disgrace. What is the coalition doing about it? It has not dawned on the Opposition that the New England Highway is a national highway and the Federal Government pays for the repairs. They do not even know that! That is why the State Government has said to the Federal Government that it wants \$30 million to repair the cost of the damage to the New England Highway. That is good news for country New South Wales.

ELECTRICITY INDUSTRY PRIVATISATION

Mr PHILLIPS: My question without notice is to the Premier. Given that the recent Moody's report said that electricity privatisation is unlikely to be decided by the Labor Party until after the State election because the annual conference has been cancelled, does this mean that the Premier told the rating agency that he will privatise the State's electricity interests if he wins the March election?

Mr CARR: No.

OLYMPIC GAMES ACCOMMODATION

Ms MOORE: My question is to the Minister for the Olympics. Given that the Government has sponsored a deed of agreement with the hotels and motels associations to index hotel room charges and protect Olympics tourists from excessive accommodation charges, what action has the Minister taken to develop similar mechanisms, such as a deed of agreement or code of practice, to protect—

[Interruption]

Mr SPEAKER: Order! The Chair is unable to hear the question. I ask the honourable member for Bligh to repeat it.

Ms MOORE: Given that the Government has sponsored a deed of agreement with the hotels and motels associations to index hotel room charges and protect Olympics tourists from excessive accommodation charges, what action has the Minister taken to develop similar mechanisms, such as a deed of agreement or code of practice, to protect tenants in the private rental market from excessive rent increases?

Mr O'Farrell: On a point of order. If the honourable member for North Shore had asked a question of that length you would have directed her to resume her seat immediately.

Mr SPEAKER: Order! No point of order is involved.

Mr KNIGHT: I thank the honourable member for Bligh for her compliments on what has been done in the Olympics portfolio regarding accommodation, but the question she asked, which related to tenants, should have been addressed to the Minister for Fair Trading, or someone representing him. The Hon. J. W. Shaw, the relevant Minister, has been deeply involved in this matter; he sponsored a report and a range of consultations.

DRINK SAFE SURF SAFE CAMPAIGN

Mr GAUDRY: My question without notice is to the Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development. What is the Government doing to reduce the risk of alcohol-related drownings?

Mr FACE: The honourable member for Newcastle has taken a strong interest in surf lifesaving and the various aspects of summer recreation along the coastline of his electorate. Summer is almost upon us, and the Government is aware of the problem of people getting into difficulties when swimming at beaches and in other waterways because they have had too much to drink. Figures released recently by the Royal Life Saving Society show that beach drownings in New South Wales increased from 25 to 37 over the previous year's figures, and that half the number of adult drownings could be attributed to alcohol consumption. The figures also show that the increase in New South Wales was the highest of any State, that 85 per cent of those who drowned were men, and that young males are particularly at risk. Those drownings are a tragedy, and they are entirely preventable.

This summer the Government will support the most intense water safety campaign ever undertaken in New South Wales. The Premier recently announced the first stage of a State water safety

campaign which will target schools and backpacker hostels, beaches, lakes, rivers and other waterways. In addition to the water safety campaign, which will have a public awareness component as well as an aim of improving beach signage, last Friday the Government launched a statewide Drink Safe Surf Safe campaign. That program will be run by the Surf Life Saving Association in conjunction with the Government's successful No More It's the Law drinking program, which has been running for more than two years.

During the winter season, the Government ran a similar campaign which was highlighted by the Balmain Tigers and others associated with National Rugby League, which accepted that there were behaviour problems at some of its activities. This summer the combination of the Drink Safe Surf Safe campaign with the message of swimming between the flags is the best warning that can be given about safety in and around water. I commend the surf lifesaving movement for the energetic and enthusiastic support it has given to the campaign. When I first approached the Surf Life Saving Association, with which I have been actively involved for 37 years, I was told that the association would be happy to be involved in giving a good image to a good campaign. Over the years members on both sides of this House have been involved with the surf lifesaving movement and know about the excellent work that it does.

I pay tribute to Henry Scruton and Rhonda Terry, the President and Chief Executive Officer of Hunter Surf Life Saving and to Paul Smith, the Chief Executive of the New South Wales Surf Life Saving Association, for the part they played in launching the campaign last Friday and getting it under way throughout the State. In fact, the campaign was featured at the meeting last Saturday of the State council of the association. The Government also acknowledges the tremendous input to the Drink Safe Surf Safe campaign by our young ironmen and ironwomen, who are widely regarded as role models for young people in relation to matters such as responsible drinking. I thank particularly Joshua Blair and Ginaya Henare, two up-and-coming young performers from the Hunter who gave up their time last Friday to launch the campaign at Nobbys Beach.

Over the summer months the Drink Safe Surf Safe campaign will be promoted by the surf lifesaving clubs not only in the Hunter but throughout the State. My portfolio of gaming and racing will also promote the campaign throughout the liquor industry. I compliment the liquor and hospitality industry for their involvement. When the

harm minimisation strategy was introduced by the Carr Government, no-one would have thought that in three years we would have achieved the present level of reform. The community is exhibiting a commendable degree of responsibility towards the consumption of liquor and antisocial behaviour has decreased dramatically.

The program is an example of the co-operation of the various stakeholders in liquor accords throughout New South Wales. Recent figures show that the Taree liquor accord has led to a 65 per cent drop in incidents at licensed premises and a marked decrease in antisocial behaviour. Similar liquor accords are being put into effect in Young, Armidale and Newcastle; they have been successful in Dubbo and at various other locations. The Government hopes to make New South Wales beaches safer this summer. My colleague the Minister for Sport and Recreation is also concerned with waterway safety and the programs of her department will complement the work done in my department to promote the Drink Safe Surf Safe program and the message to swim between the flags. These relatively simple messages have a real potential to save lives in summer. In the interests of a safer summer for all we should remember, if we are going to mix water and alcohol this summer, we should do so only in a glass.

REGIONAL BUSINESS AND INDUSTRY INVESTMENT

Mr PRICE: I ask a question without notice of the Minister for Regional Development, and Minister for Rural Affairs. What is the Government doing to attract investment in regionally based industries and businesses?

Mr WOODS: The State Government is committed to encouraging and supporting private sector investment in regional New South Wales. There are some great industries and businesses located in regional New South Wales; they are the jobs engine room of country New South Wales. It is interesting to compare employment growth in Sydney, Newcastle, Wollongong, Gosford and Wyong with growth in the rest of New South Wales. Employment growth in the rest of New South Wales in the past three years was greater than it was in Sydney, Newcastle, Wollongong, Gosford and Wyong, an achievement that the Government is proud of.

Mr SPEAKER: Order! By interjecting, Opposition members may reduce the opportunity to ask further questions. Members who interject may waste the time of the House, as well as penalise themselves. I suggest they remain silent.

Mr WOODS: The figure is made more notable by the fact that growth in New South Wales is much more healthy now than it was under the coalition Government. Under the coalition, the gross State product of New South Wales was less than the national gross domestic product. It is now more than the GDP. New South Wales is doing better under this Government, and country New South Wales is doing much better. Research done by the Department of State and Regional Development shows that country-based businesses have less access to capital than city-based businesses. That means country businesses cannot grow as fast as they might like to, and they cannot create as many jobs as they would like to. The State Government wants to turn that situation around.

Mr Photios: This is riveting.

Mr WOODS: I will tell the House about the tour to four regional centres by 26 institutional investors and fund managers. The honourable member for Ermington does not find that very interesting. The Leader of the National Party does not seem to find it interesting. Only last week the honourable member for Orange, after we had toured Orange, had this to say about the potential of the Orange district:

I believe this potential has been recognised this week, with the visit of the Minister for Regional Development and by the fact that he was able to bring to our great city a group of financiers and developers who may be encouraged to invest in this area.

The group visited Orange, Dubbo, Grafton and the lower Clarence. In each centre participants visited local businesses, particularly looking at light engineering, agribusiness and tourism. The group also received briefings on key industry developments, including the State Government's carbon credits trading scheme. The inaugural tour had two aims. Firstly, the tour sought to give investors a chance to see at first hand some country-based businesses and industries. The tour participants represented leaders in the investment field. They included representatives from Westpac, the ANZ, the National Australia Bank, the Commonwealth Bank, the Australia Venture Capital Association—

[Interruption]

Someone yelled out "NorthPower". While on the tour I had the pleasure of launching the web site for Advance Energy. It is a first in Australia, and it is recognised by an independent report as the best web site for a utility in Australia and right up with the best in the world. Among those on the tour were

representatives of the Institute of Chartered Accountants, Mitsubishi Australia, the United States Consul General, Mr Richard Green, KPMG and others. Though many of them had not travelled to country New South Wales before, feedback received after the tour demonstrated that the investors had improved their perception of country New South Wales as an investment location—one of the main aims of the tour.

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

Mr WOODS: Whilst we in this place have to put up with him, the people in some small place will not have to put up with the village idiot. While country businesses seem to struggle to get finance to expand and to create new jobs, other research that the State Government has done shows that some of those country businesses offer investors some really good returns.

Mr Photios: Did Mr Whippy go with you?

Mr WOODS: I might tell the honourable member for Ermington that there is a great deal more to country New South Wales than Mr Whippy vans, which in any event are more likely to be found in the city. The second aim of the tour was to give country businesses a chance to meet at first hand some of the people who are able to help them raise capital. The State Government wants to achieve country business and industry growth through private sector investment. That is the key to jobs growth and to job creation in regional New South Wales. The Government believes that economic growth in country New South Wales is worthwhile, something that the National Party simply cannot come to terms with. I am pleased to say that in an interview on ABC Radio in the Northern Rivers yesterday Mr Barry Buffier, the national head of agribusiness for Westpac said:

From my point of view it was a very successful tour.

There's a lot of interesting developments in the aquaculture area. Seeing it face to face gave us an opportunity to see what is happening.

Carbon credits trading is an innovative development by the NSW Government and is creating a market. We're going to have to learn to operate with it—it's exciting stuff.

As well as enthusiasm from the tour participants, we have had great support from local government—Orange City Council, Dubbo City Council, Grafton City Council, Maclean shire, and plenty of enthusiasm from adjacent areas like Cabonne, Blayney and Ulmarra. This initiative is about partnerships—partnerships between industry

and the State Government, partnerships between industry and local government, and partnerships between investors and local businesses. In Orange I also launched a statewide regional investment profile. That sets out the investment opportunities in each region across New South Wales.

Orange has a quickly growing economy, not the least reason for which is the State Government's involvement through the country centres growth strategy. That strategy aims to bring strong growth to regional centres. I instance the assistance that is being given to open up the great Cadia mine, which represents a \$400 million investment. Assistance is also given in areas such as the western Riverina, where the Government stepped in with a whole-of-government approach, including the country centres growth strategy, that is assisting regional centres to grow strongly. As a reflection of the Government's achievements, employment growth in country New South Wales is now greater than it is in the greater Sydney area. The regional investment profile will be used to encourage Sydney-based, interstate and overseas investors to consider the benefits of country New South Wales. It will be used at venues like the business breakfast that I hosted not so long ago at the Country Embassy, where more than 100 prospective investors gathered to hear about the advantages of investment in country New South Wales. There are benefits to country New South Wales in getting this business: low staff turnover, more—

Mr Hartcher: On a point of order. When you were sitting humbly on the Opposition frontbench as the member for Drummoyne you took a point of order before Speaker Rozzoli about the length of answers and their relevance, and the deliberate time-wasting tactics allegedly being used by a Minister. I draw your attention to the time wasting, deliberate nonsense and total irrelevance of the Minister for Regional Development, and Minister for Rural Affairs.

Mr SPEAKER: Order! Earlier I advised the House that the Minister would be able to complete his answer more rapidly if members of the Opposition interrupted less frequently. Since I gave that warning the Minister has felt compelled on six occasions to respond to interjections. If he had not felt constrained to do so he would have completed his answer much sooner.

Mr WOODS: I will not keep the House much longer. When the honourable member for Gosford says that my answer is nonsense he is reflecting what the Liberal Party thinks of country New South

Wales. Members opposite are a lousy, miserable, sour lot! The Government is committed to using targeted and strategic interventions to boost industry growth and create new jobs in the country, and it is succeeding.

Questions without notice concluded.

BUSINESS OF THE HOUSE

Notices of Motions

Mr TINK: Earlier today I gave notice of a motion relating to a man named Brad Clifton. The surname should be "Carroll", not "Clifton". I seek the leave of the House to amend the motion of which I gave notice.

Mr Whelan: On a point of order. The honourable member for Eastwood has indicated that his notice of motion, which is serious as it relates to an armed robber by the name of Brad Clifton and castigates the Government, is incorrect. He is now seeking to change the surname of the person from "Clifton" to "Carroll", one hour after a person named Brad Clifton has been defamed throughout the nation. It is not only defamatory and offensive of the honourable member to name a person in the Parliament, but to get the person's name wrong indicates sloppy work on the part of the Opposition.

Mr SPEAKER: Order! What is the point of order?

Mr Whelan: I do not believe that the alteration the honourable member is seeking to make accords with Standing Order 148, which states:

To alter a notice of motion already given, the Member must hand in before the motion is moved, an amended notice which must not exceed the scope of the terms of the original notice.

I refer you to a ruling by Speaker Ellis on page 16 of *Decisions from the Chair*, which states:

Standing Orders provide that a member may alter the terms of a notice of motion as initially given provided such alterations do not exceed the scope of the original notice and are made prior to the day for which the notice has been set down for discussion.

Standing Order 148 and *Decisions from the Chair* relate to a point of substance. The alteration the honourable member is seeking to make is more than a point of substance; it goes to the issue of naming an individual in the Parliament. I have no objection to this matter being dealt with in the proper manner—namely, that the honourable member withdraw the notice of motion, expunge it from the

parliamentary record and at the appropriate time give an amended notice of motion. You cannot allow debate on a motion, of which notice was given only one hour ago, which clearly has an error because the person's surname is wrong. The notice of motion must be withdrawn and expunged from the parliamentary record, and at the appropriate time—I suggest tomorrow—the honourable member can give notice of an amended motion which he has certified as correct.

Mr Hartcher: On the point of order. Standing Order 148 clearly states:

To alter a notice of motion already given, the Member must hand in before the motion is moved, an amended notice which must not exceed the scope of the terms of the original notice.

Earlier the honourable member for Eastwood gave notice of a motion. He now wants to amend the motion before he moves it. There is a precedent for a motion to be amended at this stage. On 8 April 1997 you allowed the Leader of the House to move an amended motion, of which notice had been given, on a substantial and important point—the days and sittings of the Parliament. The Leader of the House was permitted within the framework of Standing Order 148 to move an amended motion of which notice had been given.

Mr O'Doherty: On the point of order. I refer you to *Decisions from the Chair* and rulings of Speaker Weaver and Speaker Kelly. Under Standing Order 148 they allowed a motion to be amended to accord with the known facts, such as the name of a convicted killer. The ruling on page 15 of *Decisions from the Chair* states:

If the terms of the motion are not in accordance with the facts as disclosed it is futile to allow debate thereon to continue.

On two occasions the motion was amended to accord with the known facts. Those established precedents go back to 1938.

Mr Whelan: Further to the point of order. The ruling of Speaker Weaver on page 15 of *Decisions from the Chair*, to which the honourable member for Ku-ring-gai referred, states:

If the terms of the motion are not in accordance with the facts as disclosed it is futile to allow debate thereon to continue.

This is a completely different matter. The answer to the problem created by the Opposition is for the honourable member for Eastwood to withdraw his notice of motion and to submit an amended notice of motion. He should not alter the motion of which

he gave notice only one hour ago. The motion is factually inaccurate and fundamentally flawed as the person's name is wrong.

Mr SPEAKER: Order! The first available opportunity for the honourable member for Eastwood to draw the attention of the Chair to the inaccuracy in the motion of which he has given notice was at the conclusion of questions without notice. I grant him leave to amend the motion by deleting the name "Clifton" and inserting instead the name "Carroll".

CONSIDERATION OF URGENT MOTION

Legal Aid for Foreign Nationals

Mr COLLINS (Willoughby—Leader of the Opposition) [3.19 p.m.]: This motion is urgent because taxpayers will fork out up to \$1 million to defend 18 foreigners who have been charged with importing Australia's biggest heroin haul. This matter is urgent because, according to the Legal Aid Commission's criminal law manager, Doug Humphreys, the commission cannot budget for this bill. This House should determine that the Legal Aid Commission should not have to budget for this cost. The people of New South Wales do not care whether the commission can afford to cover the cost of this legal representation bill; they do not want to pay for it in the first place.

If people want to come to this State and traffic in drugs and if they want to put at risk the lives of young Australians, they should pay when they get caught. Legal aid is for the people of this State who cannot afford lawyers; it is not for foreign nationals who come here to allegedly traffic heroin. The decision to provide legal representation could result in taxpayers either missing their day in court or waiting longer to get to court in the first place. The exorbitant waiting times for matters to come to trial in this State are already on public record. The Government must fix the problem. This motion seeks urgently to draw to the attention of the House and of this do-nothing Government the decision facing the Legal Aid Commission.

The Premier can cover the cost of the trial by negotiating with Canberra to cash in the assets of these alleged drug smugglers. After all, if they are organised enough to allegedly engineer Australia's biggest heroin importation, surely they could engineer their defence. Their financial backers can now pay their bills. If they can allegedly land the biggest heroin haul in this country's history, it is on

their heads to find the money to organise their legal defence. The cost of their legal representation should not come from the pockets of New South Wales taxpayers because it will deprive ordinary men and women receiving legal aid representation in day-to-day litigation in this State, which is thoroughly deserving in many instances.

Ordinary taxpayers will be denied legal aid because of the exorbitant costs that will be incurred with this massive court case. Those costs should be borne by the perpetrators. If the Premier allows this urgency motion he could ensure that the 18 accused drug runners share the services of their interpreters and lawyers so that taxpayers do not pay for those services 18 times. The people of this State have a right to know whether 18 sets of lawyers will be employed to run a case for foreign nationals who were caught allegedly importing heroin of an unprecedented scale. Interpreters cost \$127 an hour and lawyers \$2,135 a day and sharing the resources would be a more equitable solution.

If urgency is not granted to this motion the people of this State can expect only one thing: to cover those costs 18 times to run this extensive and undoubtedly elongated case. The Premier can fix the problem by a simple change in the law. I invite the Premier to introduce such a change in the remaining days of this parliamentary session. Legal aid funding should be available first to taxpayers who need it and then, and only then if funds permit, to foreign nationals charged with committing serious crimes in this country. Our first priority must be for justice for the taxpayers of this State.

[Interruption]

The honourable member for Auburn tries to plead the case for alleged foreign drug runners receiving legal aid. Bring on the debate. The people of New South Wales want the problem solved, not shelved. That is why this motion is urgent.

Mr Nagle: On a point of order. I ask the Leader of the Opposition to retract his remark.

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

Question—That the motion for urgent consideration of the honourable member for Willoughby be proceeded with—put.

The House divided.

Ayes, 44

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

Noes, 48

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

Pair

Mr Armstrong	Mr Iemma
--------------	----------

Question so resolved in the negative.

AUSTRALIAN GEOLOGICAL SURVEY ORGANISATION

Matter of Public Importance

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Land and Water Conservation) [3.34 p.m.]: I ask the House to note as a matter of public importance the proposal to hive off the land and water resources division of the Australian Geological Survey Organisation—AGSO—to another Federal agency. The newly re-elected Federal Government's proposal is causing a lot of disquiet among many natural resource managers in this country. The proposal to split AGSO into two portfolios in Canberra will, in effect, cost taxpayers up to \$2.5 million per year in lost services—services previously provided by the Federal Government. I understand the transfer is part of an administrative order published by the Howard Government after the 3 October poll.

Before I outline the manoeuvring taking place in Canberra, I shall refer to the creation of AGSO and to its place in the Australian research and development area. AGSO began its life in 1946 as the Bureau of Mineral Resources, Geology and Geophysics. It undertook the massive task of mapping the entire geological landscape of Australia. In other words, if it were not for the work of the bureau we would not now know the soils, the rock types and the structures of this unique continent. The bureau, renamed AGSO in 1991, also mapped all fault lines across Australia. AGSO monitors earthquakes, informs the public when an earthquake hits, measures the tremor on the Richter scale and develops ways to predict the next tremor.

AGSO led the way in offshore petroleum surveys, increasing investment in Australian petroleum and mineral exploration. In other words, AGSO is the primary geological research and survey agency for the whole of Australia. It has a key role in helping our resources-based industries to increase their competitiveness while pursuing the principles of sustainable development. The work of AGSO in land and water resources complements and often supplements the scientific work carried out by numerous State agencies, including the Department of Land and Water Conservation. In fact, AGSO provides technical support to our community-based river, groundwater and estuary management committees. Many of those committees were set up in recent times as a result of the Government's water reform packages.

AGSO also provides research for our major policy initiatives in acid sulphate soil management and for the New South Wales coastal policy. These issues are topical and prominent, particularly on the north coast of New South Wales where the Government has been committing millions of dollars to the management of acid sulphate soils. Our work has been assisted by the Federal agency now at risk. These committees are on the coalface of delivering our water reforms to overturn decades of degradation across New South Wales and helping our rivers to flow again. AGSO has only recently moved into a \$100 million complex in Canberra, housing some 500 staff of research scientists, and professional and technical officers. Before the recent Federal election AGSO came under the portfolio of the Department of Primary Industries and Energy, under the stewardship of the Hon. John Anderson, the previous Minister for Primary Industries and Energy. Ministerial swaps and handovers since the election have led to the proposal to move the water and land resource division out of the Australian Geological Survey Organisation and into a newly created Department of Agriculture, Fisheries and Forestry.

Approximately 50 land and water resource staff will move from AGSO's new complex, and will be cut off from AGSO's on-site laboratories and other research facilities. The remainder of AGSO, namely, the energy and minerals section, will be moved into the new Department of Industry, Science and Resources. I realise that this sounds somewhat complex, and it is its very complexity that concerns many in the natural resource management fields. It is my belief that intense negotiations are taking place in Canberra between the two departments and AGSO about the organisation's future structure, location, role and staffing levels. Several media outlets have found it almost impossible to obtain any information from the Federal Government about its plans for that crucial service.

The reason that the Government has chosen to debate this matter today as a matter of public importance is that the Federal Government's proposal puts at risk ongoing research and scientific data provided to the New South Wales Department of Land and Water Conservation. This issue has been raised often by the shadow minister for land and water conservation, who has attacked the Government on issues of access to monitoring and scientific data in relation to the Government's native vegetation clearing policies and water policies. The Federal Government—the Canberra counterpart of the New South Wales coalition—appears to be about to dismantle much of the service provided to the Department of Land and Water Conservation.

The land and water resource division of AGSO provides to New South Wales services estimated to be worth between \$1 million and \$2.5 million per year. The Department of Land and Water Conservation is yet to receive any assurances at a senior level that the services will continue to operate in the term of the current Federal Government. There is a concern that the land and water division will be moved to the Bureau of Resource Sciences, an agency concerned primarily with policy advice. The primary function of the agency is not hands-on work, on which the New South Wales Department of Land and Water Conservation has so depended for many years. The bureau has no track record on running field and laboratory research; it is a policy advice organisation.

Where will land and water resource officers carry out their experiments and research techniques? More importantly, will they be required to do so? Those questions are currently being asked in Canberra. They are being asked in several agencies at both Federal and State level. So far all we have from the Federal Government is silence. AGSO needs to be kept together. It has the purpose-built laboratories and field-science capabilities necessary for the requisite work. The skills demonstrated by AGSO are not available at short notice from any other source. Therefore, there are grave implications for not only the New South Wales Department of Land and Water Conservation but also the State budget. As I pointed out in my opening comments in this debate, New South Wales taxpayers could be faced with a cost of \$2.5 million.

Development of comparable skills elsewhere would take at least a few years and in some cases would take up to five years. The implications for this State and the management and ability of the Department of Land and Water Conservation to carry out water reforms and native vegetation reforms make it crucial that the services be retained at the Federal level. AGSO's services must be maintained at their present level for the next five years, otherwise there will be difficulty in delivering in those reform areas previously identified.

There is no net benefit in the States developing the activities in-house. That could well result in a duplication of effort and would probably mean a lack of consistent approach across Australia. Any reduction in research and technology activities within New South Wales would hamper this State's ability to remain ahead of other States in those areas. I call on the Federal Government to reconsider the move and to be open about its plans for the move. This Government would not be so concerned if the move were only a change in

administration at the Federal level, with the service provided to the State governments and State agencies being maintained. The problem is that the services are being moved to a policy advice agency rather to hands-on, on-the-ground service providers.

AGSO should remain as one entity, continuing to deliver services, research and leadership to the States and Territories in a tradition forged since 1946. The issues behind this Government's reforms in land and water and in science and modelling are crucial. Many people have been critical of some aspects of the Government's land and water reforms in the Murray-Darling Basin area. It would be negative for the Federal Government to move away from the hands-on service that has been provided. I call upon all members of the House to support this motion in order that we may get from the Federal Government a clear statement about what it is doing and whether the service worth \$2.5 million to this State will be maintained under the new administration. I commend this motion to the House.

Mr D. L. PAGE (Ballina) [3.46 p.m.]: This debate demonstrates that the Carr Government is running scared on the issue of the timber industry. At every available opportunity in the past three weeks I have moved for a debate on the timber industry as a matter of public importance. On every such occasion the Government has voted for debate on an alternative matter of public importance, preventing proper debate on the timber industry. This debate is the most recent example of that occurrence. I am not saying that the Australian Geological Survey Organisation is not worthy of debate, but it is bizarre that this issue, as opposed to the important issue of the forest industry, should be debated now. It indicates that the Carr Government is running scared on the issue of the timber industry.

The administrative arrangements orders issued by the Commonwealth Government on 21 October 1998 noted that matters to be dealt with under the Industry, Science and Resources portfolio included energy and resources science and research, including geoscience. Matters to be dealt with under the Agriculture, Fisheries and Forestry portfolio included water, soils and other natural resources. As a result of the above, AGSO was placed within the portfolio of Industry, Science and Resources, with the exception of its land and water geoscience activities, which have been assigned to the portfolio of Agriculture, Fisheries and Forestry.

The land and water geoscience functions of AGSO, which are estimated to involve approximately 40 staff, have been part of a broader integrated operation within the organisation and rely

on purpose-built laboratory facilities within AGSO's special purpose building located at Symonston in the Australian Capital Territory. I am aware that AGSO's land and water geoscience functions have been assigned to the Department of Agriculture, Fisheries and Forestry under the new arrangements. The Minister for Land and Water Conservation has questioned the decision that has been made and has implied that at the State level there will be some diminution in on-ground services. There has been no indication, in any advice to which I have been party, that that will happen.

The decision acknowledges the valuable geoscientific research and mapping work that AGSO has undertaken in recent years in land degradation and ground water quality, two areas of critical importance to the survival and sustainability of rural industries and local communities across Australia. The transfer of AGSO's land and water geoscience functions to the Agriculture, Fisheries and Forestry portfolio is fully consistent with the need to ensure that the Minister responsible for rural industries is afforded the best possible advice based on quality scientific and technical information.

Those who are providing advice on land and water—matters of great importance to the conduct of successful agriculture—are being brought under the Agriculture, Fisheries and Forestry portfolio. That move is very sensible. It is a question of targeting the advice to the most relevant portfolio. I agree with the Minister that there is a need for a strong scientific basis for resource management policies, and I have been critical of this Government on the grounds that it has allowed many policy decisions to run ahead of the scientific data available to make those decisions. In many cases decisions have been made without any regard to social and economic consequences.

The Federal Government's proposal to transfer this area of advice to the Department of Agriculture, Fisheries and Forestry is relevant. The Minister said that the cost to New South Wales taxpayers could be \$2 million, but he failed to substantiate that figure. Certainly, no information is available to me from the Federal Government that there will be any cost in the vicinity of \$2 million for the people of New South Wales as a result of lost research activities. Essentially the Federal Government's decision will split off part of an organisation and transfer it to a portfolio better suited to serve it. There will be no diminution in the amount of research and effort.

It is expected that approximately 11 per cent of AGSO's revenue in the 1998-99 year will come from the private sector or external earnings. An

organisation that has to rely more on external earnings and less on allocations from the Consolidated Fund should be in the best possible position to capitalise on the client base to be targeted by researchers. Why would someone in the private sector seek advice from the Department of Land and Water Conservation—which is agriculture for the most part—if there is a good scientific group of people working in geoscience functions in land and water?

I do not regard the decision as illogical. I do not want to waste the time of the House debating something which, in the scheme of things, is much less relevant than the bigger issue of what is happening with jobs in the forestry industry and the decisions that will be made by the Carr Government in the next few days—indeed, those that have been made during the past two or three years. It appears to me that this matter of public importance has been brought on to frustrate my attempts during the past three weeks to debate the important issue of timber supply and jobs in country New South Wales. We need to put in place a comprehensive and adequate reserve system and, at the same time, ensure that jobs are available in the timber industry.

I do not propose to speak further about this matter, except to highlight the fact that the decision has been made. There will be no dismantling or watering down of available services. All that will happen is that the services will be transferred from one department to a more relevant Minister and department. As I said before, if AGSO is to be in the private market and have more external funding of outputs, it is appropriate that it should be closer to the market that it serves. This motion has wasted the time of the House. For the past three weeks I have been trying to bring on a matter of public importance relating to the timber industry, but the Government has consistently refused to debate the issue.

Mr STEWART (Lakemba) [3.53 p.m.]: I strongly support the remarks of the Minister, and this debate is certainly not a waste of the time of this House. It is important that the matter should be debated and the public given the opportunity to know that this issue is very much at the forefront of the Government's concerns, because of its effect in regional and country New South Wales in particular. Since coming to office in March 1995, the Carr Government has implemented wide-ranging reforms in natural resource management. The Government's water reform package will ensure environmental biodiversity, protect the health of our river systems and, importantly, support the sustainable development of this State's agricultural industries.

Those reforms have not been undertaken in isolation; they form part of agreed national environmental objectives, such as those arising out of the Murray-Darling Basin Ministerial Council and the Council of Australian Governments.

The Government has established an unprecedented level of community involvement in decision making at the local level to carry out and monitor these important reforms. The Government is relying heavily on the scientific excellence and leadership provided by the Australian Geological Survey Organisation for the data to those community-based committees. The motion will focus on the needs of that organisation and the problems that will be incurred if the Howard Government has its way and splits up the organisation. The honourable member for Ballina said AGSO will not be dismantled. In effect it will be dismantled because, as the Minister has already pointed out, since 1946 AGSO has successfully represented the needs of scientific research fundamental to governments and communities.

The Howard Federal Government is hell-bent on dismantling the services provided by AGSO. That organisation also provides valuable technical support in other areas, such as vegetation mapping and methodologies that are essential for effective monitoring of native vegetation clearing. That, of course, complements this Government's native vegetation reforms. The basic underlying message is that AGSO has been working well and if it is not broken, why try to fix it? The Howard's Federal Government's intervention is certainly of concern. For those reasons, the apparent wrangling over AGSO's future home and structure is of great concern. The AGSO's land and water resources division has a proven track record in its support to State natural resource agencies including the Department of Land and Water Conservation. For well over 20 years AGSO has had an excellent working relationship with the New South Wales Government, based on the creation of joint teams to produce outcomes for New South Wales rural communities.

Conversely, AGSO is reliant on State agencies to provide ground support for the monitoring of water bore sites and access to water bore and soils data. The scientific community, including our own looks to AGSO to provide leadership and co-ordination in the areas of geoscientific research, standards and excellence. Clearly, any attempt to fragment AGSO and to dismantle its progress will have a detrimental effect on the major fundamental services successfully provided by AGSO. Today the honourable member for Ballina spoke about his

approach to this matter. He has obviously been briefed by the Howard Federal Government at short notice because he did not seem to be convinced of his own argument. He referred to what he thinks will occur, but he really has no idea what will occur.

Mr D. L. Page: Neither have you.

Mr STEWART: Honourable members must rely on past examples of fragmentation. AGSO has been working well and has successfully provided services, opportunities and research into areas that all governments have found it necessary to resource. It is naive to say the least for the honourable member for Ballina to state that the dismantling of a system that has worked well for so long will not have a detrimental effect on this State. I share the Minister's concerns about any proposal to fragment AGSO. I call on the Howard Government to rethink its ill-considered proposal, one which will have dire and detrimental effects on the performance of that organisation. The excellent performance of the Australian Geological Survey Organisation should not now be turned around.

Mr PRICE (Waratah) [3.57 p.m.]: I express my concern about the matter raised by the Minister. I support the retention of the Australian Geological Survey Organisation which was attached to the former Department of Primary Industry and Energy at a Federal level. The relocation of principal elements of that organisation to the Department of Agriculture, Fisheries and Forestry will not only cause distress but will also take out of context its primary function, that is, assistance in the area of petroleum exploration. Honourable members will be aware of existing leases on the New South Wales coast and inland that are potential fields for gas exploration.

They are important areas and the geological research support provided by that section of the Federal Government is invaluable. It is invaluable, not only to the Government of New South Wales but also to the private operators who provide the capital. Those who take the punt certainly reap the rewards, but they also risk losing substantial amounts of money. With a government-sponsored scientific organisation to support them, those risks are minimised and the nation's opportunities for new exploration and new mineral wealth is maximised.

I cannot understand the Federal Government's attitude. The assistance rendered to the New South Wales Department of Land and Water Conservation by the Australian Geological Survey Organisation has been of direct benefit to the water management committees.

I mention specifically the Hunter River Water Management Committee and its associated ground water group, which is doing excellent work in the lower Hunter region. I have applied for a water licence and am aware of the work done by water management committees. I am increasingly aware of the cross-fertilisation between the Federal and State agencies and the subgroups which have contributed to the success of the scheme. New South Wales has a potential water crisis, as does the remainder of Australia. I have no doubt that those organisations can promote a more caring attitude to water usage and guard the most valuable resource in western New South Wales. It is certainly a resource we need to take care of on the eastern seaboard, despite varying rainfalls.

The AGSO alliance with the Department of Land and Water Conservation has already been beneficial and any threat to that relationship will be detrimental to the State. The introduction of funding will impair that relationship, and also be detrimental to the opportunities that we have not only for rural and agricultural pursuits but more specifically in the exploitation of mineral wealth, particularly oil and gas. The opportunity to increase our involvement in oil and gas exploration will be of benefit to the community of New South Wales.

The Treasurer spoke at length, with some justification, as did the Premier of Victoria, about the unequal distribution of taxation collected from New South Wales and Victoria and its distribution to the poorer States. They are not necessarily "poorer" States. Some States that receive significant additional tax as a result of the New South Wales-Victoria disproportionate distribution are in their own right extremely advantaged in mineral wealth. Leave AGSO alone; let it get on with its job; let our water committees work closely with it and benefit agriculture, mineral exploration groups and the corporations that finance them. I agree with the Minister's comments and look forward to this House's support of the matter of public importance.

Mr BECK (Murwillumbah) [4.02 p.m.]: I place on record my support for the shadow minister, the honourable member for Ballina, who will become an honourable Minister next March in the Collins-Armstrong government. His contribution clearly spelt out that the Federal Government is not dismantling this organisation or hiving it off, but is transferring it to another ministry. There will be no loss of services. This is a bit of a beat-up by the State Government. The honourable member for Ballina has tried on many occasions to bring on a matter of public importance relating to the forestry industry, but the Government does not want to speak

about it. If we were to get down to the nitty-gritty and allow the forestry debate to take place, as suggested by the honourable member for Ballina, we may all be better off. I support the honourable member for Ballina and hope his comments will be taken on board by honourable members.

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Land and Water Conservation) [4.04 p.m.], in reply: I thank the honourable member for Ballina, who led for the Opposition, and the honourable member for Murwillumbah, who supported him, for their contributions. I also thank the honourable member for Lakemba and the honourable member for Waratah, who supported the Government. I am pleased that the Opposition has received a briefing note or fax from the Federal Government to assist it in this debate. Since the Government gave notice of this matter, only some hours ago, the Opposition has received more advice than most agencies around Australia, and certainly more than the bureaucracies in Canberra.

I highlight the comments of the honourable member for Murwillumbah, who referred to notes, that there may be a change in the administration of AGSO in Canberra but that there will be no loss of services. That is an important aspect and that is what the State Government and its agencies have been trying to ascertain. I repeat his statement that, "there will be no loss" of on-the-ground services that AGSO has traditionally provided to various State governments and, through them, to the various organisations that depend on that research. The Opposition seems to think that this issue, which will cost New South Wales taxpayers up to \$2.5 million, has been raised in an attempt to avoid a debate on forestry. I found that comment quite interesting.

The forestry debate and the national parks debate have been raging for some time. It is hard to imagine the Opposition putting anything on the record, during a matter of public importance, that has not been covered in the media. The Government certainly would not seek to avoid such a debate because not only is it establishing larger national parks than it promised before it was elected to office, it is doing so while securing a sustainable forestry industry, which has received the support of all involved industries. Why would the Government avoid a debate about something that conservationists and forestry people support? There is no reason; that argument does not hold up. The honourable member for Ballina said that the Government has not justified the costings of this organisation. Those costings were provided by the Department of Land and Water Conservation and the estimate of the

work provided by AGSO is of the order of \$2.5 million per annum. That is money that the New South Wales taxpayers would have to pay because the great work supplied by AGSO would be replaced.

If AGSO moves out of on-the-ground research, the Government would have to pick up the tab. The estimated cost for that is up to \$2.5 million per year, but it changes from year to year. The Government is not concerned that the division may move to the new Department of Agriculture, Fisheries and Forestry. That is not the major issue. My concern is that the division will be transferred to a policy advice unit, not to a service provider as has been the case in the past. That is the crucial issue; not which department or Minister administers the organisation. I am concerned that the Department of Agriculture, Fisheries and Forestry does not do the field work, the on-the-ground work, that is crucial to State government agencies in land management and water reform management. That work will have to be done by the New South Wales Government and every other State government should this organisation become only a policy advice unit.

I thank the honourable member for Lakemba who said that this work is crucial to decision-making in regard to native vegetation and water reforms, about which I have already spoken. It is shallow for the Opposition to attack the Government and to ask questions from time to time about the modelling and science of water reforms and land management. The Opposition stood idly by, twiddling its thumbs, while the Federal Government pulled out of the very work that we depend on to make these decisions. I thank the honourable member for Waratah for his continued support of natural resource and rural matters. He highlighted the work done in the Hunter catchment by the management committee and many reasons why organisations such as the Hunter management committees need this sort of research work to be carried out.

I acknowledge the contributions by Opposition members who highlighted the fact that they have received a briefing from Canberra that there will be no loss in services. No public statement has been made to confirm that. I assume that that was a late decision by the Federal Government, faxed to the State Opposition, so it could be placed on the record of this House. I thank all honourable members for their contributions. This is not really a political debate, but the Opposition should be able to advise where the services previously provided to the State Government from AGSO will go in the future.

Discussion concluded.

LAW ENFORCEMENT AND NATIONAL SECURITY (ASSUMED IDENTITIES) BILL

Bill introduced and read a first time.

Second Reading

Mr WHELAN (Ashfield—Minister for Police) [4.11 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Law Enforcement and National Security (Assumed Identities) Bill. As honourable members of this House know, criminals are becoming smarter and more dangerous all the time. They are prepared to go to extraordinary lengths in the pursuit of their nefarious activities. The Carr Government is pulling out all stops to give police and other law enforcement agencies the powers and the tools they need to do their job. This includes giving them the means to fight criminals on their own dirty turf. The Law Enforcement and National Security (Assumed Identities) Bill is designed to provide an essential tool for law enforcement and national security agencies to conduct investigations and operations. Broadly speaking, the bill provides for the authorisation and acquisition of assumed identities, including relevant documentation, for use by law enforcement and national security officers in the course of their duties.

The Royal Commission into the New South Wales Police Service recognised that the use of assumed identities is essential to the success of some types of investigations, including, but not restricted to, undercover operations. Justice Wood's recommendation in his final report was that legislation be enacted at State and Commonwealth levels to permit the creation and use of assumed identities in law enforcement. The royal commission final report also pointed to the need for greater accountability in response to demands from the courts who are more actively scrutinising evidence presented and the methods used to obtain it. This Government is not prepared to settle for a system where law enforcement agencies have to conduct operations on a nod and a wink, or on a gentleman's agreement. Agencies need to conduct operations using assumed identities. But as the royal commissioner made very clear, a system for their issue and use is needed.

This bill implements the royal commission's recommendation in New South Wales and also introduces appropriate accountability mechanisms. The rationale behind the legislation is to ensure that

law enforcement investigations and national security operations are as effective as they can be, and that the officers who conduct them are adequately protected in their personal and professional lives. As I have already mentioned, the bill is an important initiative in the fight against crime. It will permit law enforcement and national security officers to obtain documentation such as drivers' licences and credit cards in assumed names and to use them in the course of their official duties. The system will be a regulated one. Law enforcement officers will not be able to get documentation at their own discretion. The bill will permit the chief executive officer of an authorised agency to approve the acquisition of documentation to support an assumed identity and the use of this documentation by one of his or her officers for law enforcement or national security purposes.

The number, type and duration of documents is not restricted. Approvals can be varied in order to respond to operational developments as they occur, or revoked when no longer required. An approval can relate to more than one assumed identity. In New South Wales, agencies that will be able to use the proposed legislation are the New South Wales Police Service, the Independent Commission Against Corruption, the New South Wales Crime Commission, and the Police Integrity Commission. Commonwealth law enforcement and national security agencies also need to use documentation in assumed names in the course of their duties. It is, therefore, important that they obtain these documents as part of the newly regulated system, and that they comply with the accountability arrangements that this Government is putting in place.

It is a prerequisite that participation by Commonwealth agencies will depend on their demonstrated capacity to comply with the accountability mechanisms set out in the bill. To ensure this and to allow time for any necessary negotiations with the Commonwealth Government, Commonwealth agencies will be prescribed as authorised agencies by regulation. Commonwealth agencies that may be prescribed under the legislation will be restricted to the Australian Federal Police, the National Crime Authority, the Australian Security Intelligence Organisation, the Australian Secret Intelligence Service, and the Australian Customs Service. The inclusion of the Commonwealth agencies will not be a one-way street. Obviously, officers of New South Wales law enforcement agencies sometimes require access to documentation such as passports and tax files numbers in assumed names—documentation which is issued by the Commonwealth.

The Government considered this matter so important that the Premier wrote to the Prime Minister seeking an intergovernment approach and Commonwealth legislation. The safety of law enforcement and national security officers, and the security of the investigations and operations that they conduct are paramount. The bill, therefore, permits the chief executive officer to authorise whatever types of documentation are necessary to ensure the successful outcome of any investigation or operation. Typical supporting documentation includes drivers' licences and credit cards. However, many other different types of documentation may be required depending on the type and extent of an investigation.

In some operations, the type of documentation required will depend on the activities that need to be carried out. In others, it will depend on the officer's role, for example, conducting surveillance. When an authority is granted, the officer to whom it applies may go ahead and acquire all the relevant documentation he or she needs, or just one or two documents depending on operational requirements. Law enforcement and national security officers will be able to approach any issuing agency in New South Wales. This includes any public or private sector agency that issues licences or any other kind of documentation that can be used to establish the holder's identity. Examples of issuing agencies include the Roads and Traffic Authority for drivers' licences and vehicle registration, and the Department of Fair Trading for business names.

All government bodies that issue documents that can be used to establish identity are authorised and required to comply with the legislation. Private bodies are authorised but they are not required to comply with the legislation. However, there is a strong incentive for them to do so. Compliance will give private issuing agencies the same protections from liability as their government counterparts. Specifically, the authorising agency, not the issuing agency, will ultimately be responsible for all liabilities incurred by law enforcement or national security officers in the course of acquiring and using an assumed identity.

Assumed identity documents must appear normal and officers must be able to use them as if they are real. Therefore it is important to remove any offences that might otherwise attach to their authorisation, issue or use. This includes, but is certainly not limited to, such things as making false or misleading representations or creating false or misleading records of any kind. Specifically, the bill ensures that anything regarding the acquisition,

provision, or use of assumed identities that is done in good faith by officers of an authorised agency or an issuing agency is not unlawful and does not constitute an offence or corrupt conduct.

From time to time a law enforcement or national security officer may need an assumed identity that is untraceable. This is because criminals are capable of going to extraordinary lengths to identify someone they believe is a law enforcement or national security officer, and to seek them out at work or at home. For this reason the bill also provides for the issue of false birth certificates that can be used to obtain other documentation in an assumed name. This is a powerful tool and one that can only be obtained following an application to the Supreme Court. The chief executive officer of an authorised agency may apply to an eligible judge of the Supreme Court for an order authorising the Registrar of Births, Deaths and Marriages to make an entry in respect of a law enforcement or national security officer. The test of an application to a Supreme Court judge is considered sufficient to deter any unnecessary applications.

The bill introduces appropriate accountability within each authorised agency. For example, the chief executive officer must ensure that a record is kept of all the authorities that he or she grants for assumed identities. The record must include details sufficient to create an audit trail so that any inappropriate use of an assumed identity can subsequently be detected. Officers who misuse an assumed identity will be subject to the existing disciplinary system of their agency, and to criminal prosecution for any offences committed such as fraud. The record must be independently audited every 12 months and the results are to be reported directly to the chief executive officer.

There is to be external as well as internal accountability. The annual report of each authorised agency must include a statement of the number of assumed identity approvals granted, varied or revoked; the general nature of the duties to be undertaken by officers when they use assumed identities; and any fraudulent or other criminal activity detected during the annual audit. The statement in the annual report must not include any information that, if made public, could put law enforcement and national security officers, or anyone else, in danger. As it is essential to protect law enforcement and national security methodology and any current or proposed investigations and operations, any information that might prejudice these must also be excluded from the annual report.

The bill recognises that investigations and operations that require the use of assumed identities

can be dangerous. Protections for law enforcement and national security officers, and operations, are needed at every step in the criminal justice process. For this reason, the bill makes provision for the courts to grant that officers may give evidence in private using an assumed name or a code name, and to suppress any evidence that might disclose that officer's real identity. A breach of the suppression order is punishable by a fine or 12 months imprisonment, or both.

The bill also makes it an offence for any person to directly or indirectly disclose any information relating to the provision of documentation in assumed names or to relevant records. The safety of officers and the integrity of investigations and operations is a serious matter. Breaches of the non-disclosure provision will therefore attract a maximum penalty of imprisonment for five years. The bill includes a power of delegation. The chief executive officer of authorised agencies may delegate functions to a person holding or acting in an office prescribed by regulation.

In the case of the New South Wales Police Service, which conducts by far the most investigations in this State, delegations may be prescribed for up to four positions in addition to the Commissioner of Police. Delegates must be at or above the rank of superintendent. For all the other authorised agencies, there is provision for one delegation in addition to the chief executive officer. Finally, the bill calls for a review of the legislation after 12 months to determine whether the policy objectives remain valid and whether the provisions are appropriate for achieving them. The results of the review are to be tabled in Parliament. I commend the bill to the House.

Debate adjourned on motion by Mr Beck.

DRUG COURT BILL

Second Reading

Debate resumed from 27 October.

Mr KINROSS (Gordon) [4.23 p.m.]: I lead for the Opposition on the Drug Court Bill. The Opposition will not oppose the bill, the objects of which are set out clearly in the explanatory note and overview. However, the Opposition is concerned about the Government's failure to encompass alcohol, drink driving generally and resources in this legislation. One object of the bill is to establish a Drug Court of New South Wales. The Opposition does not object to that; indeed, it is a good idea from the perspective of the community. As a

barrister I support any attempts to enable people to understand more easily the system by which drug offenders are tried. If that involves establishing a separate mechanism for the sentencing of drug offenders, as this bill does, and more attention is directed at their plight, that is welcomed. Currently, the courts are very congested, and need increased resources and educative programs. The further objects of the bill are:

(b) to establish a scheme under which:

- (i) drug dependent persons who are charged with offences (other than certain offences involving violence or the supply of drugs) can be referred to the Drug Court on indicating that they intend to plead guilty, and
- (ii) the Drug Court can direct into drug programs such of the persons so referred as meet specified criteria for acceptance into drug programs, and
- (iii) drug dependent persons accepted into drug programs are subject to supervision by the Drug Court, and to rewards and sanctions imposed by the Drug Court, in relation to their compliance with certain conditions, and
- (iv) the Drug Court is required, when a person's drug program ends, to reconsider the sentence imposed on the person before the program began.

The administrative arrangements that currently apply to certain drug offences tried before magistrates and judges will be co-ordinated in this bill. I have often said that the Local Court deals with an enormous number of drug offenders and drug programs. The Opposition strongly believes that the proposed scheme should be extended to all courts and all forms of addiction. The drug court scheme will be successful only if sufficient resources are allocated to all levels of treatment. As a member of the Committee on the Office of the Ombudsman and the Police Integrity Commission I have expressed concern that the scheme will amount to nothing if the proposed reforms and amendments are not given sufficient teeth in terms of resources and people to assist drug-dependent persons.

We have a long way to go to ensure that people can call on these programs. I know Brian Watters personally, as does the honourable member for Baulkham Hills, and the fantastic work he does for the Salvation Army. More than 40 per cent of the Salvation Army's work relates to alcohol dependency. The Government must recognise that alcohol is a drug of dependency. Paul Dillon and various agencies, including the drug and alcohol agency, constantly reinforce the fact that alcohol is a major drug in the community, together with nicotine and other harder drugs.

Clearly, the provisions of the bill need to be extended to encompass alcoholics. Unless the Government intends to amend the definition of "eligible person" in clause 5(1)(d), alcoholics and other persons as prescribed in regulations will not be caught by this bill. The Salvation Army and other welfare agencies have taken that important issue on board. These provisions should also apply to drink-driving offences. Although people who drink and drive are probably encompassed in the definition in clause 5(1)(d), when a drink-driving offence involves serious injury to a person other than the driver consideration should be given to applying the provisions in this bill, especially as the sentence needs to match, as required by the public, the consequences flowing from the drink driving. If included, those provisions would strengthen the bill. The Opposition does not oppose the bill. The new Drug Court will send a clear message to the community that the taking of drugs and drug addiction are unwelcome in our community.

Ms MEAGHER (Cabramatta) [4.30 p.m.]: I am pleased to support the Carr Government's Drug Court Bill. The bill will establish the first drug court program in Australia, thus providing a real alternative to the vicious cycle of drug dependency and crime which destroys so many lives daily throughout our State. The establishment of the Drug Court is a bold initiative that will give a second chance to drug-dependent offenders who seek help. The Drug Court will create an environment in which offenders will have the choice of continuing a crime and punishment cycle or breaking that cycle in favour of monitored rehabilitation. The potential success of the Drug Court is based on the commitment of the Government to the long-term welfare of the community. The community will benefit far more from the permanent cessation of an addict's motivation to commit crime than by its temporary suspension during incarceration.

Drug courts emerged from the United States of America in the 1980s in response to calls for long-term solutions to reduce drug-dependent criminal behaviour. At that time the United States of America was beginning to suffer the symptoms of the increasingly frequent drug-related problems that now confront us so visibly on a daily basis in suburbs such as Kings Cross and Cabramatta. As with large American cities, Australian cities such as Sydney suffer various pressures that strengthen the need for new methods to tackle the drug menace. Those factors include the increased numbers of drug users and associated property crime, the higher rates of incarceration that have led to prison overcrowding and the need to spend more money to build bigger and better prisons.

Furthermore, recidivism amongst drug abusers is relatively high. Although many go cold turkey when they are imprisoned, often they leave prison with an elevated craving and few social and welfare options to steer them away from criminal activity. The courts also suffer increased workloads and police are increasingly tied down in a sometimes frustrating effort to suppress the illicit drug trade and associated criminal activities. Those well-known factors have resulted in increased public pressure to reduce drug-related crime. It has been estimated that the number of heroin users in New South Wales is in excess of 200,000. That is a frightening figure and to some extent explains the high incidence of property crime. Although not all heroin users conform to the stereotype of a petty criminal, authorities estimate that the proceeds from as much as 80 per cent of theft are used to pay for drug addiction.

For some time it has been clear that although a massive increase in police resources and tougher legislation will reduce the visibility of the drug problem and the incarceration of addicts, those measures will not provide a long-term solution to the core problems. The Carr Government has increased police resources in Sydney hot spots such as Cabramatta. It has also created new paths to solutions for the problem of illicit drugs in our community. The Carr Government has amended the law to make it easier for police to arrest drug dealers and those who peddle stolen goods. It has also improved education and health services for young people and addicts who seek treatment for their addiction.

The Carr Government's innovative police management project in Cabramatta has resulted in significant decreases in crime levels on Cabramatta's streets and resulted in employment, education and training opportunities for young people in Cabramatta. The Cabramatta project heralded a new phase of co-operation and consultation between the State Government, Fairfield City Council, service providers, community groups, local business people and residents. The Drug Court is the latest initiative of the Government to reduce the burden of the illicit drug trade on our community. Drug courts focus on treatment, rehabilitation and reducing recidivism.

The Drug Court, which will be located in Parramatta, will commence operation on 2 February 1999 and will offer drug-dependent offenders the choice of gaol or rehabilitation. The location of the Drug Court will enable it to provide a range of treatment facilities for offenders. Although the threat of imprisonment may seem like an irresistible incentive to choose any other option, drug courts are

not an easy option for offenders. A conviction and short prison sentence is less intrusive and would be more attractive to someone not interested in rehabilitation or an extended treatment program involving regular supervision and follow-up treatment.

The two-year pilot program for the New South Wales Drug Court will select the best ideas and processes from more than 400 drug courts that have operated for almost a decade in the United States of America, where experience has found that the more elaborate drug court models that focus on regular assessment and treatment are the most successful in treating recidivism. The success of the program relies on utilising education and vocational services as well as detoxification and counselling. The success of the pilot program will, therefore, rely also on the expansion of the size and availability of drug treatment services. The Carr Government's commitment to the Drug Court program is a clear signal that those services are an essential and integral part of its comprehensive strategy to fight the illicit drug trade.

Drug courts are more expensive than traditional courts, but they reduce the overall cost of drug addiction to the community by reducing recurrent imprisonment and health-care costs. Drug courts will be difficult to implement initially. If they are to work they will require co-operative arrangements between the judge, the prosecutor and the defence as their objectives are wider than those of the criminal justice system. Drug courts will also need to allow for failure and to be flexible enough to include offenders who may relapse into addiction. Despite that, sooner or later there will need to be a clear and measurable monetary or social benefit from the program that will refute the inevitable backlash from its failure rate.

A comparison of costs would seem to indicate that the traditional court process is much cheaper than identifying, referring, monitoring and treating drug users. However, the cost-benefit analysis for the Miami drug court program indicated that for every \$1 spent on drug courts approximately \$7 is saved elsewhere in the criminal justice system. A study of the Oregon Drug Court over a two-year period found that graduates had a re-arrest rate of seven per 100, compared to 29 per 100 for a comparative group. In a 1997 report to the United States Government, client tracking at the end of the first completed year of treatment imposed by the Drug Court showed that in Ohio arrests were down 90 per cent; in Hawaii, 87 per cent; in Florida, 82 per cent; in Texas, 80 per cent; and in California, 60 per cent. In Oregon \$83.1 million in avoided costs

was saved and in Iowa the figure was \$87 million. Impacts of that size on subsequent arrests and on reducing costs associated with continued criminal behaviour and drug abuse cannot be ignored.

I am sure many people will watch the pilot Drug Court in Parramatta closely. If it is able to achieve, in its first two years of operation, anything like the results achieved in the United States it will have proved to be a worthwhile experiment. Although I would like to conclude my remarks on a positive note, I realise that it is important to remain level headed when confronting such important issues. The Drug Court program is too important to be jeopardised by the making of unrealistic promises that cannot possibly be fulfilled. Drug courts have achieved some measure of success but they have not always been successful. There is also a real possibility that a policy or system which may be effective in one part of the world may not succeed here. However, we must try. We are committed to the success of the problem and we have a responsibility to the community to find solutions to social problems. There are few more visible problems in our society than drug dependence, and the trade in illicit drugs and its associated criminal activities. I congratulate the Government on this bold initiative. I commend the bill to the House.

Mr FRASER (Coffs Harbour) [4.38 p.m.]: I support the Drug Court Bill but I do so cautiously because I do not believe the necessary resources are in place to provide the rehabilitation and detoxification programs needed to make the project work. As chairman of the National Party committee on drug issues I have been heavily involved in examining the drug problem in our society. The committee has determined the basic issues that need to be considered. The first is detoxification. At present the methadone program appears to be at the top of the heap in relation to the treatment of heroin addiction. The Premier initiated some experimentation with regard to naltrexone treatment. However, he was forced into that, and I believe the Government does not want the naltrexone treatment to succeed.

The rehabilitation of people who go through programs is not followed up closely enough. The programs in place do not enable addicts to be closely monitored for a long time, ensuring they remain drug free. The explanatory note of the bill says that the Drug Court can direct into reform programs such persons so referred as meet the criteria for acceptance into the programs. The Commissioner of Police has stated that crime generated by drug use in New South Wales is costing the public \$1.6 billion per annum. That fits

with some estimates that up to 70 per cent of property crime and assaults in New South Wales are committed by drug addicts. This legislation will not work if we do not have rehabilitation and detoxification programs. Estimates have been put forward that there should be a centre for rehabilitation and detoxification for every 80,000 persons in New South Wales.

However, there is no such centre on the far north coast of New South Wales. Between Newcastle and the Queensland border there is no real rehabilitation or detoxification program. There are methadone programs but, as I have said before, those programs are singular in their use and they do nothing for people who are addicted to marijuana. Contrary to what some people in society would have us believe, people are addicted to marijuana. Such an addiction is obvious when one sees the state of some of the people wandering the streets of Nimbin. Recently the Special Broadcasting Service televised a program about drug use in Nimbin and other country areas. It showed people on one side of the town who were addicted to heroin and people on the other side of the town who were addicted to marijuana, and they fought amongst themselves. There is no real rehabilitation program for these people who get on the merry-go-round and cannot get off it.

I also bring to the attention of the House the lack of drug education programs in this State. When one buys a bottle of alcohol or a carton of beer one finds warning signs in the shop and on the bottle or carton about what could happen as a result of excessive use. Each packet of cigarettes carries a warning such as "smoking can kill", "smoking causes lung cancer", "smoking causes heart disease", "your smoking can harm others" and so on. However, nothing in the public arena says that people should not use hard drugs. I see a quizzical look on the face of the honourable member for Cabramatta. The harm minimisation programs in schools say, "If you use drugs, make sure you use a clean needle" or "If you use drugs, make sure you do not share needles." That is nonsense.

We need a hard-hitting education program that tells people exactly what is going on, that reflects the statements of the Commissioner of Police that \$1.6 billion worth of crime in this State is related to the drug industry. Positive programs need to be put in place, together with this legislation. I support the approach being taken with this legislation but if 70 per cent of the cases before the courts are drug related 70 per cent of our courts are already drug courts. However, they do not have the programs and they do not, and will not under this legislation, have

the opportunity to refer people to appropriate programs. Addicts need to be treated as victims, just as much as the people who are affected by the addicts. Addicts need to be given the opportunity to get off the merry-go-round but the Government must be serious about putting resources into rehabilitation, detoxification and education programs.

Mr Windsor: You cannot get methadone in Tamworth.

Mr FRASER: One can get methadone on the north coast, but a lot of people do not want methadone clinics on the north coast because they perceive that they attract the wrong people. I do not think methadone is the be all and end all. I would like to see other avenues followed, principally detoxification. Methadone is not working in the wider community because it is more addictive than heroin. If these issues are not seriously addressed this legislation is doomed to failure. Adequate resources must be put into this new court at Parramatta which is to be the guineapig for the scheme. As soon as the necessary resources can be quantified, those resources should be put into all major regional centres and throughout the metropolitan area.

As I said, it is estimated that a rehabilitation and detoxification unit is required for every 80,000 people. That means one would be needed in Murwillumbah, Ballina, Lismore, Grafton, Coffs Harbour, Kempsey and Port Macquarie, let alone the western areas of New South Wales. This hideous problem of drug addiction is causing havoc not just in Kings Cross and Cabramatta. I face identical problems as those faced by the honourable member for Cabramatta in Coffs Harbour. The people in Coffs Harbour probably see the problem a little more because it is happening in our mall, right under our noses, and it is a small community compared to Cabramatta. This problem really does affect the community.

In the past 10 days Ansett has announced that it will put needle disposal bins in aeroplanes. Such action does not address the problem of getting drugs out of society. Some people believe that we should have free heroin clinics. I do not agree with that proposal either. We need rehabilitation, detoxification and education. One also sees syringes on the XPT. It is ironic that people who travel on the XPT and on Ansett flights are not allowed to smoke and that their cigarette packets carry warnings, yet needle disposal bins are to be installed. I witnessed a situation between Coffs Harbour and Sydney when someone affected fairly savagely by drugs had to be put off the plane. The

flight had to be stopped and the person was taken off because of the problems that person was causing. If needle disposal bins are placed in aircraft and trains it will encourage people to shoot up on planes and trains—but people are not allowed to smoke on them! That is hypocrisy.

Mr Tripodi: What is the point?

Mr FRASER: The point is that education programs in this State warn people about alcohol and cigarettes but they do not warn people about drugs—in fact, it is pseudo-encouragement to put syringe disposal units on planes and trains.

Mr Tripodi: Is that right?

Mr FRASER: Of course it is right. Providing disposal bins may stop needlestick injury for kids, but it is amazing how diabetics can safely dispose of their syringes. Drug addicts cannot do this because once they get their hit they are off on another planet, in their own little world. I suggest that a needle disposal bin on an aeroplane or on a train will not ensure that needles are disposed of properly. People affected by drugs will allow the needles to fall out of their arms or they will throw them anywhere. The Government has not attacked this problem well enough. This legislation is window dressing unless it includes the necessary programs.

The Government should not be spending money to keep people incarcerated; it should be spending money to provide people with rehabilitation, detoxification and education programs, and with assisted employment. Such measures would go a long way to address the problem. It would be better than installing a needle disposal bin and saying that the problem has been solved. It has not. Yesterday I was at the Far West Children's Home at Manly. It is a tremendous organisation and it had a lovely sandpit. The sandpit had to be pulled out and replaced with a playground costing \$9,000. Why? Because the sandpit was being filled with syringes that people were throwing over the fence.

That is not drug education. That is saying to these people: we accept you have a problem but we are not going to help you get over it. Resources are needed for these programs. I ask the Government to be serious and not just window dress. It needs to establish comprehensive programs that will assist our generation and will assist the kids who are hooked on these hideous substances. That will go a long way towards resolving the problem, keep these people away from gaol, treat them as victims and give them the support they need. I commend the legislation but I ask that the Government listens to the appeal for greater resources.

Dr MACDONALD (Manly) [4.50 p.m.]: Today the House has witnessed a remarkable transition in that the honourable member for Coffs Harbour has acknowledged the need to deal with people who are drug addicts in a more humane way. Rather than those people being incarcerated in gaol, they should be treated as human beings who are in need of help. I congratulate the honourable member on finally beginning to move towards a more humane position. As the honourable member for Coffs Harbour and other honourable members have pointed out, there is great concern about the level of crime associated with drug abuse. It would appear that there is a high level of property crime in particular associated with drug abuse.

It seems to me, however, that previous speakers in the debate have somewhat missed the point. The reason that drug addicts have to resort to crime relates to prohibition. It must be argued that law enforcement based on prohibition has failed completely. Each year a very large sum of money—this year it could well be in excess of \$404 million—is spent on the implementation of prohibition. All that does is drive people towards crime. That is the very basis of the bill now before the House. In the face of prohibition any attempt to implement proper health measures works only around the edges. Due to the effects of prohibition, health measures cannot access the real needs. There is a public health case for the liberalisation of drug laws, although that case has so far fallen on deaf ears.

I support this bill. Although several concerns have been raised by previous speakers in the debate and by experts in this field, this bill starts to view drug abuse as a problem amenable to treatment not within the criminal justice system but within the context of rehabilitation. The bill recognises the need for an opportunity to rehabilitate drug addicts rather than incorporate them into the corrective services system, in which they are often further abused and their habit is probably further perpetuated. Finally people are listening and recognising that those unfortunate people who are drug abusers need access to the medical model rather than the corrective services or criminal justice systems.

This bill is a good step in the right direction. It sets down clear eligibility criteria for entry into the Drug Court program. It creates a court that provides the prospect for offenders of rehabilitation and treatment rather than that of sentencing within the criminal justice and corrective services systems. There are concerns associated with this bill, based

on the fact that even now those who wish to enter rehabilitation programs voluntarily face difficulties in accessing the programs. There is concern that people might be forced to commit crimes in order to enter treatment programs, and there is a question about whether resources will be adequate and whether treatment is likely to be long term.

It must be remembered that in the past three years under the Labor Government funding for rehabilitation programs has decreased by some \$4 million. Is it a coincidence that a sum of \$5 million has been allocated for the Drug Court program? That sum is completely inadequate. People have asked how the program will be evaluated and who will evaluate it. Those who are taking a keen interest in the matter also raise concerns about the difficulties that may be created with legislation of this sort at the interface between the custodial and health cultures. One good aspect of this legislation, which I welcome, is that probationary officers rather than therapists will assess any deviation from the Drug Court program. That is important for confidentiality and so that there is no conflict on the part of therapists.

I welcome the provision of graduated sanctions. That is a realistic move. If people slip in their treatment, the sanctions will be appropriate. Victoria is examining other approaches to this problem and is considering ways of dealing with these matters before they go before the courts. This is an aspect that should be considered in this State also. I assume that those who enter the Drug Court scheme will have a criminal record against their name because they have gone before the courts and have pleaded guilty. Victoria has a pre-court system under which an offender is cautioned by the police, has to be assessed within five days and must undergo treatment within a further five days. I advocate a policy move to deal with these matters outside the criminal justice system. It is a sad aspect of this bill that it creates another court to deal with these matters.

Concerns have been raised as to whether the level of resources is sufficient and as to whether this bill is merely smoke-and-mirrors legislation under which money is being shifted around, in that it may be coming from existing programs under the auspices of the Health Department. I seek an undertaking from the Minister in reply that there are adequate resources for this program, that the program will be properly evaluated at the end of two years and that those in the program at the end of the two years will have the opportunity to continue the program and try to regain a decent place in society.

Mr TRIPODI (Fairfield) [4.57 p.m.]: I support the Drug Court Bill. This innovative program provides an excellent alternative which will no doubt curb drug-related criminal activity. The program is based on the concept of treating and rehabilitating drug addicts who commit non-violent offences. Contrary to what has been suggested by some honourable members, this bill puts rehabilitation at the heart of the solution to the problem. It also expands the means by which the problem will be addressed. The bill is a formal recognition that drug-related crime is a health as well as a criminal problem.

The relationship between illicit drug use and criminal behaviour is well documented in the Fairfield area. According to reports of the New South Wales Bureau of Crime Statistics and Research, narcotic drug crimes in the Fairfield-Liverpool region, ranging from possession to drug trafficking, are more prevalent than anywhere else in the State. In 1997 there were 906 recorded incidents of possession and use of narcotics—a rate of 283 per 100,000 people compared with the average New South Wales rate of 29 per 100,000 people, a multiple of almost 10. I am therefore very happy that this bill will go to the heart of one of the most significant problems facing my electorate. The people of Fairfield are very happy that this measure has been introduced and will provide enormous relief.

The Fairfield electorate will benefit immensely from the introduction of the Drug Court program. Various forms of robbery, assault, break and entry, and theft of motor vehicles in the area have been attributed to the growing number of drug users who commit offences to fund their addiction. The Drug Court program specifically targets offenders who are responsible for such crimes as a result of their dependency on illicit drugs. It is well known in areas neighbouring the Fairfield central business district that if one wants to locate a stolen car one should go first to the local methadone clinic, which location has one of the highest rates for recovery of stolen cars in Sydney.

It is quite obvious that drugs are connected with theft and that treatment should become a more important part of the program. The types of offences to be dealt with under the Drug Court program include break, enter and steal, fraud and forgery offences, offences involving stealing from a person, unarmed robberies, possession and use of prohibited drugs, and dealing with quantities of prohibited drugs below the indictable limit. This program will target crimes that have been committed in the Fairfield electorate and no doubt elsewhere

throughout New South Wales as a result of an increase in drug use. The program aims to reduce substance abuse, encourage rehabilitation and reduce incidences of offenders relapsing into a life of crime and drug addiction.

The problems of drug addiction and abuse in our society, and the crimes that stem from that abuse, are difficult to tackle and families are continually torn apart by them. The Drug Court program aims to address those issues and to reduce the level of criminal activity resulting from drug dependency. The introduction of this bill offers an alternative for drug-dependent offenders: rehabilitation or gaol. Constituents—parents whose children are addicted to drugs—often come to see me in my electorate office. They ask if they can do anything to force their children to go into a rehabilitation program and why they do not have the right and power to help their children. This bill will, in effect, give courts the power to provide relief not just to drug addicts but, equally importantly, to parents who have to cope with such problems and have called for such measures.

I am proud to be a part of a Government that is introducing legislation that reacts to the commonsense calls of parents. Time and again parents have asked whether, if they take a person and try to rehabilitate him or her, they will be committing an offence. Technically they would be kidnapping or falsely imprisoning their own children. This bill will provide a proper process to allow parents to be involved and to get a proper outcome. This legislation will provide enormous relief to drug addicts, families, friends and neighbours who are affected by the fall-out and lifestyle involved by being a drug addict. The rehabilitation measures that will be offered to offenders as part of the Drug Court program include detoxification, stabilisation, counselling, drug education therapy, and a broader range of vocational and social services. This Government has not left it until now to start the process.

The Fairfield local government area already has a range of services working towards the process. During the Cabramatta by-election, the then Leader of the Opposition, Bob Carr, promised to build a detoxification unit at Fairfield Hospital. Construction of the unit is currently under way—the tractors and bricklayers are on site. That detoxification unit—which will comprise 20 to 25 beds—is another promise delivered by this Government in recognition of the drug problem in the Fairfield and Cabramatta areas. The honourable member for Manly said that this Government is not serious and that there are insufficient resources in the area of rehabilitation. In

my local government area the Government has always emphasised and resourced the cause of assisting drug addicts, as is evident from the existing programs.

The detoxification unit at Fairfield Hospital was urgently needed and will be opened as soon as possible—my understanding is by February next year—to provide this important and necessary service. That opening, which will be celebrated, is an enormous relief to the community. The honourable member for Coffs Harbour said that the education programs are deficient because they refer only to harm minimisation. That is wrong. They are balanced and intelligent courses. They tell people not to touch drugs but if they do they should do certain things to reduce the risks. One should not apologise for educating people on the full gamut. The honourable member for Coffs Harbour said that people should be educated only in a limited way and that they should not be supplied with the whole gamut of knowledge. I disagree with him. He views this problem from an ideological perspective.

Thanks to the work of the honourable member for Cabramatta and the Premier's office there is a specific drug program in the Fairfield local government area which not only delivers a message not to touch drugs but also teaches people about harm minimisation. One should never apologise to young people for giving them as much information as possible to deal with the problem as best they can. I do not agree with the honourable member for Coffs Harbour. Harm minimisation is included in the program in the Fairfield local government area and that is right. Drug courts have been successfully operating in the United States of America for approximately 10 years. Australia's first Drug Court will operate on a pilot basis in the greater western Sydney region, starting early next year.

I welcome the Government's initiative. I strongly believe that the Drug Court program will effectively rehabilitate drug addicts and reduce the incidence of drug-related crime in our community. The claim of insufficient resources can be applied to every single problem. The issue is whether the resources are used efficiently and intelligently. I agree that there are insufficient resources being put into drug rehabilitation but the effect of this bill will put on the agenda that this area needs more resources. If the court directs that resources be allocated to drug rehabilitation, resources will be allocated. The amount of resources to be allocated will grow over time because that is part of the solution of a formal incorporation of rehabilitation. It will recognise that a criminal sanction is not the only way to deal with drug addicts but that rehabilitation also has to be provided.

The honourable member for Cabramatta said earlier that for every dollar that is spent on rehabilitation \$7 is saved. Rehabilitation is not an expenditure, as has been suggested, but is an investment of resources in human beings which will yield a great deal for the Government, taxpayers and beneficiaries. The bill will place squarely in the eyes of decision makers the fact that rehabilitation needs to be properly funded to develop so that it can become a better solution. It was suggested by the honourable member for Manly that somehow prohibition is the wrong solution. People in the community say that more effective prohibition is the only solution. It is quite ironic that the honourable member for Coffs Harbour, who is a member of the conservative side of politics, talked about resources. The Federal Government cut funds to customs and to the police to fight drugs and the importation of drugs. The Federal Government lowered that priority.

This Government should not be left to pick up the problems that have resulted from those Federal cuts. To its great shame, it was the Federal Government that cut the funding to fight the importation of drugs. It is ironic for a conservative member of Parliament to talk about the lack of resources for the fight against drug importation when his Federal colleagues are doing exactly what he complains about. The Federal Government not only allocated insufficient resources but actually cut resources. Prohibition must continue, and the way to achieve that is to make it impossible for drugs to be brought into the country. Customs officials and the Australian Federal Police must be properly resourced so that they can continue the war on the importation of drugs and make it more difficult for criminals to become richer. The Federal cuts will allow drug dealers to become richer. I welcome the bill and believe that the people of Fairfield will benefit enormously from it.

Ms Meagher: I will join in celebrating that.

Mr TRIPODI: Exactly. The people of Fairfield and the people of Cabramatta will be the major beneficiaries of this bill, which I support. I commend the bill to the House.

Mr McBRIDE (The Entrance) [5.11 p.m.]: I support this bill, which is one of the most important bills affecting young people to be introduced into this Parliament. Why? Because everyone realises that we have a real problem with young people and drugs. As a parent I appreciate the provisions of this bill. As much as we try to influence our children or the young people in the community, if they choose to use drugs they will use them. A parent's concern is what happens next. In many cases young people

who take drugs have no prior criminal record; they are the victims of drug abuse. As a result they are led in a downward spiral to a worsening situation. Hopefully this bill will break that downward spiral and give young people an opportunity once again to become worthwhile citizens.

As a parent this issue is important to me, because no parent is immune to the threat of drugs. No parent can go to sleep at night certain that their child will not be involved in drugs. Through my family, my extended family, young people and parents, I am aware of the problem of the use and abuse of drugs. Notwithstanding their best intentions, parents are not immune to this threat. If their children are using drugs, the parents are concerned about how to break the cycle and help them to again become useful citizens. This important legislation reflects the Government's view that we have to consider all possible options to beat the drug menace. For example, the Government has investigated the naltrexone program to assist people to get off drugs. This bill provides another option. I commend the Government and the Attorney General for swiftly introducing this legislation.

The pilot program to be established in western Sydney has been tested in the United States of America. Drug courts have operated in America for about 10 years. There are now more than 400 drug courts, and no two are exactly alike. That is important, because different circumstances apply to different communities. Courts need to be tailored to the individual needs of each community. The drug problem in Cabramatta is not the same as the drug problem on the central coast. The New South Wales drug court program is based on the successful features of the American drug courts. The objectives of the pilot program are to reduce crime associated with illicit drug use, in particular to reduce the length of the participant offender's criminal career path and his offending frequency; to reduce recidivism; to have the offender cease illicit drug use while participating in the program; and to improve the offender's health and social functioning.

In the pilot program it is proposed to have one dedicated discrete court exercising combined District Court and Local Court jurisdictions. There will be one judge supplemented by a part-time magistrate, with a District Court commissioned for the purpose. The magistrate will relieve the judge for holidays, et cetera, and, most importantly, permit the court to operate on two swing shifts to provide an after-hours service. Sentence appeals will be heard before a single judge of the Supreme Court. Appeals from decisions of a Drug Court as to eligibility, treatment options, sanctions or other program decisions will not be allowed.

Eligibility to participate in the program will be based on the following criteria: dependence on a prohibited drug or drug used illicitly; an adult offender who is genuinely facing imprisonment; admission of guilt; and a willingness to participate in the program, which is a most important issue. People will not be forced to participate in the program. It is well known that unless people are willing to discontinue their lifestyle, they will not be successful. Further, to be eligible to participate in the program offenders must reside in the catchment area. These criteria are to be used for the initial screening by police.

Pursuant to sessional orders business interrupted.

PRIVATE MEMBERS' STATEMENTS

LAKEMBA POLICE STATION SHOOTING

Mr STEWART (Lakemba) [5.15 p.m.]: On Sunday, 2 November, people of New South Wales awoke to the terrible and frightening news that a drive-by shooting had occurred at Lakemba police station. Seventeen shots had been randomly sprayed into the front of the police station. Miraculously, none of the five police officers who were present was badly injured or hit by the bullets fired from a nine-millimetre automatic weapon. As a consequence the media has magnified the law and order occurrences in my electorate, particularly the good work that police have been doing through their targeted policing programs. I commend the five police officers who were on duty at 1.15 a.m. They faced a terrible situation. No-one would have expected the police station, which is there to protect the community and keep the streets safe, to be attacked.

The attackers are certainly a threat to the community and I am sure that police, through their diligence, will locate the offenders and bring them to task. In the meantime we need to take a deep breath and think about what has occurred as a result of this shooting. Much needs to be done to ensure that community safety is paramount in my local area, and the Government is working towards that in co-operation with local police. I thank Morris West, the area commander of Campsie patrol, and David Madden, the area commander of Bankstown patrol, for their role in ensuring that police have target programs and achieve results. The community is reaping the rewards of their diligence and the strategic programs they introduced. Crime statistics in my local area have fallen quite dramatically in the past 12 months despite the media coverage. The

target police operations concerning car stealing, street prostitution, and gang and street behaviour resulted in 200 people being stopped and searched.

Unfortunately there were some reprisals, but we will not let that get in our way. The police are keen to pursue with vigilance programs they have in place to maintain law and order in the area. The bottom line is that those who offend must understand that they will bear the full brunt of the law. The local Lakemba community has received some negative publicity from this incident. I want to emphasise to the House the great deal of good in the Lakemba community. I am concerned about the way that some incidents in the local area have been covered by the press. Lakemba has a great and hard-working community. People of some 120 nationalities reside in the electorate. In the main, they live in social harmony. There are not the tensions that the media would paint. There are not the race gangs that the media talk about. Those gangs simply do not exist.

The Lakemba community, like many other communities in New South Wales, has the usual crime problems and some crime flashpoints. They are certainly being dealt with most effectively. The *Daily Telegraph* sent reporter Miranda Devine to the Lakemba electorate recently. She spent a full day there looking for problems. In an article in that newspaper on the day following her visit she stated that she could not find the problems that people were talking about, but that she did find social harmony and cohesion and a good example of what multiculturalism has come to mean in this country. She gave a positive example of that, and that should not be forgotten in much of the debate that is occurring about recent events in Lakemba. Let the debate be positive. A lot of good will come out of the debate, but we should resist the temptation to fall easily into stereotyping situations and putting things in black and white, as occurs sometimes in the media.

I thank the Premier and the Minister for Police, who have been to the Lakemba electorate and surrounding areas. I thank the Premier for his resounding efforts to come to grips with concerns in the local area. I particularly thank the Minister for Police, who has put in place a number of strategies and measures to improve the security of local police. My meetings with the local community have highlighted the needs of that community and I support the Government's initiatives. Once again I thank the Minister for Police, who I know will be diligently following the initiatives through.

Mr WHELAN (Ashfield—Minister for Police) [5.20 p.m.]: I thank the honourable member for Lakemba for the complimentary remarks he has made about the police, particularly regional commander Ike Ellis and local area commander Dave Madden, as well as all police officers, for the sterling job they are doing. The honourable member is familiar with these Government initiatives. He was present at the time of the launch of Operation Innsbruck, which has been an outstanding success and will continue.

I agree with the honourable member that the community has been most co-operative with police, both now and in the past, on a variety of issues. I concur with his remarks about police and their dedication. I would point out to the honourable member and to his constituents that the Police Service local command area has record staffing and a record budget for police in the Bankstown and Lakemba region. Those two aspects are at an all-time high. That degree of support will continue, in a joint effort on the part of the community and the police to work to solve a community problem.

Crime is not to be tolerated in any area or for any reason. It will not be tolerated by the Police Service. The Government has a duty to provide the Police Service with the necessary resources and laws to enable police to combat crime. The Government has done that. As I said in the House today, the Government has changed the law to give more strength and powers to police. We will continue to do so, with the implementation of roadblocks, driver and passenger identification, and powers to move people on and to confiscate knives. Those are all important changes, complemented by resources, to ensure that public safety is paramount. There is a selfish reason behind providing the Police Service with all necessary protection: greater protection for those who serve in the Police Service means greater protection for our community, and that is what we all want.

BREAK FREE FOUNDATION

Mrs STONE (Sutherland) [5.22 p.m.]: Today I wish to speak on a most positive community initiative in the Sutherland area: Operation Break Free. This program has been developed by a group of local business people who are very concerned about the future of our youth. Its patron, local sporting hero Andrew Ettingshausen, offers an excellent lifestyle role model. The Break Free Foundation will operate under the leadership of chairman Greg Ball, who for many years has been

the proprietor of a most successful motor dealership. Other members of the board of advisers include Peter Casaceli of Cronulla Furniture; Gail Treister of Multiskill Services; Linda Winnell of Life Education Australia; George Capsis, of Community Outreach Ministries; Leanne Diener, a youth liaison officer with Miranda police; Deborah Jenkins, a civil celebrant; Ross Kilpatrick of Huntingdales Advertising; Tania Palmer, solicitor; and Terry Dewing of Sullivan Dewing, chartered accountants. That is a wonderful mix of experience.

The foundation will bring together many experienced community and business people who are concerned about the social and economic impact of drugs on our society and wish to do something practical for our youth. The goal of the Break Free Foundation is to eliminate the misuse of drugs, alcohol and suicide from youth within our community. The chairman stated that a vision had been realised. A small group of concerned Sutherland shire community leaders have worked tirelessly towards achieving the vision of establishing the Break Free Foundation. The foundation has been formed to assist those in the community to tackle head-on the greatest challenge we face as parents, grandparents, sisters and brothers, that is, the abuse of alcohol and drugs amongst our youth.

The chairman said that it is shattering to think that 70 per cent of police work in the Sutherland shire is alcohol related. Research shows that some of the key issues are lack of parental understanding and knowledge of where to turn for help. I shall recite some of the facts to the House. The proportion of young people aged between 14 and 19 years who have used drugs is as follows: alcohol, 63 per cent; tobacco, 19 per cent; and cannabis, 30 per cent. The objectives of the foundation are to educate and provide accurate information to the community regarding the effects and harm of drugs and alcohol, to provide community programs for young people and families dealing with problems of drug and alcohol abuse, and to provide funds for research into the prevention and elimination of drug and alcohol abuse.

The message from our patron is, "Life is a gift and all who have the capacity must remember that we have the responsibility to give something back." But what of the people involved and the plans? Life Education Australia is involved, and it intends to contact 22 schools in the area. High school students need to know the facts about alcohol and drugs and how to deal with them. This is the crucial step in the development of teenagers that the foundation seeks to achieve through a secondary program, targeted at

years 7 to 10 and known as "Staying Safe". A program for years 11 and 12 will also be developed.

There will be a community drug education program as well as a teacher in-service program. George Capris, who is the shire's male Mother Teresa, will work long and hard with shire youths and their families on our drug and alcohol problems. His dedicated outreach ministries assist wherever they can. He will continue with his street services and support groups. A street van has been funded by the Break Free Foundation. We do not want another case like Rebecca—"Too little, too late". Rebecca smoked tobacco at 12, marijuana at 14, left school and was on the streets at 16, and was dead at 18. We just do not want anything like that for our youth. If we attack the demand, the supply will have nowhere to go. I applaud and support this wonderful community initiative.

WARATAH ELECTORATE SYDNEY WASTE DISPOSAL

Mr PRICE (Waratah) [5.27 p.m.]: I wish to raise the concerns of residents who are opposed to the establishment of a garbage dump at White's Creek at Ashtonfield. On 1 November I attended a public meeting held in protest, ultimately with an inspection of the mine site of the proposed dump, at Buchanan in the electorate of Waratah. I was extremely concerned, on inspection of the site, with the proposal put forward by Theiss environmental services—Waste Services of New South Wales would probably be showing an interest. The proposal was that 400,000 tonnes per annum of Sydney garbage be located at the site, which on three sides surrounds a reservoir that serves Kurri Kurri, Cessnock and parts of Maitland. The proposal is extraordinary, especially as the final location of the garbage would be some 30 metres above the dam. Despite Hunter Water Corporation being responsible for the dam—and even a covered reservoir must have an air supply—there would be a continuing risk of severe contamination to the water supply to those major areas within the lower Hunter.

There seems to be no logical reason for selecting this site, other than the fact that there is a hole in the ground. The site is within easy reach of Black Hill, Beresfield, Tarro, Ashtonfield and a number of other smaller villages in the surrounding area. The potential for serious contamination is always associated with dumps of this type—and I call them "dumps" because that is what they are. Stoney Pinch Reservoir highlights the problems and how the community views them. The landfill site is only about 500 metres from John Renshaw Drive and is easily accessible from the F3 connectors. The

highway connections would be under severe strain with 150 trucks doing a round trip of 300-plus kilometres daily. It would create an even greater problem on John Renshaw Drive, which is only a two-lane road that connects Newcastle and Cessnock.

A number of concerns were raised at the meeting. Later, on 5 November, I attended a meeting at Buttai Barn, which is another village that would be seriously affected. At that meeting I listened to the residents express concern. Several resolutions were passed at that meeting and I support the residents in their concern. Currently, neither the business community nor the waste councils support the Whites Creek, Ashtonfield, site proposal. Although it is only a proposed site, I do not believe the Government would support the proposal. The Ashtonfield proposals seems to be the result of a legal argument currently before the courts involving an organisation that proposes to dump waste landfill at Muswellbrook. At present Theiss environmental services and others are arguing in the courts over who owns the garbage that is deposited at the various receival depots in Sydney.

I understand that the proposal to locate the dump at Ashtonfield may conflict with the Muswellbrook proposal and could impact seriously on people in the lower Hunter. The residents' views must be noted. They made a good point when they asked whether all the garbage that is proposed to be dumped has been subject to a recycle search; if not, it should be. In any case, the people of the Hunter feel that metropolitan Sydney should take care of its own rubbish. If we are abolishing the dirty industries in the lower Hunter, why are we becoming the dumping area for Sydney? It seems to defy logic. Certainly, it is causing concern and distress to the residents, many of whom live a fairly quiet existence. I appeal to the Minister to ensure that the project does not proceed on this site.

HONOURABLE MEMBER FOR LISMORE RETIREMENT

Mr RIXON (Lismore) [5.32 p.m.]: As I will not be seeking re-election on 27 March 1999 I take this opportunity to comment on the 11 years, one week, one day and one hour which will have passed since I was elected on 19 March 1988, before the extension of daylight saving to the end of March. I am grateful for the continued loving support of my wife, Merrilyn, and my six children, Serenity, Ben, Victor, Luke, Jordan and Laura. My work forced a change of residence and a change of schools, together with my long absences from home. I thank my family. I also thank my secretaries Bernadette

Ensby and Bronwyn Mitchell and relief officers Karen Wilson, Kim McInnes and Diane Grover. They have always been very dedicated to and professional in their work, ever willing to help the most difficult constituent.

I thank also Artie and Edie Brown, and members of the Lismore electorate National Party organisation, whose advice and support has been so valuable, as has that of numerous local councillors, council and Government departmental officers, and the police. Indeed, I have enjoyed working with all the people of the electorate. I am pleased that during my time in office so much has happened in the Lismore electorate. The Northern Rivers College of Advanced Education has evolved into the stand-alone Southern Cross University, and the regional college of TAFE has been built and continues to expand. Nimbin has a new school, Lismore High School has a new library, and improvements have been made at Kyogle primary school, Kyogle High School, Casino High School, Casino West school, Leeville school and many other schools. There is a new Distance Education Centre at Casino, and preschools have new facilities.

Improvements have been made to Summerland Way, Bruxner Highway and other roads such as the roundabout in south Casino. Lismore Base Hospital has new buildings, improvements have been made to other hospitals, and health services have been extended. Nimbin has a new police station, Lismore has new courtrooms and a new cell block, and Casino courthouse has been renovated. Sporting facilities throughout the electorate have been improved, including the netball courts in Kyogle; the rugby union field and shooting facilities in Casino; and the baseball and hockey facilities and Oakes Oval in Lismore. Numerous improvements have been made to sporting grounds both in larger towns and in smaller villages.

The list goes on and on, but there is still much to be done. However, I know that Thomas George, who has been selected by the National Party to contest the seat at the next election, will continue to fight to have the needs of the people of the Lismore electorate recognised. With the changes to the electorate's boundaries, the people from the Coraki area will be in the Clarence electorate and the people of the upper Clarence will join the Lismore electorate. I am sorry to lose the people of Coraki and the Ti Tree Festival, but I welcome the people from the upper Clarence. The population and industries of the electorate continue to grow in numbers, ensuring that Thomas will have a challenging time matching the growth in needs with a growth in services.

Finally, I thank my parliamentary colleagues for their friendship. I thank also the staff of Parliament House whose advice and support was so valuable. I have enjoyed working for the people of the Lismore electorate and of New South Wales, so I will leave with good memories of my time as a member of the New South Wales Parliament. I will move back to my farm at Upper Eden Creek, west of Kyogle, to continue breeding Charolais cattle. I look forward to spending more time with my family. Once again, I thank the people of the Lismore electorate for giving me the honour of representing them in the New South Wales Parliament, and I thank all those who helped me in any way to do that job.

REGISTER OF ENCUMBERED VEHICLES

Mr RUMBLE (Illawarra) [5.37 p.m.]: I wish the honourable member for Lismore all the best in his retirement. The problem I raise in the House tonight relates to a constituent in my electorate who does not want to be named, and emanates from the purchase of a stolen vehicle. On 17 August 1998 I made representations to the Minister for Fair Trading on behalf of my constituent. My constituent stated that the problems are as follows:

1. After looking for a car for 7 to 8 months we put a \$100 deposit on a Holden Commodore Acclaim wagon on SAT 25/7/98.
2. We returned on Tuesday 28-7-98 with a cash and cheque payment after a REVS check on that day at 9.20 am.
3. We checked licences for IDs and got a receipt for our payment.
4. My wife and I then drove away with what we thought was a legal and free from finance vehicle.
5. On the 10-7-98 my wife went to the RTA in Unanderra to transfer the registration and was told our car was listed as stolen.
6. Dapto Police were called and Sydney Police contacted.
7. They then informed Dapto Police the car was suspected stolen. My wife was allowed to keep the car and take the car home as she was upset and had our baby with her and needed to get home.
8. At home we contacted Sydney Police and were given details of how this gang . . . were accidentally caught and had been operating for approximately 18 months with approximately 100 cars involved in a "re-birthing scam".

Part of the response provided by the Minister for Fair Trading on 6 October stated:

. . . internal investigations by REVS revealed that when [your constituent] checked with REVS and purchased a REVS certificate on 28 July 1998, the vehicle was not listed as

reported stolen. Therefore, the REVS certificate issued . . . accurately shows the state of the Register at the time of the enquiry. On 8 August 1998 the vehicle details were recorded on REVS as having been 'reported stolen'. Further on 11 August 1998 the Police recorded the vehicle as having been 'recovered', which coincides with the information supplied [by your constituent] as to when the vehicle was impounded by the Police.

The NSW Police provides identifying details of motor vehicles reported as 'stolen' to REVS four times a day. Because of the difficulties associated with identifying all vehicles stolen, subject to Family Court Orders or bankruptcy claims, etc, REVS can never be an absolute guarantee of title . . .

Following that my constituent then stated in representations to me on 19 October:

On the 25-7-98 we purchased a privately sold vehicle which was confiscated by the Police. I have previously written to you about this matter . . .

It has now been 2 months since the vehicle was seized [and] it seems it will be another month before these people will be charged and I can start legal action.

I have a few concerns that if you can I would like addressed.

I am led to believe that the RTA together with the insurance companies are involved in assessing the stolen vehicles. I am also led to believe that they are arguing about how much each should pay towards the costs. This is slowing the whole process down. Giving the criminals more time to dispose [and] disperse their assets.

If this is so why are insurance companies involved when they have a vested interest. What you may not understand is that parts of that vehicle may be or are legally mine. There will be most probably legal action or negotiations as to what will happen to the vehicle or parts of that vehicle.

I cannot understand how or why one party with an interest in the car can be included in assessing what may or may not belong to them.

The RTA being funded by ALL taxpayers, that being private citizens of this State [and] businesses should act separately [and] impartially. Not together with one party while the other is left out in the cold in no-man's land.

As a victim of ORGANIZED CRIME we have lost a huge personal sum of money, had long term plans destroyed [and] have extra stress added within our family. I feel that myself [and] other people in this situation are being treated as nothing by government departments which "we own" when we have lost the most.

I ask that Minister for Transport to take up this matter. I will provide further details to him.

METFORD NEIGHBOURHOOD WATCH MOBILE VAN FUNDING

Mr BLACKMORE (Maitland) [5.42 p.m.]: I advise the House of the efforts of a small group in Maitland known as Metford Neighbourhood Watch to obtain funding for the construction of a mobile

activity van. On 11 August I wrote letters to the Minister for Community Services and the Minister for Police, requesting on behalf of Metford Neighbourhood Watch permission to hold a meeting to discuss seeking funding of \$40,000 for the van. Metford Neighbourhood Watch currently seeks funding to construct and equip a mobile activity van to be utilised in the Maitland and surrounding areas. The van will target young people in the 12 years to 18 years age bracket in areas that lack facilities.

The main objective is to reduce youth-related crime by providing supervised activities which, in turn, will help to alleviate boredom and provide positive alternatives to antisocial behaviour. The van will help also to assist young people to learn social skills by interacting with other young people and with adults. By providing resource material the van could also be a valuable link between youth in need or in crisis and relevant departments or organisations. Meetings have taken place with Maitland City Council staff and local police, who support the project.

The mobile activity van is an innovative portable entertainment facility for young people. It is a brightly coloured van equipped with a television monitor, Sega Saturn game systems, a VCR, two Pentium computers with a range of interactive programs, a sound system, a barbecue, a portable basketball system and a range of other sporting equipment. The van is based on the successful mobile activity centres that have been operated by the Queensland Police Citizens Youth Clubs for the past two to three years. As I have said, the total cost of the van is approximately \$40,000. Discussions have taken place with a number of Maitland firms that are willing to provide quotes for the fabrication and construction of the vehicle.

The project is being driven by Metford Neighbourhood Watch and led by its secretary Narelle Hogbin, whose dream is to raise the necessary funding. Two picnics have been held in Metford sporting facilities in an effort to raise money so that the Neighbourhood Watch at least could provide some funds towards the project. Narelle has also organised transport for local young people to attend the blue light discos that are held regularly at Maitland town hall. Free buses have been organised on a trial basis to get these young people to the dances and to make sure they get home safely. The Minister for Community Services responded on 8 October in the following terms:

I regret to advise you that the Department of Community Services is currently unable to provide funding for this project, as funding under the Community Services Grants Program is fully committed . . .

It is my understanding that Mr Ben Chard, Hunter Regional Co-ordinator for the Premier's Department, is co-ordinating an inter-departmental response to the needs of Metford young people . . .

The Minister said that the department would be willing to contribute resources to that co-ordinated approach. I am disappointed that the Minister for Police has not yet responded. The problem is not isolated to Metford; it is a problem in Maitland and many other areas in the Hunter Valley. This type of mobile activity van could be used in other areas and its acquisition is worth considering. I urge the Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs and the Government to endeavour to find funds to provide this much-needed facility for young people. After all, Neighbourhood Watch initiated the project and the funding could perhaps be provided under the guise of and allocation to the Police and Community Youth Club. The need in the area has been established.

ILLAWARRA INSURANCE CLAIMS

Mr MARKHAM (Keira) [5.47 p.m.]: I bring to the attention of this House the actions of another insurance company that has abrogated its role as an insurer for the people of Wollongong. The company is CIC Insurance. I have a copy of the offer that the company has made to those who have taken out insurance with it. Of the people insured with CIC only 11 have made claims for damage caused by the storm on 17 August, but I am sure that after hearing the comments of the insurance company to those people honourable members will agree that CIC is just another grubby insurance company that is not prepared to meet its obligations. The offer from CIC states:

Following our letter of 10 September 1998, we have reviewed your claim and the general circumstances in which homes in the Wollongong area suffered water damage on 17 August 1998. We appreciate the hardship which the water damage has caused and believe that recovery may be made against Wollongong City Council, and perhaps other parties, in respect of that damage. Although we have advised you that your claim is not covered by your policy, we wish to outline the following offer of assistance from CIC to you for your consideration.

1. CIC will lend you half of the assessed value of the damage you claimed for at nil interest and with repayment obligations limited in the way discussed below:
2. You will agree to the commencement of proceedings in your name(s) against Wollongong City Council and any other parties who may be considered to be liable to pay damages for the loss and damage suffered on 17 August, 1998;

3. CIC Insurance's solicitors will conduct the litigation, CIC Insurance will fund, control and direct the proceedings and the proceedings may be combined with other actions arising out of the events of 17 August 1998 if CIC consider that this is appropriate;
4. You will use your best endeavours to assist CIC in the litigation and you will give us all the information and assistance we may reasonably require in the conduct of the proceedings;
5. If no damages are recovered then the loan is not repayable. If damages are recovered then they will be applied first to satisfy the balance of your loss, ie. the difference between your loss and the amount loaned to you. The remaining balance of the damages are payable to CIC Insurance Limited. No further loan repayments will then be required.

This is an outline of the most important elements of our offer to you. If you are interested in it, please contact me and I will send you a formal document which will contain the full details of the offer. Once you have received that document I would be happy to discuss it with you.

Finally, if you have any further information about the circumstance of the loss and damage for which you have claimed please advise us so we may give further consideration to your claim.

I look forward to hearing from you.

Yours sincerely

Stuart Korchinski
Managing Director
Financial Institutions Division

That is absolutely shameful. If CIC Insurance or any other insurance company has a problem with another party, it should pay the money to the people it has insured and then take up the fight with Wollongong City Council or any other party it may wish to pursue. I regard the offer as an outrageous attempt by the big multinational insurance company, HIH Winterthur, to have a lend of its insured. If that company believes there is a real case against the council, why does it not pay the ordinary person who has taken out insurance in good faith and then chase the council for all it is worth? Perhaps of most interest is the fact that those who are insured with CIC are school teachers or their relatives, the husbands and wives of school teachers. They have taken out their insurance through the Teachers Federation and the Teachers Credit Union. I hope the federation and the credit union immediately start flexing some muscle and pull the company into line.

As I said in this House several weeks ago, the way in which some insurance companies have treated the people of the Illawarra in relation to the storm on 17 August has been parasitic. When one remembers the pressure that has been applied to

GIO Australia and the NRMA to make them see the error of their ways, it is absolutely beyond comprehension that other insurance companies have not fallen into line. CIC Insurance and QBE Insurance ought to get off their backsides and make sure that the people who have insured with them over the years receive restitution for the damage they have suffered. If they do anything less the companies should be condemned.

Mr AQUILINA (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [5.52 p.m.]: I cannot add a great deal to what the honourable member for Keira has said; he said it all. He spoke most eloquently and with great emotion about this matter. Obviously he is extremely concerned that his constituents are being deprived of what he believes are their just deserts. The honourable member has noted that a great number of those affected are school teachers and has called on the Teachers Federation and the Teachers Credit Union, through whom most of those people took out their policies, to take stern action on behalf of their members. As the Minister for Education and Training I echo those sentiments and fully support the remarks of the honourable member for Keira.

ARMIDALE LOCAL INDUSTRY EDUCATION NETWORK FUNDING

Mr CHAPPELL (Northern Tablelands) [5.53 p.m.]: I raise a matter on behalf of the Armidale local industry education network. Over the past five years it has been Federal Government policy to promote vocational education in all schools. To that end the Australian Student Traineeship Foundation was set up to assist schools to implement nationally accredited vocational programs. Over that period much significant and successful work aimed at achieving that goal has been undertaken under the auspices of that scheme. In recent times the policy guidelines the procedures for funding applications have been altered. It appears that the Armidale local industry education network will miss out on the next round of funding. The network has raised the issue with me and asked me to bring it to the Minister's attention.

For the past five years the group of committed teachers and employers involved in this joint exercise has worked hard in their spare time to implement quality vocational programs. Members of the group have expressed their dismay that students in the nine schools in the local cluster will be significantly disadvantaged because the group will no longer be able to run the program as its application for continued funding has been

unsuccessful. The training reform agenda has had the approval of all political parties and most governments have been supportive of it. Members of the Armidale local industry education network have told me that in their opinion it is morally and ethically wrong that a tender process should be put in place for the allocation of funding.

The needs of the children are real no matter where they are, what sort of community they live in or what sort of support they have. They should not have to compete for this funding support, because presumably some will always miss out. The organisation acknowledges that if some other service provider had successfully tendered against it, that would have been fair and above board, but at least the service would still be provided for the benefit of the students. Because the program is essentially federally funded, the group initially raised the issue with the Federal Government in its dying days. However, the group has urged me to ask the Minister about any role the State Government may be able to play in the absence of adequate Federal funding.

I have been informed that about \$52.5 million was applied for and that the total budget was about \$16 million. The program is three times oversubscribed, so the funding is obviously inadequate. The Armidale local industry education network asked me to raise several questions. Why is it that dual accredited vocational courses are the only higher school certificate courses for which teachers must tender annually for funds from an external body, in this instance the Australian Student Traineeship Foundation, because resources and staffing provided by the Department of Education and Training are insufficient for teachers to carry out these sorts of necessary programs?

What strategies will the State Government put in place to redress the inequities that have arisen from disparate allocations by the federally funded Australian Student Traineeship Foundation? Is there some way in which the State Government can play a role to balance up the total allocation of funding? When will the Department of Education and Training revise outdated resourcing, staffing and funding formulas so that schools can be assured they will be in a position to offer the same quality vocational education and training so that all children can benefit, as they deserve to? How will the Department of Education and Training ensure that all students in New South Wales government schools have equity of access and equity in school facilities so that they may benefit equally from quality vocational educational programs?

These are genuine concerns expressed by a group of committed teachers and business people who have for more than five years supported the local school students in this way. They are keen for the program to continue but their funding has dried up and they validly ask these questions. I ask the Minister to look closely at this matter to ascertain if there is some way to persuade the Federal Government to increase the total funding allocation and the formula by which it is distributed, or whether the State Government can supplement the funding, so that in a joint venture between Federal and State governments our children will ultimately be better served.

Mr AQUILINA (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [5.58 p.m.]: A few minutes before speaking the honourable member for Northern Tablelands advised me that he would raise this matter, and I am grateful to him for doing so. I do not have specific details on the program about which he has spoken. From a general perspective, however, I am well able to understand the frustration of the organisation mentioned and many other school-related organisations in this State and around Australia that have sought to obtain Federal training funds to substantially increase their vocational education and training curriculums. I realise that many teachers have for years put in long, hard hours and have given up much of their spare time to introduce vocational opportunities for students. I congratulate those teachers and trust that their work will continue to be rewarded.

Within the higher school certificate reform process currently under way there will be a substantial rewriting of the curriculum to make provision for the introduction of vocational education and training within schools. Increased funding will be necessary for that purpose. That matter falls specifically within my portfolio and I, together with other State education and training Ministers, shall beseech the Commonwealth Government to make sure that the substantial training funds provided through the Australian National Training Authority will be made available for schools. That issue will feature prominently in the ministerial council meeting to be held this Friday in Perth, at which all Australian education Ministers will beseech Dr Kemp, the Federal Minister, to loosen the purse strings to make sure that those funds can be made available to schools and that students in both government and non-government schools can be provided with vocational education and training opportunities.

DEATH OF Mr ADAM CRAFT

Mr NEILLY (Cessnock) [6.00 p.m.]: I wish to speak briefly about the scourge of drugs and the personal impact it has on families. Probably all members of Parliament have been approached by people who have sought assistance because a family member has problems with drugs, people who have reported crimes committed by persons taking drugs, and people who have passed on information about peddlers of drugs because they have been too frightened to go to the police. I am convinced that the taking of drugs, ranging from marijuana to the stronger drugs, can lead to severe mental problems including schizophrenia and even more severe mental impairment. In the past couple of years I saw a young man change from being an excellent athlete and a good bushman to someone who had his whole life altered by drugs. I saw that young man try to rehabilitate himself and then saw him revert back to drug use after being influenced by friends—of course, that is my guess.

One evening that young man's father came home at about 11 o'clock to find his son hanging on the back verandah. He was just two weeks over 21. I attended his funeral service and I empathised with the passion and sorrow felt by his grandparents, his brothers and his parents. I felt particularly for his father, who had found him hanging. At the funeral service a young lady read out a poem that I felt was very pertinent about the impact of drugs. The poem is called "Adam", for young Adam Craft, and reads:

Adam, you'll be dearly missed,
By everyone, one and all.
Although you didn't realise our love,
We didn't want to see you fall.

You loved your fishing,
You loved your camping,
You really loved the bush,
It's hard for us to understand,
What gave you the final push.

With your solid build and love for football,
You could have played 1st grade for the Knights.
But constant battles with mind and drugs,
There were obviously too many fights.

So, soon after your 21st birthday,
It should have been the prime of your life,
Please take with you all our love,
And leave behind the strife.

We have to go on, with lives of our own,
But you, we will never forget.
We all would have liked to ease your mind,
But we can't live with regret.

Adam's was a life lost to the scourge of drugs. Drug peddlers are scum so far as I am concerned. I

compliment the Minister for Police, who has acknowledged the necessity to appoint more police to my local patrol area of Cessnock. Additional resources will arrive at the patrol by 27 December. Those resources are sorely needed. I have information about who supplied the young lad to whom I have referred this evening with the drugs that purportedly led to his downfall. I gave the commitment to Adam's father that we will try to assist in providing information to the police about the culprit. Adam was only one person; there are many thousands of people who are trying to overcome the impact of drugs.

There is no easy resolution to the problems of drug taking. Members of Parliament, apart from being approached by those to whom I have already referred, nowadays are approached by parents of heroin addicts, who believe that there is a miracle cure for their young sons and daughters. It is very difficult for us to advise those people that cure is about the willpower of the individual. It is society's problem to try to get rid of those who create the difficulties with which drug addicts are confronted. To Mr Alan Craft, the father of the young lad of whom I have spoken, I again express my sorrow and my promise of assistance in his attempts to overcome the difficulties with which he is grappling as a consequence of his son's death.

BYRON BAY BYPASS

Mr D. L. PAGE (Ballina) [6.05 p.m.]: I raise the important matter of a bypass for Byron Bay and highlight the urgent need for funding to be made available for that project. Everyone knows Byron Bay as a popular tourist destination, a beautiful location and an interesting place to live or visit. Its reputation is international, its restaurants cosmopolitan and its lifestyle laid back. Anyone who visits Byron Bay, especially during the school holidays, will, however, immediately realise that there is a major traffic congestion problem in the town. All traffic has to go through the central business district. Indeed, all traffic is required to go through one roundabout in the centre of town adjacent to the railway line.

Not only is there constant conflict between pedestrians and motor vehicles in the area, but motorists find themselves waiting in traffic jams for sometimes up to or exceeding half an hour. I know local people who will not go to Byron Bay during the school holidays because of the traffic congestion. Why is that so? It is because motorists have no alternative but to go through the central business district, even if they are just passing through or visiting friends on the other side of town. That is a

big issue for local residents and for tourists—no-one can escape the problem until it is fixed up with a bypass of the central business district.

The real responsibility for the project undoubtedly rests with the Byron Shire Council. However, the council is broke. It has a deficit of about \$5 million due to poor management and poor decision making in the past. There is no real way that the council will be able to fund the project in the foreseeable future, despite the urgent need for the bypass. Several years ago, before the Byron Shire Council had the financial problems it faces today, I approached the coalition transport Minister of the time to request that the State Government provide \$10,000 for half the cost of a feasibility study for a bypass. This, I hoped, would be the catalyst needed for the project to become a reality. The Byron Shire Council at that time could afford and did contribute \$10,000 towards the feasibility study. The study was carried out by traffic engineers TTM Consulting in 1993, and it was found that a bypass was fully justified. The key and primary conclusion from the study was:

The Shire should proceed immediately to plan and design a new road route extending Butler Street to the south to connect with Browning Street via a new rail level crossing. It is recommended that construction of this new route should be completed no later than November 1996.

Yet in 1998 the council has still done nothing, nor is there any prospect of the council being able to afford to do anything in the foreseeable future, given its financial circumstances. I believe, therefore, that there is no option but for the State Government to fund this project. If the Byron Shire Council cannot fund the project then, in the interests of residents and visitors to Byron Bay, the State Government must. I realise that other councils such as the Ballina Shire Council, which itself funded the Lennox Head bypass, would believe that the funding rules were being bent in favour of the Byron Shire Council. Moreover, they would claim that a poorly run council should not be rewarded with State funding when the problem is the responsibility of the council and is self-induced.

While that is a valid argument I believe that Byron Bay is a special case because of its significance to north coast tourism. A regional tourism marketing strategy is based around Byron Bay. The bypass must be given priority. The study also revealed that there would be no significant loss of vegetation under the recommended proposal. The TTM report stated that a bypass along Butler Street across the railway line to Browning Street would remove 30 per cent of vehicles from Lawson Street. The study also found that in the 40 months prior to

the study there had been 158 reported accidents in the central business district. It stated:

If a new road route by-pass was to reduce these accidents by 50%, the capitalised value of accidents savings over the past 33 years would have been as much as 2 million dollars".

I am advised by council that a bypass would cost about \$1.6 million, plus the cost of acquiring approximately four hectares of State Rail Authority land and some minor portions of private property. A State government must support this much-needed project, even though it is Byron council's responsibility. A bypass would be in the interests of the local residents and the many tourists who come to Byron Bay. A bypass along Butler Street would remove much of the current traffic congestion in and around the central business district, save money and time for motorists, reduce conflict between pedestrians and motorists, and not have a negative effect on the environment. Indeed, an environmental impact statement has been conducted in relation to this project.

The local community, including the Byron Bay Chamber of Commerce, is desperate for a bypass. However, I cannot see the council coming up with the money in the foreseeable future. Therefore, the State Government will have to fund the project. The Roads and Traffic Authority has been reluctant to assist in the past, saying that it is a local road and does not meet the eligibility criteria, which is true. However, all options should be explored. I am currently exploring every option available to the State Government. I am also seeking an assurance from the coalition that, if elected in March 1999, it will fund the Byron Bay bypass. I hope the bypass will be constructed by the next government. [*Time expired.*]

LICENSED PREMISES DEVELOPMENT APPLICATIONS

Mr TRIPODI (Fairfield) [6.10 p.m.]: The Fairfield community is concerned about the number of development applications Fairfield City Council is receiving to establish hotels in the Fairfield local government area. The council is considering four applications, which are attracting a considerable amount of attention from the press. Two of the applications relate to Canley Heights, one to Carramar and one to Cabramatta west. I welcome investment in businesses in the Fairfield local government area. The area is keen to attract such investment and to be provided with the employment growth and opportunities attached to it. However, the community is concerned about what has occurred in some Sydney city gaming taverns, which may be reproduced in the Fairfield local government area.

The Fairfield community is concerned that people are trying to cash in on the gaming dollar rather than provide a full range of hotel services. I qualify immediately that I do not wish to cast aspersions on the current applications before Fairfield council, in particular, those at Cabramatta west and Canley Heights. Those applications not only are consistent with the local environmental plan but also are sensible proposals that probably have sufficient merit to warrant serious consideration. The community's concern is that people will act irresponsibly and try to cash in on the gaming dollar and the profitability that has occurred in the industry as a consequence of the reforms by this Government. Fairfield council needs to be commended for reacting sensibly and intelligently.

There is a proposal to amend the existing local environmental plan to control the establishment of hotels in the local government area. Although I have some reservations about what is currently being drafted—there will be public consultation to address those concerns—the people who drew up the Fairfield local environmental plan did not anticipate the interest in taverns. Therefore, an amendment is necessary for their regulation. Today's *Sydney Morning Herald* refers to a University of Sydney research paper that determines that poker machines are the biggest source of problems for addiction and confirms the community's concern.

A range of good government programs already exist. I am proud of the way a lot of our pubs and clubs have adopted the prescriptions incorporated in those programs, particularly the Mount Pritchard and District Community Club Ltd, which has an active record of addressing gambling addiction problems. Even though there are responsible people in our area the community is concerned about gambling addiction, as was confirmed by the independent study. Today I call upon the Government to revisit this area and to address this public concern. As it stands the legislation could probably effectively prohibit these gaming taverns.

The community is concerned about the establishment of a business whose primary activity is gaming and not providing the normal range of services of clubs, including drinking and food areas, and inviting community groups into premises. It is of concern when a business is primarily geared around the attainment of gaming revenue. The Government should introduce reforms to address that concern. I do not believe that this is necessarily the case for the four applications presently before council but the community is vulnerable to future applications by people seeking to cash in on the gaming dollar, particularly in the Asian community.

I would like the Government to react and drive out the cowboys and the spivs who seem to infect this industry. [*Time expired.*]

Mr FACE (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [6.15 p.m.]: I congratulate the honourable member for Fairfield on his vigilance in bringing this matter—which has been of concern for some time—before the Parliament. Some people have chosen to circumvent the spirit of the original legislation that allowed for the extension of poker machines into hotels. Those hotels are virtually becoming gaming parlours which has led to the size, physical layout and conduct of the proposed gaming operations dominating the primary purpose of hotels. Some people have cleverly removed licenses throughout the State and then set up these parlours in areas of Fairfield and Cabramatta. There have also been some scandalous examples in the city. If possible, I will quickly do something about that.

I recently visited the electorate of the honourable member for Fairfield. The registered clubs and hotels are aghast at what has occurred. Fairfield council should hold its power to approve applications until the Government does something about this matter. I issue a clear warning to the liquor and hospitality industry: if Parliament passes legislation and spivs want to circumvent it they are in for a rude shock. If I am not successful getting legislation through the Parliament this session I will continue to introduce legislation in regard to anything that occurs. These people completely flout the spirit and the will of this Parliament. I congratulate the honourable member for Fairfield on detecting this problem in his area. I also congratulate officers within my department on detecting this problem in other parts of Sydney. I will report to the House as soon as I can. I cast no aspersions on the current applications before Fairfield council. [*Time expired.*]

BURRUMBUTOCK AND WALLA WALLA COMMUNITY EVENTS

Mr GLACHAN (Albury) [6.17 p.m.]: I draw to the attention of the House two important events that occurred in my electorate on Sunday in the small village of Burrumbuttock. The village, which has a strong community spirit, is situated north of Albury in some of the most beautiful rolling country in the Riverina. The first event was the opening by the Deputy Prime Minister, the Hon. Tim Fischer, of the Wirraminna Environmental Education Centre. Originally that area was a stock reserve. In 1995 when the local community first began work on this

four-hectare site, it was nothing more than a rubbish dump, but it included a dam that was built in 1902 by Chinese labourers. Darryl Jacob, who lives locally, was a driving force behind the creation of this centre. He gathered together a group of local people, supported by the Burrumbuttock Public School, its principal, Owen Dunlop, the West Hume Landcare Group, and the Hume Shire Council.

The Fletcher Challenge paper mill has provided finance and other assistance. Local people have given a lot of help and done a lot of work on the centre. There is a study area for students and there will be examples of wetland native aquatic plants. Native grasses and indigenous trees will be planted. Signs have been erected to inform people of the various types of plants and trees and there will be interesting walks. People will be able to see how the area looked and the plants that existed before it became little more than a rubbish dump. The opening of that important environment education centre was a great event in the district.

The second important event followed almost immediately, and that was the dedication of a polished granite war memorial outside the Burrumbuttock hall. Some time ago the Burrumbuttock RSL sub-branch was advised that the Federal Government was offering grants under the program entitled "Their Service, Our Heritage". A member of the local RSL sub-branch, Laurie Lilley, thought that the sub-branch should apply for a grant to erect a flag pole. Other members, including Dick Holmes and Gordon Schmidt, suggested that something more substantial than a flag pole should be erected. They decided to work towards a proper war memorial.

The Burrumbuttock community forum, a group of local people, became involved in the project. A fund was opened at the local store and about \$4,000 was donated which, together with a grant of \$3,000 from the Federal Government, paid for the erection of the polished granite memorial by a local contractor, Vic Broslo. This is a great asset to the community. The names of just over 50 people from the district who served in the armed services and associated services are engraved on the memorial. It will stand forever as a memorial to their extraordinary service and as a sign of the respect that the people of Burrumbuttock have for them. Those two events were important for Burrumbuttock.

Later that afternoon I went to Walla Walla, which was holding its heritage day on the Walla Walla sports ground. People were able to see sheep being shorn by hand, horse teams at work, old

tractors and vintage cars. It was a great day of general interest for people in the Walla Walla district, harking back to the old pioneering days. This event is held regularly and is always well attended. The Burrumbuttock and Walla Walla districts had a big day last Sunday and everyone from the surrounding areas who attended certainly enjoyed the day and realised what wonderful communities they are. It was a great thrill for my wife, Helen, and I to be involved in those events.

Mr AQUILINA (Riverstone—Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs) [6.22 p.m.]: It gladdened my heart to hear the honourable member for Albury mention Burrumbuttock and Walla Walla, places that are dear to me also, as he would be aware. As the honourable member rightfully indicated, people from those parts are genuine, upright people and hold the heritage of pioneering days in high esteem. Yes, they do put a great store upon memorials and upon remembering those who have gone before them. The pioneering tradition has shaped the character of those towns and the character of the people in that proud part of New South Wales. Along with the honourable member for Albury, I pass on my congratulations and best wishes to the people of Burrumbuttock and Walla Walla and all the people in the area north-west of Albury, just north of the Murray River.

DENTAL HEALTH PROGRAM

Mr CRITTENDEN (Wyong) [6.23 p.m.]: It is my pleasant duty to inform the House that on Thursday, 5 November, the dental buildings at Wyong Hospital were officially opened. Stage one of the complex has been operational since 1993, but has never been officially opened. The Central Coast Area Health Service was careful in its use of minor capital works program money and was able to complete stage two of the facility. As a consequence, it was decided that that would be an appropriate time to officially open the facility. The facilities include a theatre and eight surgeries. On the central coast a program operates under the name of SOKS, Save Our Kids' Smiles. Children in kindergarten, year 2, year 4 and year 8 have their teeth screened, whether in a private or a public school on the central coast. Any necessary remedial work is undertaken.

Nothing could be more important to building a child's self-esteem than ensuring that teeth problems, particularly protruding teeth, are attended to. Great things are happening on the central coast, which have been funded by the State Government. Buildings are being built and we have the SOKS

program, but we have a problem with Federal funding. The Commonwealth dental health care program ceased on 1 January 1997. At the time that amounted to a reduction of \$34 million per annum for adult dental care in New South Wales and is a 48 per cent reduction in the funding for adult dental care, including dentures. Because of its demographics, the situation on the central coast is much worse. In fact, 57 per cent of adult patients on the central coast were treated under the Commonwealth dental health program in the 1995-96 financial year.

The big question is: who will make up the shortfall in funding? Jim Lloyd, the Federal member for Robertson, wiped his hands. He said it was not his problem, that the Federal Government wanted a GST on private health care and dental health, and that that was the appropriate way to go. The area health service has estimated that in the financial year 1997-98 some 11,000 patients were not seen because of the cutbacks in the Commonwealth dental health program: that is, 11,000 people missed out on getting proper dental health care. In terms of dollars, funding reductions between 1995-96 and 1997-98 totalled \$1,774,815. That is a major problem for people in the electorate of Wyong and on the central coast. We must provide adequate health care for our constituents. It is a shame that the Federal Government has abrogated its responsibilities in this regard.

A disturbing picture is emerging. Publicly funded dental health clinics are offering only emergency services. Increased rates of teeth extraction due to patients receiving late dental care are of growing concern. More people are requiring immediate treatment just for the relief of pain. Overworked health care professionals are unable to provide a proper level of general dental care. This is a sad problem. It is a problem caused by the Federal Government. I hope that constituents ring Jim Lloyd, let him know that he is responsible for the problem, and remind him that he is part of a Government that does not care about constituents and, more important, does not care about their dental health care.

CRONULLA POLICE STATION

Mr KERR (Cronulla) [6.28 p.m.]: I draw to the attention of the House the state of the Cronulla police station. It is the responsibility of the Government to maintain the Cronulla police station, and it has not been successful in that regard. The former coalition Government appropriated from its budget funds for the upgrading of the Cronulla police station. That work was required because at

that time the Cronulla police patrol encompassed some 34 square kilometres and had waterways on both the northern and southern boundary, with the Tasman Sea on the eastern side. The patrol is bordered to the west by one other patrol, namely Miranda.

It must be said that under the former coalition Government the police strength increased, from 44 in 1984 to 53 under the former Government. The patrol at that time was responsible for a population of about 50,000, and had almost equal proportions of men and women. As honourable members would be aware, that patrol serviced four suburbs, namely, Cronulla, Woollooware, Caringbah and Kurnell. The patrol falls within the Sutherland council electorate of A riding. The suburbs of Caringbah, Woollooware and Cronulla are serviced by an electric commuter train, being part of the Illawarra line. There are two major shopping centres within the patrol, situated at Cronulla and Caringbah.

Previously, the Cronulla police station had an authorised strength of 50, under the command of an inspector. The Cronulla police station offered a range of policing services that included mobile response, beat police, detectives and licensing officers. Mounted police patrolled the beaches at that time. The public are becoming increasingly concerned at the downgrading of the Cronulla police station. It is no longer possible to charge people there, and the police work in cramped conditions. As we approach the summer season it is essential that additional police resources be provided in Cronulla.

Mr Smith: Hear, hear!

Mr KERR: The honourable member for Bega said, "Hear, hear!" Many people from other parts of Sydney and elsewhere will come to Cronulla because of its famous beaches.

Mr Smith: A top seaside area.

Mr KERR: It is a top seaside area. It is essential that the police have decent facilities. Even outside the summer season it is essential that those police facilities be provided for the residents of the Cronulla electorate. The large increase in the number of street offences is a matter of grave concern to Cronulla residents. Upgrading of the police station is long overdue. It is essential that the police strength be supplemented because of the special nature of the area. The people of the Cronulla electorate are proud of the law-abiding nature of the general population, but it is a matter of resentment that people from other parts of Sydney would engage in antisocial behaviour. The best way

to prevent antisocial behaviour is to have police in sufficient numbers patrolling our beaches and streets. They need to have a high level of visibility. To have that high level of visibility, police must have adequate accommodation and adequate charging facilities. To ensure that the Cronulla electorate is adequately policed, I emphasise the need for the upgrading of the police station. [*Time expired.*]

OLYMPIC GAMES ACCOMMODATION

Ms MOORE (Bligh) [6.33 p.m.]: Affordable housing is a major concern for my constituents and residents throughout Sydney. The Olympics will bring an influx of tourists to Sydney, creating huge pressure for tourist accommodation, and that will displace many tenants as there is an attempt to cash in on the demand. Most at risk are residents of boarding houses and low-cost hotels which are being converted into tourist accommodation or refurbished as high-cost, inner city apartments. People on low incomes who cannot afford to pay inflated rents or move to cheaper areas are at risk.

The impact of the Olympics on housing will be felt not just during the two weeks of the Games. Induced tourism, generated by Sydney's status as an Olympic city, will lead to a sustained increase in tourism in the years preceding and following the Olympics, driving the incentive to convert properties from residential to tourist accommodation. During the 1988 bicentennial celebrations, more than 500 boarders and lodgers were displaced when boarding houses were demolished or converted to backpacker accommodation. Nearly half those tenants lived in Bligh. My constituents continue to be disproportionately affected by the loss of boarding houses.

Action must be taken to ensure low-cost boarding house accommodation is protected during the attempt to cash in on Olympics-induced development. State environmental planning policy 10 was developed to protect boarding houses and low cost accommodation, but it has not worked in practice. Recent approval was given for the redevelopment of a boarding house in Bligh, and more than 20 pensioner tenants were evicted. The Government must strengthen SEPP 10 and remove loopholes and anomalies. Systematic monitoring is also needed so that the effectiveness of regulation can be assessed.

Boarders and lodgers are not protected under residential tenancies legislation, and they have no right of appeal if their rents are raised or if they are evicted without notice. This is already occurring in

my electorate. Recently, a pub was renovated and the tenants were told to move out because the owner wanted to re-let the rooms at a higher rate. They were given less than one week's notice. Most of the tenants were aged pensioners—the oldest being 73 years—who had lived in the premises for more than 10 years.

The Government must improve services for the homeless during the Olympics, otherwise Sydney will become another Atlanta, where the homeless were gaoled for petty offences. Councils are already calling for powers to remove homeless people and beggars. The Government must take responsibility for those made homeless by escalating rents and Olympic-driven development. Tenants renting privately could also be adversely affected by increased demand for accommodation during the Olympics, leading to increased rents and evictions so that properties can be re-leased to tourists.

The recently published Department of Fair Trading report on rental housing and the Olympics recommended that the period of notice for evictions without grounds be increased to assist tenants to find alternative accommodation. I call on the Government to implement the recommendations of its own report and give tenants this added protection. Increased demand for housing in Sydney before and during the Olympic Games will make it harder for evicted tenants to find alternative accommodation. I call upon the Government to implement the recommendations of the 2000 Olympics and the residential tenancy market report that the period of notice for without-grounds terminations be increased.

I believe also that the Government should amend the Residential Tenancies Act to protect tenants from excessive rent increases, sharp escalations caused by inflated market values, and abnormally high demand. I am already receiving calls from constituents concerned about rent increases due to the Olympics. Pensioners on fixed incomes are most vulnerable. A disability pensioner living near Rushcutters Bay fears his rent will increase because of the proximity of his unit to the Olympic sailing venue. He is applying for Department of Housing accommodation now because he knows he will not be able to afford to rent privately during the Olympics.

Excessive rent increases in the private market will increase the already unmanageable demand for public housing in Sydney. The list currently stands at 90,000. Amendments to legislation strengthening the protection of private and public tenants are urgently needed. The Government's own reports indicate that escalating rents and a shortage of

affordable accommodation are ongoing problems in Sydney. This situation will only get worse as the Olympics get closer. I call upon the Government to act before it is too late.

BEGA ELECTORATE ROAD FUNDING

Mr SMITH (Bega) [6.38 p.m.]: I draw to the attention of the House the lack of road funding for the whole of the far south coast generally and for the electorate of Bega in particular. I refer specifically to Princes Highway, the main arterial road for the south coast, as well as Kings Highway, the Clyde mountain road and Main Road 272. Last Friday I travelled on Kings Highway, which is the main link between Canberra and the Batemans Bay tourist area. Before 1995 capital works funding of about \$1 million was allocated for that road each year. The road was improving gradually—and at a rate acceptable to those who travel on the road. However, in the past four years no capital works funding has been allocated for that road or for any other road in my electorate. Indeed, no capital works funding has been allocated for Princes Highway south of Wollongong.

The traffic on Kings Highway last Friday—not within a school holiday period—was merely normal traffic with people travelling from Canberra to spend the weekend at Batemans Bay. It was horrendous! The combination of heavy traffic and extremely steep inclines makes the road extremely dangerous. The people of Canberra and Batemans Bay do not expect the road improvements to be completed in a short period. However, they would like to know that there is a systematic program for upgrading the road that results in visible improvements each year and that the road is being made safer and faster as time passes.

Maintenance work on the surface of Princes Highway has been carried out. However, no capital work has been done on the road for the past four years. The most recent capital work was carried out at McLeods Hill. That works program was implemented and completed under the previous Government. Several sections of Princes Highway in my electorate are in bad condition. I refer in particular to the proposed Ulladulla bypass. The Roads and Traffic Authority has carried out planning work and held public meetings, and it has put four options before the people of Bega. Although that was done some 12 months ago, the RTA has not yet indicated which option will be used as the corridor for the Ulladulla bypass. Many people are concerned because their land may be affected by whichever option proceeds and they may not be able to buy or sell land with this blight on their titles. The RTA

simply will not select a corridor or proceed with the Ulladulla bypass.

A bypass on the Princes Highway is required for Bega township. For a number of years the local community has requested a bypass so that the B-doubles can travel on the Princes Highway without going through Bega township. There is a very dangerous right-hand turn in Carp Street, Bega, and there is a hill south of the town. A bypass would make the township much safer and more convenient for those who wish to shop and do general errands in Bega. It will be necessary to remove bends and widen the road south of Narooma. Main road 272 is the link between Tathra and Bermagui. Previously \$400,000 to \$500,000 was allocated each year for works on that road, which was gradually improving. About 20 kilometres are dirt road. These days dirt roads are not acceptable, especially to tourists, but I am sure more tourists will travel on the road as the section of dirt road is eliminated. [*Time expired.*]

Private members' statements noted.

[*Mr Acting-Speaker (Mr Mills) left the chair at 6.43 p.m. The House resumed at 7.30 p.m.*]

DRUG COURT BILL

Second Reading

Debate resumed from an earlier hour.

Mr McBRIDE (The Entrance) [7.30 p.m.]: The eligibility criteria in the anticipated program are to be used for initial screening by the police, referring courts and agencies such as the Legal Aid Commission. No additional factors are to be included, such as subjective determination of how likely the offender is to succeed. The program is aimed at offenders charged with non-theft offences; possession of illegal substances; fraud or forgery; steal from person; unarmed robberies, provided there is no actual physical harm; and dealing in quantities of drugs below the indictable limit. All sexual offences and offences involving actual violence and/or physical harm are excluded.

Eligibility is to be determined ultimately by the Drug Court judge acting on the advice of a court-based assessment team that involves health, defence, prosecution and probation representatives. Police will follow normal procedures for offenders when considering screening and referral to the Drug Court. When an offender is brought before a court, that court will refer eligible offenders to the Drug Court. Offenders will be given the choice of entering into the program or serving the normal sentence. If

they choose to enter the program, offenders will be remanded in a stand-alone detoxification facility for assessment.

Eligibility will be determined by a screening team and an offender will be taken before the judge for a decision on admission to the program. The judge will take the plea and impose sentence on all referred offenders eligible for the program. While the offender is in the program the sentence is suspended for the duration of program compliance. The sentence will be reinstated for failure to comply with the program and will be revised on graduation from the program. This has the advantage of the stick-and-carrot maxim. If an offender is eligible on other grounds but the judge will not impose a gaol sentence, the Drug Court judge may impose a sentence. Other ineligible offenders may be sentenced by the Drug Court or referred back to mainstream courts.

During treatment service providers will be required to report weekly to the review team using a form with boxes to be ticked. Service providers will be required to immediately notify the review team of breaches of attendance and/or compliance. The provision of this information will be a legislative requirement. Offenders on one treatment may be recommended on clinical grounds for assignment to another treatment. The program is designed to have the treatment fit the client. The object is not to punish clients, but to rehabilitate them.

Case managers will be assigned to supervise offenders and broker support services for them. Case managers will report to the assessment review team, who will advise the court on progress, appropriate sanctions for breaches and appropriate rewards. A police officer of the rank of inspector will be assigned to the court full time to facilitate exchange of information and services, attend hearings, engage in case management deliberations, et cetera. This officer will also keep relevant police stations informed of the progress of the offender.

The levels of judicial supervision will be in phases. Frequency of appearance by offenders before the court will vary according to the phases. Each phase is determined according to the progress of the person in the program. Frequency can be varied to accommodate the offender's rehabilitation needs. For example, an offender may move from one phase to another after 12 clear urine tests. Praising and reprimanding, verbally using rewards and sanctions will be part of supervision, together with training in preparation for a counselling component and familiarity with treatment methods.

The court will combine sanctions and incentives in the treatment of offenders. The sanctions will be imposed in accordance with clear guidelines provided to participants from the start. In other words, the clients will know the commitment required of them to be part of the program. This will set out what breach attracts what level of sanction with an overriding judicial discretion. The judge may exclude any participant from the program at any time. Sanctions for failure to participate in the program will generally be more severe than sanctions for a participating offender who lapses.

The court will have the power to reward compliance and good progress by promoting advanced progression through phases and relaxation of supervision, and access to treatment privileges, for example, take-away methadone. The criteria for termination from the program will be based on clear guidelines. Graduation from the program will be based on successful participation in the program for 12 months and being free from drug abuse. The program may be extended beyond 12 months if progress is good, but a longer time is required to meet graduation requirements.

I commend the Drug Court Bill to the House because it is positive action. The objective is not punishment, but rehabilitation and finding solutions to a difficult problem that confronts our society. Most importantly, it is not just a stereotype law and order solution. In some circumstances those solutions work, but unfortunately drug offenders who are not hardened criminals become involved in the criminal milieu. Once that happens, it is a downward spiral for them, their families and the community. This bill is a solution for people who want to get off drugs.

This bill is a solution for people who have been dragged into drug addiction willingly or unwillingly. They will now be given the opportunity to get out of that situation rather than going to court and then further down the track of criminality. This bill is a positive solution and I commend the Minister. I commend also the Premier for his personal interest in this issue. Whenever the Premier visited the central coast he showed a keen interest in issues affecting young people. He is sincere in his concern about this problem. This legislation results directly from the Premier and his commitment to do something about improving this difficult situation in society. I commend the bill to the House.

Ms SEATON (Southern Highlands)
[7.37 p.m.]: The Opposition does not oppose the Drug Court Bill. The principles reflected in the bill

deserve support because it is a structure to provide an avenue to address the causes of drug-related crime, or at least some of them, and to provide a means by which those involved in drug-related crime do not just serve their debt to society by a custodial sentence or other penalty but can find in that process a way to address the addiction or dependency problem that contributed to their criminal behaviour.

As most of the offenders likely to be candidates for the Drug Court and its program will be habitual drug users who, according to the bill's provisions, cannot have been involved in violent crime or the supply of drugs, it must be our objective to help these people overcome their addiction, whether it be to drugs or alcohol, and stop the cycle of recidivist crime. I visited Odyssey House recently and was impressed with the outcome of its rehabilitation program. I know there are similar programs throughout New South Wales.

I was pleased to join the Leader of the Opposition and the shadow minister for health, the honourable member for North Shore, when the Opposition called for the Government to commence naltrexone detoxification trials because rehabilitation is vital to stop the crime cycle. The Opposition would like the treatment of people with alcohol dependency to be included in the model envisaged for drug courts.

It is essential that the Drug Court system have the necessary backup of adequately resourced rehabilitation services. Members of the Opposition are well aware that the needs of the community are not being met. I am aware of the anecdotal evidence that has been reported in the media. In the past few months, prior to the Government taking up the Opposition's call to introduce naltrexone trials, I spoke in Goulburn with the parent of a young woman who was a drug addict. This woman had been so desperate to find an opportunity for her daughter to be rehabilitated that she paid to send her daughter to a clinic in South Australia where she was successfully treated. I understand that young woman is now guiding other drug-addicted people through that program. However, she had to go to another State to find it. The community is constantly crying out for improved, better-targeted rehabilitation facilities.

It is important to think about why people become addicted in the first place. I have referred before in this House to the messages about so-called soft drugs that are reaching many of our young people. By that term people mean marijuana. We have to stop this nonsense that marijuana is a soft

drug. So often I speak to parents and teachers in our schools who, simply because it has become a fairly accepted description, slip into the habit of calling marijuana the soft drug and heroin the hard drug. The most recent evidence and research into marijuana shows that it is anything but a soft drug. If we continue to use this nonsensical language about marijuana being a soft drug we will only perpetuate the problem amongst our children.

This week I was speaking with a woman in my electorate who told me about a year 7 child who sold his mountain bike—which I imagine would have been worth some hundreds of dollars—for \$20 so that he could buy a foil of marijuana. On a particular Friday night he smoked 20 cones as a result of that purchase. That was largely because children in year 7 and of primary school age are hearing the message that marijuana is a soft drug. That attitude must change. We are generating a climate conducive to more addicts entering the system and, whether we like it or not, many addicts have to resort to criminal behaviour to fund their addiction.

Let us also use this debate as an opportunity to consider some other people who pass through the revolving door of our courts, those who have mental health and intellectual disability problems that are not necessarily identified or recognised under the Mental Health Act. Despite the fact that they have a legitimate medical problem, they are given no assistance. I would like to see much more attention paid to the effect that unrecognised mental health problems—including unrecognised developmental and intellectual disability—have on patterns of criminal behaviour. I would like to find ways to extend models such as the Drug Court model to the more constructive treatment by our courts of people who are charged with an offence and convicted. It is usually only then that the court system gets an opportunity to consider other circumstances relative to that individual, for example, a developmental disability or a mental illness such as kleptomania that is often not diagnosed.

It is clearly desirable that we find a way to address the problem suffered by such people rather than subject them to a process that is meaningless in the context of their condition and which will not help to treat them in the long run. This is not to say that defendants should be provided with an avenue to flout the law or to avoid legitimate social or judicial obligations. But, in line with the objectives of the Drug Court, what I suggest offers a prospect of long-term treatment of an appropriate type to avoid the reappearance of affected individuals in the criminal justice system. Apart from it being a more

humane response, in the long term there is a cost saving to the broader community. This is a personal view and one I would like more attention focused on. It is a real need that has emerged in discussions I have had with people in the fields of mental health and justice. The principle of a Drug Court is a worthy one. Its success depends on how seriously the Carr Government treats the concomitant issues of drug rehabilitation and detoxification. I will follow the progress of the pilot program with considerable interest.

Ms MOORE (Bligh) [7.44 p.m.]: A comprehensive reform of policy for drug users is desperately needed in this State to stem the devastating effects of drug addiction in our communities: countless young lives lost, family life disrupted and scarred by the addiction of a family member, the increased spread of infectious diseases such as HIV and hepatitis C, and the impact on the wider community of increased crime and violence to support the drug habit. The cost of not facing the problem is felt by every citizen in this State. Lives are cut short, health and prospects are ruined by drug use. Loved ones suffer and families are in turmoil. As victims of drug-related crime and as taxpayers we shoulder the burden of increased expenditure on health and law enforcement, which is currently misdirected.

In my electorate, as much as any other and perhaps more than most, measures to combat drug-related offending are urgently needed. Drug use and drug-related offending are the number one crimes and the major safety and health issues in the electorate of Bligh, especially in Kings Cross, Darlinghurst and Surry Hills and, to a lesser extent, in Paddington and Double Bay. They are also extremely serious in Redfern, Chippendale and Darlington, areas to be added to my electorate, where residents are already contacting my office. Business owners and residents alike are disturbed by overt drug dealing on the streets. They are terrorised by addicts who accost them with weapons and syringes, assault them and demand money, all to support a drug habit. Their homes and shops are constantly under threat of break-in and burglary by opportunistic offenders who steal to pay for the next fix. They are distressed by overdosed young people sitting on their doorsteps. They are tired of the litter of discarded syringes which are hazardous to them and to their children.

Current Federal and State Government policies have failed us. The State Government and the State Opposition combined to prevent the trialling of safe injection rooms despite the recommendation of the

Wood royal commission and the overwhelming evidence received by the parliamentary joint select committee that a trial would help to save lives. It would have provided a gateway for addicts into treatment, most of them young people, and it would have removed injecting and needles from public streets and back lanes. The Federal Government has failed us as it has not proceeded with a heroin trial, despite strong evidence of overseas success.

Recently the State Government announced policy changes in relation to needle exchange, removal of large-bore syringes and methadone treatment. This could lead to increased sharing of needles, the transmission of infectious diseases, the abandonment of the methadone program and a return to heroin use. There is widespread concern in the community about the chronic underfunding of treatments, especially detoxification and methadone. It is in the context of all of that that I look at the bill before the House tonight. The bill to set up a Drug Court is only one small part of an approach to drug use and drug-related crime. The Australian Institute of Criminology pointed out in a recent issues paper:

If drug courts are to succeed then the court has to provide a package of services that go beyond treatment provision and include education and vocational training, social and welfare services as well as health and housing provisions. If this package is under resourced the drug court cannot be expected to achieve the outcome of reduced offending and drug abstinence in the community.

So far, these additional resources have not been forthcoming. There are not nearly enough treatment and rehabilitation facilities for voluntary patients, let alone for those referred from a court. Funding for treatment services for voluntary and court-referred drug addicts must be provided to enable the Drug Court to work. Other health and harm minimisation measures must be made available to drug users to support the Drug Court system and reduce the danger that the only way drug users will access treatment is through criminal offending and referral by a court. The Government is opening new needle exchanges but closing others. Without the provision of safe injecting rooms, the users get the needles but no safe place to inject. The Government's removal of large-bore syringes from distribution will encourage more displacement from methadone to heroin use. Without heroin trials, users who could otherwise support a stable lifestyle will revert to crime to support their habit. All these health-based, harm-minimisation policies must be incorporated with the Drug Court to enable health and law enforcement agencies to work together on the problem.

I believe that there are many lessons to be learnt from the American drug courts. In America drug courts vary in the way they operate. It is important that we pick up the best aspects of those models and remember that, thankfully, Australia is not yet America. In 1997 the United States Office of Justice programs identified 10 key components for a successful drug court, which include alcohol and drug treatment services being integrated with justice system case processing; participants being identified early and placed in treatment; access to alcohol, drug and other related treatment and rehabilitation services; judges being highly involved with drug users' ongoing compliance; monitoring and evaluation to assess effectiveness; drug courts; and co-operation between drug courts, public agencies and the community. As to cost effectiveness, the jury is still out. A report to the United States House of Representatives on a major review of the drug courts stated:

... none of the programs had been thoroughly and systematically evaluated in terms of costs and benefits and more information would be needed on this ... before it can be firmly established whether these courts have diminished costs or simply delayed them.

Current Federal and State policies are politically expedient. They have only created more addicts, more crime, more deaths and higher corrections burdens. The challenge for both sides of the House is to adopt policies of health-based law reform that draw on the wisdom of experts within this country and this State and that rely on international approaches to drug use that favour more positive outcomes through harm minimisation. I urge the Government to take on board the recommendations of the Alcohol and Drug Council of Australia to increase funding for prevention, research and education into drug use; to provide adequate treatment programs and services for all people with drug abuse problems; and to consult and involve non-government organisations, local communities and consumer groups in decision making, service delivery, research, policy development and planning.

That means going beyond existing services and providing new initiatives and programs to fill the gaps that a comprehensive drugs policy should have. The Government needs to do that. In conjunction with providing adequate funding for a permanent uniformed police presence that will provide real community policing, so that the community feels safe and is able to help the police to gather intelligence thereby developing adequate strategies to reduce trafficking and the terrible crime that is taking place on the streets of my electorate and many other electorates in this State.

Mr RICHARDSON (The Hills) [7.52 p.m.]: I join other honourable members who have spoken in the debate in not opposing the bill. In fact, the provisions of the bill are consistent with a paper I published last year, "No Quick Fix". The tenth recommendation contained in the paper was that the range and extent of detoxification and rehabilitation services be increased and that the Government make mandatory detoxification and/or rehabilitation an alternative to gaol for those whose most serious offence is the consumption of narcotics. I am aware that the Government has a copy of my paper and has adopted a couple of other recommendations from the 14 contained in it. One such recommendation was that the dispensing of needles suitable for injecting methadone be ceased and the other was for the trialling of rapid opiate detoxification in the public hospital system—the Opposition played a major role in persuading the Government that this would be worthwhile.

The Government has not yet focused on harm prevention rather than harm minimisation. I listened with interest to the comments made by the honourable member for Bligh, although I fundamentally disagree with her on this issue. If this State is to have a realistic and workable drug policy, we need to get away from the old concept that harm minimisation is all that matters and that the drug problem is entirely a health issue. The drug problem is not entirely a health issue, it goes across a range of portfolios and a holistic approach is needed if real inroads are to be made into reducing the drug menace. I suspect that this bill will make a substantial difference, if the Government is prepared to allocate sufficient resources.

It is true that one should not view people who have become addicted to narcotics or other illicit drugs as criminals. One needs to take a more positive view; one needs to attempt to rehabilitate those people and to get them back into society. This problem needs to be dealt with not only in a humane way but by finding long-term solutions to the problems of drug addiction. One issue that must be borne in mind is the addict's wish to be rehabilitated. The Minister in his second reading speech said that relapse must realistically be expected as part of the recovery process. That is true. Not all heroin or cocaine addicts will want to stop using. For many the ritual of tying a tourniquet around their arm and sticking in a needle is as important as the rush they get from the drug.

Just as for an alcoholic the first stage of reform is the admission that he or she has a problem, so the drug addict must genuinely want to

get off drugs. We should not be too judgmental about that. I know that there are honourable members of this House who have, for example, attempted to stop smoking many times but have not been successful. Those addicted to heroin and other drugs are no different. Only 30 per cent of those undergoing detoxification treatment at the Wistaria Centre, Westmead, reach the end of the program, and only 10 to 20 per cent of them are drug free at the end of 12 months. A methadone dispenser I spoke to when researching "No Quick Fix" told me that one has to be psychologically ready to get off the drug. It is to be hoped that the alternative of a custodial sentence if an offender does not go through with a rehabilitation program may be an additional incentive to persuade offenders to go clean.

The bill is not strictly necessary. At present many magistrates in the New South Wales court system give minor offenders the choice between a custodial sentence and rehabilitation. That approach has proved to be very successful. Many honourable members on this side of the House were particularly concerned last year when the Government, in attempting to decriminalise marijuana, sought to provide that the option of threatening an offender with gaol would not be available; that offenders would simply pay a fine, laugh at the court system and continue in their unhealthy ways. The drug court system is to be trialled for two years in greater western Sydney. Those who enter the program will be people who have committed non-violent theft offences.

The Minister in his second reading speech said that the drug court program would be available only to offenders who committed certain categories of offences. Those offenders who commit sexual offences and offences involving violent conduct will not be eligible for the program. Those who commit break, enter and steal offences, fraud and forgery offences, offences involving stealing from a person, and unarmed robbery will be eligible for the program, provided that there is no violence and that possession and use of prohibited drugs or dealing in quantities of prohibited drugs is below the indictable limit. That is important. I ask the Minister how many offences could be committed before an offender would be ineligible for a program. I have read that the rate of burglary in Strathfield decreased by almost half following the apprehension of one addict. One person had committed more than half the burglaries in that suburb over a two-year period, if I recall correctly.

At dinner time this evening my colleague the honourable member for Vacluse told me that the apprehension of one offender in Paddington had resulted in a 40 per cent decrease in the crime rate in that suburb. There must come a point at which one would say that an offender would have to undertake a custodial sentence—that sentence could be in addition to rehabilitation treatment, and a rehabilitation program could reduce the length of a custodial sentence. Regardless of the fact that we want to rehabilitate people and regardless of the fact that we want those people to return to being useful members of society, it is clear that the community is not prepared to tolerate a spree of hundreds if not thousands of burglaries over a sustained period of time.

While offenders in the program will have to undergo random urine testing what happens if they continue to steal to feed their drug habit? It may well be that they relapse and use drugs while they are on the program. In the context of the remarks I have already made the court will treat that with a degree of leniency. Will such offenders automatically be withdrawn from the program? Will additional sanctions be put in place—for example, an additional gaol sentence—if they continue to re-offend? Those questions will need to be addressed—by the Minister initially and certainly by the courts during the pilot program. As other speakers have said, the Achilles heel or the greatest weakness of the legislation is its lack of provision of treatment facilities. The Minister said in his second reading speech:

... treatment options will include detoxification, residential rehabilitation, outpatient counselling, methadone and naltrexone. The expansion of currently available treatment services is crucial to the success of the Drug Court program. It is emphasised that dedicated treatment places will be made available for the effective operation of the Drug Court program. These will be over and above existing rehabilitation places.

They will certainly be needed because this Government has a woeful record of rehabilitation of drug users. According to the August 1998 report, "Drugs, Money and Governments 1996-97" by the Alcohol and Other Drugs Council of Australia, New South Wales cut spending on drug and alcohol services by \$2.13 million between 1995-96 to 1996-97. Funding per head dropped from \$7.06 to \$6.60. New South Wales was one of only two States to cut per capita spending on alcohol and drug programs. New South Wales ranked in the bottom three of all government performance survey categories. In all categories New South Wales has either remained the same or gone backwards compared to the 1995-96 survey.

The major shift in ratings over previous years was in New South Wales, where its already negative rating was reduced. According to the survey's respondents New South Wales has now the worst performing government. New South Wales is the largest State and, arguably, has some of the most significant drug problems. However, it has failed to prioritise drug problems or make a serious commitment to reducing drug-related harm. The report describes the record of New South Wales in relation to drug treatment programs as very poor and notes that that is disappointing. That makes a mockery of some of the comments made by the honourable member for The Entrance. A survey of client access to non-government organisation residential alcohol and other drug services in New South Wales by the Network of Alcohol and Other Drug Agencies, which was compiled by Peter Connie, the executive director of that organisation, and released in July this year stated:

One in three people seeking residential admission are not getting it in New South Wales.

Of those declined admission the most common reason is "no place available".

Demand for beds in D&A treatment centres run by NGO's exceeds availability by 300 per cent.

Mr Connie said:

We have a crisis in the capacity of these centres in NSW which is getting worse by the month.

Bob Carr's drug courts will not work because his government has sent drug rehabilitation and treatment backwards in NSW.

I understand that the Minister has made a commitment to provide additional facilities. The lack of those additional facilities will make a mockery of the legislation. If the Government is not prepared to provide adequate funding to the rehabilitation network, one suspects that the Government is setting up this experiment to fail. Honourable members will note that the Minister said in his second reading speech that a condition of an offender undertaking a rehabilitation program as an alternative to a custodial sentence is that the offender is accepted into the program. It would be a nonsense if there were no program available for the offender to enter.

Rehabilitation services should be available now. I wonder whether the Government is not putting the cart before the horse with this legislation. One can see from the figures I have quoted that rehabilitation services are required not only in greater western Sydney, the Sydney metropolitan area, the Illawarra or the Hunter but also on the north coast and throughout rural New South Wales. While placing those caveats on my support for the legislation, I repeat that the bill could provide a

valuable addition to the tools available to cope with the scourge of drug addiction. The Government must make adequate facilities available for the Drug Court to be successful.

Mr GIBSON (Londonderry) [8.05 p.m.]: The hypocrisy in this place never ceases to amaze me. The coalition was in government for nearly seven years and did absolutely nothing to deal with the problem of drug addiction. The honourable member for The Hills now has the hide to talk about programs that should be in place.

Mr Richardson: You have done nothing in four years.

Mr GIBSON: The coalition had seven years to put programs in place and it did absolutely nothing. The bill establishes a Drug Court and a scheme under which people will be given a chance to overcome drug problems. My electorate is no different from any other electorate in New South Wales, apart from the fact that my constituents have the youngest average age of any electorate in New South Wales. Londonderry has a drug problem. Virtually every week people come to me and say that their nightmare has come to life: they have discovered that their children are on drugs.

Until now the only thing they could do was hope. I congratulate the Government on introducing this legislation because it will give offenders an opportunity to do something about their drug problem. It will give a family and a child an opportunity to see the light at the end of the tunnel, which they have not been able to do until now. The Government is trying to do something a little different and the Opposition tends to regard the change as a threat. However, in this instance the change is not a threat. People who have become hooked on drugs know that they cannot get off them. Drug courts will be best for those who volunteer to join a rehabilitation program to beat the problem.

Drug courts have operated in the United States of America for more than 10 years. In the United States there are 400 different types of drug courts, each of which is totally different because drug problems are totally different from family to family and from area to area. The drug problems in Kings Cross and Cabramatta are totally different to the drug problem at Mount Druitt. The trial of a drug court in western Sydney will provide a background to get on top of the drug problem. Under the present system the drug problem will never be solved. The only thing I can tell a mum, dad, brother or sister who comes to see me is to visit the doctor and to

hope that everything turns out okay. Today hope is not good enough because the drug problem is too great.

Drugs are the fastest growing problem in all communities. Drug courts should be totally supported. For the first time they will provide an opportunity to do something positive to get on top of the drug problem and to defeat the hoons who are pushing drugs. The hoons flourish so long as there is a demand for drugs. Taking away the demand for drugs in small or large measure will put us well and truly on the track of solving the drug problem. There has not been a more positive move in the fight against drugs than the establishment of a drug court. If the Drug Court in western Sydney proves successful others will be established in other parts of New South Wales. I totally support this legislation. On behalf of all the mums and dads in my electorate, and in every electorate of New South Wales, I congratulate the Government on taking this positive step against the scourge of drugs.

Debate adjourned on motion by Mr Oakeshott.

**ADMINISTRATIVE DECISIONS TRIBUNAL
LEGISLATION FURTHER AMENDMENT
BILL**

**BENEVOLENT SOCIETY
(RECONSTITUTION) BILL**

**INDUSTRIAL RELATIONS AMENDMENT
(FEDERAL AWARD EMPLOYEES) BILL**

**TRAFFIC AMENDMENT (SPEEDING ANTI-
EVASION MEASURES) BILL**

Suspension of standing orders agreed to.

**ADMINISTRATIVE DECISIONS TRIBUNAL
LEGISLATION FURTHER AMENDMENT
BILL**

Bill introduced and read a first time.

Second Reading

Ms HARRISON (Parramatta—Minister for Sport and Recreation), on behalf of Mr Whelan [8.11 p.m.]: I move:

That this bill be now read a second time.

Honourable members will by now be familiar with the Administrative Decisions Tribunal, which was established by the Administrative Decisions Tribunal

Act 1997. This Act, together with some provisions of cognate Acts which conferred jurisdiction on the tribunal, commenced on 6 October 1998. The tribunal now has a physical presence at level 15, 111 Elizabeth Street, Sydney and is equipped to hear matters referred to it by the provisions of cognate Acts which have commenced since that time. At present the bulk of the tribunal's jurisdiction is in the Equal Opportunity Division, the Legal Services Division and, pursuant to the Freedom of Information Act, in the General Division. The Administrative Decisions Tribunal Legislation Further Amendment Bill reflects the need to amend both the principal and cognate legislation, as identified in the course of preparing to open the doors of the tribunal for business.

In addition, the jurisdiction of the tribunal is further extended so that appeals from board decisions pursuant to the Surveyors Act 1929 will be heard in the ADT, and a person with a right of appeal with respect to a licence or permit issued under the Dangerous Goods Act 1975 will be heard by the tribunal. With respect to the existing jurisdiction of the tribunal, amendments to the Disability Services Act 1993 are effected in order to clarify the kinds of decisions that may be subject to an application for review by the tribunal. These amendments will allow the Community Service Division of the tribunal to commence on 1 January 1999. Also, the bill re-enacts previous amendments to the Animal Research Act 1985 to take account of the rewriting of that Act. Amendments to the principal Act create a new division, the Occupational Regulation Division, which will allow expertise to be developed in reviewing matters concerning the discipline and regulation of occupations where jurisdiction has been conferred on the tribunal.

An amendment to remove the age restriction on membership of the tribunal will allow the tribunal to appoint or retain expert members in circumstances where they would previously not have been eligible for appointment or reappointment. This amendment recognises the significant wealth of experience which is available to a community that is prepared to accept that many of its ageing, but otherwise well, members have a significant and active role to play in the life of their society and its institutions. As the maximum term of appointment for members is three years, the potential for a member of the tribunal to fail to perform his or her duties as a member is still kept to a minimum. Other amendments will allow the tribunal to utilise its existing human resources to maximum potential. Specifically the bill provides that the president may be appointed as a divisional head and that he or she may appoint divisional heads to sit as members in other divisions.

Also, to allow the tribunal to manage its workload in an appropriate fashion, the bill provides that a non-judicial member, a registrar or a deputy registrar may conduct directions hearings. The bill also provides for a number of amendments to procedure in the tribunal, which include amendments to clarify who is responsible for management of the administrative affairs of the tribunal, who may be a party in proceedings before the tribunal, and how notices and lodgement and service of documents should be dealt with. I commend the bill to the House.

Debate adjourned on motion by Mr Fraser.

**BENEVOLENT SOCIETY
(RECONSTITUTION) BILL**

Bill introduced and read a first time.

Second Reading

Ms HARRISON (Parramatta—Minister for Sport and Recreation), on behalf of Mr Whelan [8.16 p.m.]: I move:

That this bill be now read a second time.

The purpose of the bill is to repeal the Act incorporating the Benevolent Society of New South Wales and the by-laws made thereunder; to transfer the assets, rights and liabilities of the society to a new company limited by guarantee created for that purpose; and to exempt the transfer of assets so affected from stamp duty. The Benevolent Society of New South Wales was formed on 5 June 1818 for "the relieving of the poor, the distressed, the aged and the infirm" and others requiring such assistance. Governor Macquarie was its first patron and subsequent governors of New South Wales have continued to hold this position. Until the early part of this century the society was the major provider of support and assistance to the disadvantaged in New South Wales.

The pioneering work of the society included making legal aid available to single women, fighting for and obtaining the old-age pension for older Australians, campaigning for laws abolishing child labour, establishing the first baby health centre in Australia and pioneering district nursing in this country. The history and charitable activities of the society are long and distinguished. They are set out in great detail in *A Very Present Help*, a history of the society prepared by Mr Ron Rathbone and published in 1994. I commend this book to those honourable members interested in reading further about the works of the society. After managing a

number of institutions, such as hostels and asylums, the society established the Lying-In Hospital for Women in 1866. The Parliament passed the Benevolent Society of New South Wales Act 1902 based upon the then existing by-laws of the society to clearly identify the importance of the society's obstetric and other health services for women, and to give the society the ability to carry on those activities with greater independence from government.

In 1904 the Royal Hospital for Women was established at Paddington. For some time this world-renowned hospital was the society's prime activity. In 1992 the society transferred the operation of the hospital to the Eastern Sydney Area Health Service. The increasing cost of managing a modern hospital, the society's decreased involvement in the management of the Royal Hospital for Women, and changes to health funding policy by State and Federal governments over many years led the board of the society to agree to the closure of the hospital. In 1997 its facilities were transferred to a new building at the Prince of Wales Hospital at Randwick, where the tradition of excellence in obstetric and related services continues.

Clause 5 transfers the assets, including staff, rights and liabilities of the former body to the company. Clause 5(3) continues the restrictions currently found in section 5 of the Benevolent Society of New South Wales Act as to the power to deal with land previously acquired by grant from the Crown. Such restriction requires the consent of the Governor to any such dealings except for a lease of not more than 21 years for which there is payable during the whole of the term of the lease the best yearly rent that can be reasonably achieved. Clause 6 exempts transfers under the proposed Act from duty otherwise payable under the Duties Act 1997.

Clause 7 repeals the Benevolent Society of New South Wales Act 1902 and the by-laws under that Act. Clause 7 also provides for the certification of a copy of the by-laws of the former body by an officer of the company as correct to be conclusive evidence of those by-laws where needed to be received as evidence by any court or tribunal. The assets, rights and liabilities of the former body will transfer to the new company from the commencement of the proposed Act, on a day to be appointed by proclamation. Registration of the company was effected on 12 October 1998 and the appropriate date for proclamation will be determined in consultation with the society. I commend the bill to the House.

Debate adjourned on motion by Mr Beck.

INDUSTRIAL RELATIONS AMENDMENT (FEDERAL AWARD EMPLOYEES) BILL

Bill introduced and read a first time.

Second Reading

Ms HARRISON (Parramatta—Minister for Sport and Recreation), on behalf of Mr Yeadon [8.22 p.m.]: I move:

That this bill be now read a second time.

In order to appreciate the reasons for this legislation, it is necessary to refer briefly to some basic aspects of Australian constitutional law. In order for a law of the Federal Parliament to be constitutionally valid and hence effective it has to be based on one or more of the heads of authority or powers set out in the Australian Constitution. There is a specific power in the Constitution which is relevant to industrial relations. This is the conciliation and arbitration power. Historically, when the Federal Parliament legislated in the area of industrial relations it relied on this conciliation and arbitration power. However, in more recent years there has been a tendency for Federal industrial relations provisions to be made in reliance on other constitutional powers.

The current Federal Workplace Relations Act 1996 relies much more heavily on the corporations power of the Constitution as the source of legislative authority than did previous Federal industrial legislation. In the area of termination of employment, those provisions dealing with harsh, unjust or unreasonable terminations are based on the corporations power as well as on certain other powers of a limited application in New South Wales. However, a consequence of this reliance on the corporations power is that, by and large, these Federal unfair dismissal provisions can only have application to corporations.

The result is that employees whose employers were not constitutional corporations are not able, if dismissed, to apply to the Australian Industrial Relations Commission for a remedy against harsh, unjust or unreasonable termination of employment. Moreover, the unfair dismissal provisions of the Workplace Relations Act 1996 are expressed to apply only to persons who prior to their dismissal were employed under a Federal award. Last year a decision of a full bench of the Industrial Relations Commission of New South Wales in the case of *Moore v Newcastle City Council* dealt with the issue of access to the New South Wales unfair dismissal system. The provision in the Industrial Relations Act

1996 which dealt with access by persons whose employment was not covered by State awards was based on a rather complex amendment moved by the Opposition when the legislation was passing through the Parliament.

Somewhat unexpectedly, the full bench held in *Moore v Newcastle City Council* that persons whose employment had been covered by Federal awards before their dismissal were not able to bring unfair dismissal claims to the New South Wales commission. The effect of this decision has been to create a lacuna in the availability of a remedy against unfair dismissal. Persons who were Federal award covered employees but whose employer was not a constitutional corporation or covered by other narrow constitutional heads of authority are not able to apply to the Australian Industrial Relations Commission for a remedy against unfair dismissal.

At the same time, because of the decision in *Moore v Newcastle City Council*, no persons whose employment was covered by a Federal award can apply to the Industrial Relations Commission of New South Wales. This means that Federal award covered employees in New South Wales who were not employed by corporations have no remedy against unfair dismissal available in either jurisdiction. The Commonwealth Government was aware that the effect of its reliance on the corporations power would be to deny access to the Federal commission in relevant termination cases to employees of non-corporate employers who were covered by Federal awards. It accordingly sought complementary State legislation to confer power on the Australian Industrial Relations Commission in respect of Federal award covered employees whose employers were beyond the scope of Federal legislative power.

The Federal Workplace Relations Act 1996 explicitly permits the Federal commission to perform functions or exercise powers as conferred by the law of a State with respect to the termination of employment of employees who were before that termination Federal award covered employees. Although only Queensland has so legislated, in other jurisdictions Federal award covered employees have access to State unfair dismissal systems while Victoria has referred full industrial relations powers to the Federal commission.

The Industrial Relations Amendment (Federal Award Employees) Bill is in the terms envisaged by the Workplace Relations Act. As the bill now before the House is consistent with the Federal Workplace Relations Act, and has been approved by the Federal workplace relations Minister, I assume that it should

receive the support of the Opposition. I am also sure that crossbench members will appreciate the desirability of legislation to ensure that employees are not denied a remedy against unfair dismissal merely because their employer lacked corporate status. This bill will remedy a small but significant deficiency in the availability of unfair dismissal remedies to workers in New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr Kinross.

CRIMINAL PROCEDURE AMENDMENT (SENTENCING GUIDELINES) BILL

Second Reading

Debate resumed from 28 October.

Mr KINROSS (Gordon) [8.29 p.m.]: It is fortuitous that the Minister for Sport and Recreation should be leaving the Chamber because she read the second reading speech following presentation of this bill. I am sorry to have to say that I do not think the Minister would have had much of a clue about the subject matter of that bill, especially as responsibility for delivery of the second reading speech had been delegated to her by the Minister for Police and the Leader of the House. This bill relates to some fairly detailed legal matters regarding the criminal procedure and the proposed sentencing guidelines. It is fortuitous also, I would suggest, that the Government brought this legislation forward after the Opposition flagged its grid sentencing proposals some months ago. The overview of the bill states:

In the recent case of *R v Jurisic* Matter No 60131/98 [1998] NSWSC 423 (12 October 1998) the Court of Criminal Appeal adopted the practice of the English Court of Appeal of giving a guideline judgment in the context of a particular case.

Although the Opposition, for which I am leading, will not be opposing this bill, some points need to be made about it. First, it is an attempt by the Government to pinch, swipe, steal, et cetera, the Opposition's policy, although it does not go nearly far enough. Effectively, it will politicise the courts. The Attorney General in another place, the Hon. Jeff Shaw, who should know better, has already given a serve to Chief Justice Spigelman about what should occur to let the Labor Party off the hook. These guidelines are indicative only. The Director of Public Prosecutions, Nick Cowdery, in a letter to the shadow attorney general, stated that the legislation was unnecessary as the sentencing range for specific offences is and "should be set by legislation".

In other words, it is not good enough simply to provide guidelines; it is for the Parliament, as the supreme power in the separation of powers, to establish the appropriate penalty regime, and for the community's elected representatives in this House to enshrine those principles in legislation, rather than allow, to a diminishing extent, the common law to take effect. This bill amends the Criminal Procedure Act 1986 to enable the Attorney General to apply to the court at any time, rather than in the context of a particular case, to ask it to exercise its power and jurisdiction to give a guideline judgment. Presumably that is why new section 28 states:

Nothing in the Part:

- (a) limits any power or jurisdiction of the Court to give a guideline judgment . . .

My friend the honourable member for The Hills, who is in the Chamber, will recall that the Kable case related to the important principle that the Parliament cannot mandate for the judiciary to act in a certain way by setting guidelines when it has clearly expressed its intention. A coalition government would introduce group sentencing or a matrix-type scheme with specific sentences for representative offences, which would be more appropriate than the regime provided in this bill. This House should reaffirm its commitment to the Parliament establishing mandatory minimum guidelines.

Before the last election members opposite said that a Labor Government would establish mandatory minimum guidelines. However, it ran into problems in the upper House when the Hon. Dr Meredith Burgmann and the Hon. Jan Burnswoods, who are members of the far left, challenged the Premier on his mandatory sentencing guidelines. The Parliament should not abdicate, and cannot be seen to be abdicating, its responsibility to the courts. Indeed, people strongly insist on the Parliament taking a stand and ensuring that offences are treated seriously and appropriate penalties are imposed, as we said during debate on the Drug Court Bill. This bill goes part of the way—which is why the Opposition is not opposing it—but it does not go the full way to appease the judiciary in terms of the appropriateness and consistency of sentencing guidelines. On that basis the Opposition will not oppose the bill as framed.

Mr MERTON (Baulkham Hills) [8.34 p.m.]: I support this bill, which introduces a new concept in sentencing. The Opposition supports that concept. The bill has a number of objects. Basically, it adopts the practice of the English Court of Appeal in a case

concerning a guideline judgment. Effectively, such a judgment is only a guideline for the sentencing of offenders. Because of the perceived inconsistency in sentencing, it is important that there be consistency and uniformity in sentencing. However, I am the first to concede that the factors involved in each case are different. The overview of the bill states:

The object of this Bill is to amend the *Criminal Procedure Act 1986* to enable the Attorney General to apply to the Court at any time (rather than in the context of a particular case) to ask it to exercise its power and jurisdiction to give a guideline judgment in respect of a specified offence or category of offences.

Although there is a fundamental belief that the parliamentary process should be separate from the judicial process, the Opposition believes that in some cases it is advisable and, indeed, desirable that the Attorney General be able to apply to the court to ask it to exercise its power and give a guideline judgment in respect of specified offences. On the other hand, the Parliament must not use this legislation to walk away from its responsibility to provide for realistic sentences for crimes—sentences that members of the community accept as realistic.

Parliament cannot duck behind the cover of the judiciary and say that it is for the courts to decide what sentences should be imposed. First, it is appropriate that Parliament accept its responsibility to fix appropriate sentences in legislation. This bill refers to a guideline judgment, which is a court judgment that contains guidelines to be taken into account by courts when sentencing offenders. The bill provides for the Attorney General to make an application for the court to give a guideline judgment. Such an application may be made with respect to the sentencing of persons found guilty of a specified indictable offence or category of indictable offences. An application may be made regardless of whether there are any pending procedures before the court with respect to that offence.

In other words, an application can be made that is completely unrelated to the particular circumstances of a case. That means that a parameter of sentencing can be established by the court, notwithstanding the fact that there may be no similar charges against any individuals at the time. The powers and jurisdiction of the court to give a guideline judgment in such circumstances are the same as those of the court to give a guideline judgment in a pending proceeding. The court has the same powers to give a guideline judgment as if it was dealing with a particular case before it at the time the guideline judgment is given. Indeed, a

guideline judgment may be given separately or may be included in any judgment of the court that it considers appropriate.

At an application for sentencing guidelines the Senior Public Defender may be represented in proceedings and may, if the Senior Public Defender considers it appropriate, make submissions on the application. In exercising the function conferred under section 26(6) the Senior Public Defender is not responsible in this particular instance to the Attorney General. I understand that means that whilst it may not concern a particular case, the normal situation will prevail on sentencing applications. The Crown would make an application for the sentencing guideline and the Senior Public Defender could make the same submissions as if there were a defendant before the court. In those circumstances this is worthwhile legislation, but again it is not legislation that should relieve Parliament of fixing sentences that the community not only demands but considers realistic for particular offences. I support this legislation.

Ms MOORE (Bligh) [8.40 p.m.]: The Criminal Procedure (Sentencing Guidelines) Bill will enable the Attorney General to apply to the Court of Criminal Appeal for sentencing guidelines on a particular offence or category of offences. It appears that the formulation of this bill arose from the highly publicised case *Regina v Jurisic*. That case, involving an offender convicted of dangerous driving causing death, went to appeal and was the subject of a sentencing guideline that indicated a mandatory prison sentence should be given in such cases. The bill seeks to make the issue of guidelines possible out of context of individual circumstances.

Key legal organisations have not been consulted about the bill. Peter Hennessey, Executive Director of the Law Reform Commission of New South Wales, had heard nothing about the bill when my office contacted him. The Law Society was not consulted about the bill. The president of that society has faxed a letter to the Attorney General requesting that the decision to proceed with this legislation be withdrawn. This legislation will empower the Court of Criminal Appeal to issue sentencing guidelines on a range of criminal offences without reference to the particular circumstances that the court is obliged to consider in individual cases. The President of the Law Society pointed out that the Chief Justice, to his knowledge, has not directed that the Court of Criminal Appeal have this power conferred on it and by doing so the legislation reflects an interference of the executive with the operation of the judiciary.

Separation of executive and judicial function is one of the most fundamental principles of our criminal judicial system. If the Attorney General requested guidelines on a range of criminal offences—potentially any or all—the Court of Criminal Appeal could issue guidelines across the board which the lower courts would be obliged to apply, and if they failed to do so would have to give reasons, but the cases would probably be appealed and the decision overturned. In practice this generalised sentencing from a higher court would have to be followed by lower courts. This would severely limit judicial discretion in sentencing, which takes into account the range of circumstances in a case.

In practice, a form of mandatory sentencing would ensue that severely restricts judicial discretion and, if sentencing by formula in the United States of America is an indication, will be likely to escalate penalties. Regardless of the views for or against harsher sentencing, no doubt the bill represents a significant and major legislative change which has far-reaching effects on our criminal justice system. It should be subject to extensive consultation with relevant legal and judicial bodies, and be open to public comment.

This bill is a perfect example of the inadequacy of the legislative process. With such a pressured agenda and everyone's energy and focus concentrated on opposing or amending high profile controversial bills, the seemingly insignificant ones, such as this bill, can merely slip through without any serious scrutiny and with profound consequences. Not only is it embarrassing for the Government to put up such ill-conceived legislation without exploring its legal and judicial ramifications, it denies the democratic accountability processes of government.

It is law making at its worst when a highly publicised case that grabs the attention of the media and the public is taken as a base for hastily formulating a measure that requires serious and comprehensive consideration. If the bill is passed it could mean that every time a controversial or media-highlighted case caused an outcry, the Attorney General would be called upon to seek a blanket sentencing guideline for all cases however similar they might be. This is not a good basis for determining sentencing. This bill is ill considered, ill conceived and should be opposed.

Mr WHELAN (Ashfield—Minister for Police) [8.44 p.m.], in reply: I thank honourable members for their contributions to the debate. I assure the

honourable member for Bligh that the Law Society, the Bar Association and other interested people have been consulted.

Ms Moore: Why do they say they haven't?

Mr WHELAN: They have been consulted.

Ms Moore: Why did they tell me they haven't?

Mr WHELAN: I believe the whole community was consulted about this very important issue in view of the statements of the new Chief Justice when the matter received such prominence throughout the nation, let alone New South Wales. It was an important judicial statement and there would not have been a lawyer, let alone the Law Society or any interested member of the public, who was not—

Ms Moore: I have copies of letters from the Law Society here asking you to withdraw your decision.

Mr WHELAN: I do not care what the honourable member has. I am telling the honourable member that the majority of lawyers are well versed in the law and are cognisant of the Chief Justice's learned judgment. The Law Society may have a claim, but that claim is without foundation. I have been advised that it was consulted. Indeed, it was given a copy of the bill. I thank those honourable members who made a contribution to the debate.

Motion agreed.

Bill read a second time.

Third Reading

Mr WHELAN (Ashfield—Minister for Police) [8.46 p.m.], by leave: I move:

That this bill be now read a third time.

Division called for. Standing Order 191 applied.

Noes, 1

Ms Moore

Question so resolved in the affirmative.

Motion agreed to.

Bill read a third time.

ASSENT TO BILLS

Assent to the following bills reported:

Criminal Procedure Legislation Amendment (Bail Agreements) Bill
 Bail Amendment Bill
 Home Invasion (Occupants Protection) Bill
 Olympic Roads and Transport Authority Bill
 Tow Truck Industry Bill
 Traffic Amendment (Tyre Deflation—Police Pursuits) Bill
 Unlawful Gambling Bill
 Racing Administration Bill
 Gambling (Two-up) Bill
 Agriculture Legislation Amendment Bill
 Charles Sturt University Amendment Bill
 Public Sector Management Amendment (Council on the Cost of Government) Bill

**DRUG MISUSE AND TRAFFICKING
 AMENDMENT (CONTROLLED OPERATIONS
 AND INTEGRITY TESTING PROGRAMS)
 BILL**

Second Reading

Debate resumed from 29 October.

Mr KINROSS (Gordon) [8.51 p.m.]: I lead for the Opposition in this debate. This bill, together with the immediately preceding bill and the Drug Court Bill, is important legislation. The bills could be regarded as being linked in their importance and consistency in sentencing. The Opposition considered that the preceding bill was inadequate because it could lead—and I suggest it will lead—to shuttlecock between the Attorney General and the Chief Justice. Because of the doctrine of the separation of powers, the Attorney General cannot be seen to be lobbying the Chief Justice, but the inadequacy of sentences will result in the Attorney General establishing an indirect nudge-nudge, wink-wink regime with the Chief Justice over the inadequacy of the court sentencing system. That is why Parliament must claim responsibility for this issue.

The Opposition will not oppose this legislation, because it encompasses a number of recommendations made by the police royal commissioner. Parliament has also passed similar legislation which allowed issues such as those raised in the case of *Bunning v Cross* to be overturned. In that case the High Court ruled that improperly obtained evidence could be ruled inadmissible. It is quite clear that police cannot get to the root of the drug trafficking problem unless they also get involved in controlled operations. The Opposition welcomes that initiative with regard to controlled operations. It also supported the changes in relation

to crime detection and law enforcement generally that were brought forward earlier this year or late last year.

The Opposition also accepted, and the shadow minister for police agreed with, the short notice by which search warrants and listening devices can be expedited. The Minister for Police may recall that the Opposition agreed to extend the period during which a listening device could be maintained on premises, and that allowed police operations to continue. That forms an important part of police undercover operations. I am a member of the Committee on the Office of the Ombudsman and the Police Integrity Commission and I know that the inspector, former Justice Mervyn Finlay, also supported the amendment because of the doubts about the legality of what had transpired previously.

The second purpose of the bill is to deal with integrity testing. The Opposition does not oppose the amendment to part 10A of the Police Service Act for the simple reason that it is appropriate that integrity testing occur across the board at will, unannounced. We must be assured that the officers entrusted by the Commissioner of Police with the important task of undertaking controlled operations are above board. If the police are not above board, as the public of New South Wales mandates, the public will have no faith in their integrity and no confidence in their ability to maintain stability and tolerance in the community.

I ask the Minister for Police to clarify that only the police commissioner is authorised under the provisions of the bill to provide the power by which an officer can go out on a controlled operation and use what would otherwise be prohibited drugs and plants. The Opposition wants to know to what extent, how far down the chain, that power will devolve. Will it be vested in anyone lower than the local area commander or inspector, or will it be simply regional commanders of the force? We would like some elucidation of the devolvement of responsibility.

It is important to know how many police officers will be granted full authority to undertake controlled operations. It is more important to make sure that those who are allowed that privilege do not abuse it. They should be the first to be subject to integrity testing because the temptation is always present. Many years ago when I was at the Bar, a member of the United States Federal Bureau of Investigation visiting Sydney stated that 10 per cent of us will be totally honest, 10 per cent of us will be totally dishonest and 80 per cent will do what we can get away with. That is why I ask the Minister to address the questions I have raised.

Mr WHELAN (Ashfield—Minister for Police) [8.58 p.m.], in reply: I thank the honourable member for his contribution. The answer to the question he raised is that the power is limited to the Commissioner of Police and two deputies. That is the extent of the delegation, in recognition of the importance of that power.

Motion agreed to.

Bill read a second time and passed through remaining stages.

DRUG COURT BILL

Second Reading

Debate resumed from an earlier hour.

Mr KERR (Cronulla) [9.00 p.m.]: I welcome this bill as being a step in the right direction. I have publicly recommended the implementation of a Drug Court, having had regard to the successful outcome of drug courts in the United States of America. As has been pointed out by a number of honourable members, we as a society must face the drug menace and we should be interested in innovative approaches to the problems associated with drugs. It has also been pointed out that the resources available for the treatment of those who are addicted to drugs are not adequate. Often people who wish to undergo a withdrawal process are unable to do so because the appropriate treatment units are not available. That difficulty is particularly evident in country areas. Recently the Salvation Army advised that it had been inundated by people addicted to heroin use who wished to break their habit but had been unable to do so.

The Drug Court will be only part of a successful approach. It is necessary to have available the facilities to help people break their habit. There is a need for services to treat alcoholism also. Much crime is related to alcohol. Some people have considerable problems with alcoholism, and we should recognise that alcohol is just as addictive as other drugs. One objective of the bill is the reduction of the level of criminal activity that results from drug dependence. The bill achieves that object by establishing a scheme under which drug-dependent persons who are charged with criminal offences can be referred to programs designed to eliminate or at least reduce their dependency on drugs. Reducing people's dependence on drugs would reduce their need to resort to criminal activity to support their dependency and should increase their ability to function as law-abiding citizens. Those are laudable objectives.

The approach of the Drug Court is commendable. Along with other honourable members, I point out that this approach needs to be complemented by the availability of sufficient resources to deal with addiction. Sometimes parents find that a family member has been stealing from them to fund an addiction. If such a person could go before the Drug Court at an early stage, rather than be dealt with under the normal criminal justice process and perhaps sent to gaol, that could well lead to a reduction in crime, because criminal activity is often solely related to drug addiction. This bill will be welcomed by the many families who find that one of their members has a significant drug problem.

Mr Rogan: It's an alternative.

Mr KERR: Yes, it is an alternative, and that is all it can be. Offenders will still be dealt with under the criminal justice system if a range of offences have been committed or if previous opportunities for rehabilitation have not been taken. In general, the courts have been reluctant to send to gaol someone who has committed only a minor offence. Such offenders have often been given the benefit of a recognisance with conditions. It is a condition of many such recognisances that the offender undergo treatment. This bill creates a special Drug Court, and it is to be hoped that expertise will be built up over a period of time. I believe that the community will welcome this bill.

Mr WINDSOR (Tamworth) [9.05 p.m.]: I support this bill. Along with many other honourable members, particularly the honourable member for Coffs Harbour, I have concerns about the extension of this legislation, and it is my belief that the legislation will be extended to the broader community. It will be pointless to extend this legislation to the broader community unless the resources are available to fight the problem that we are attempting to deal with. This bill is a laudable attempt to deal with a problem in the community. A constituent of mine highlighted for me a problem of which many honourable members, from both country and city areas, will be aware.

Some four or five months ago I was visited at my office by a heroin addict, a man whom I have known for quite some time. I was not aware that my constituent was addicted to such a severe degree. He came to my office to ask for help. At that point of his life he was on a real downer and was dealing in heroin to support his own heavy habit. He wanted help. My constituent had been to the Tamworth Base Hospital and Health Service to seek assistance. The hospital told him that it had no detoxification beds

available. He was given material about trying to deal with a drug problem. My constituent said, "I'm a bloody drug addict. I know what a drug problem is. I don't need someone to give me documents about trying to address this problem; I need help." My constituent was told that it would be impossible in the city of Tamworth to obtain assistance through the methadone program.

My constituent had in the past spent some time on the methadone program, with some success, but because of emotional and other problems he had gone back to heroin. I was very disappointed to find that my constituent was unable in a fairly large country community to receive the assistance that he and I believe should have been available. I asked that man how great the problem was in our community and approximately what number of people would be affected. Within two hours my constituent came back to me with the signatures of 15 drug addicts in the city of Tamworth who were prepared to divulge their names and addresses, people who were facing similar problems in gaining access to the methadone program, detoxification programs or some form of rehabilitation.

All those people had been told that the local doctors who prescribed methadone were oversubscribed and that a drug addict in our community would be advised to head for Sydney or Newcastle. That experience brought home to me the extent of the problem. This evening other honourable members have pointed to the fact that Cabramatta and other areas of Sydney are subjected to a great deal of exposure of drug problems because that is where many of the dealers live and, obviously, addicts tend to move near their dealers. I emphasise that all communities, including country communities, in which unemployment and a range of social problems on the increase are affected.

A report by Dr Peter Brain released at the Australian Local Government Association conference yesterday highlighted the real economic and employment problems of regional communities across Australia. Dr Brain highlighted the concern of country youth that they have real problems with employment, the future and where they are going. In those circumstances one cannot blame our children for being dragged down with drug-related problems. As I said, I endorse the general thrust of the bill. I understand a Drug Court is being trialled but if the Government is serious about driving this sort of agenda the people who can deal with the problem must be resourced. Cabramatta may be in the news, but it is not good enough to establish a few methadone clinics and odds and sods there and say that the problem will go away, merely because it will look good in the *Daily Telegraph*.

In a weird fashion it is a bit like trying to stop parthenium weed coming into New South Wales from Queensland. It can be stopped before it becomes a problem, but it is difficult to stop after it has become a problem. Both sides of the problem should be looked at rather than putting the resources where the problem is worse and hoping that it will not grow anywhere else. There are many other things that Governments can do. Dr Peter Brain's document highlighted, as did the report of the St Vincent de Paul Society earlier in the year, solutions to some of the problems that lead to drug addiction. To only look at dealing with drug addiction will create real problems in the society. Parliament should seriously attempt to address the problem. It is disgraceful that a heroin addict in Tamworth cannot access methadone or a detoxification unit unless he or she travels 300 or 400 kilometres. Parliament and the community say that people in trouble will be given assistance, but I cannot help those in my electorate. That is probably also the case in many other electorates.

The best people in Tamworth can do is to go to Tamworth Base Hospital and Health Service and obtain a pamphlet, printed in Sydney, which tells them what to do if they are drug addicts. The options for country people are to seek help, get on the methadone and rehabilitation programs, get detoxified or jump off a bridge. There are many other economic factors that contribute to society's disillusionment that Federal and State parliaments are doing absolutely nothing. Major sectors of our community have been cut off and told that they will struggle whatever the economic agenda. If that is said to our younger people, society is destined to have much greater problems. This bill has some consequential amendments to other legislation, including the Bail Act.

I am pleased that the Minister for Police is present in the Chamber, because the Bail Act needs to be amended to prevent it from being used and abused by some magistrates, as is the case at present. Many people in our communities, some of whom are drug users and some of whom are not, are being granted bail by a magistrate or a judge. They then allegedly commit another crime and are granted bail again. In one circumstance a criminal committed three crimes, was granted bail and then committed other crimes. Those matters have to be looked at seriously. I support the bill. Resources must be made available to put professionals in the field in country areas and in many city areas, particularly western Sydney, to instil in our young people the feeling that they have a future.

The honourable member for Port Jackson is in the Chamber. For some years she has been out in

the country areas, promoting many worthwhile job employment opportunities. She has done a very good job and I congratulate her on her sincere efforts to promote the programs with which she has been involved. We need more opportunities and more resources to assist young people who get into trouble. This bill will allow those people to be assisted as long as there are resources at the other end. If this bill were operating in Tamworth tomorrow it would be useless because there is no-one to help. Offenders would have to appear before a court in Tamworth and be given a free ticket to Sydney to gain assistance.

Mr WHELAN (Ashfield—Minister for Police) [9.16 p.m.], in reply: The Government is pleased to introduce the Drug Court Bill. The Drug Court program is a bold attempt to break the cycle of criminality caused by the use of prohibited drugs. The Drug Court Bill established the first Drug Court program in Australia. The bill has clear crime prevention objectives and targets. It seeks to intensively supervise and manage offenders out of crime. It is an exciting criminal justice initiative which targets drug dependent offenders who commit crime to feed their habit. The program confronts drug-dependent offenders with a stark choice. It gives them the chance to rehabilitate themselves out of a life of crime. To do this, the program uses a unique combination of sanctions and incentives. Ultimately, however, the responsibility is on offenders who, if they ultimately fail to advance through the program, will face and serve their original gaol sentence.

The Drug Court program represents an ethically defensible form of legally coerced treatment for drug-dependent offenders. It uses the threat of imprisonment as an incentive for treatment entry, and the fear of return to prison as a reason for complying with drug treatment whilst on parole or probation. Studies have shown that the prospects for successful rehabilitation of offenders actually increase if they are coerced into treatment and made to face their responsibilities instead of entering programs voluntarily. The program will make communities safer and provide tangible crime prevention outcomes, including a reduction in property crimes such as breaking into and entering homes. Furthermore, the program has the potential to offer hope to families of offenders, by seeking to intervene actively in the cycle of crime and to assist offenders to conquer their addiction.

The Government well recognises that the success of the Drug Court program depends on the expansion of currently available treatment services. To this end, dedicated treatment places, over and

above existing rehabilitation services, will be made available. The Opposition has suggested that Drug Court programs should apply to alcohol. For the purposes of the pilot project, the program will be focusing on prohibited drugs generally and, in particular, heroin. In this area there is a proven link between drug dependency and criminality. Nevertheless, the legislation is flexible enough to deal with other substances such as alcohol and other addictive drugs should it be deemed appropriate in light of the pilot project.

The Opposition has also asked whether there is a limit on the number of offences an offender may have in order to be eligible. Generally speaking, a person's criminal record will not be a bar to entry. In fact, the program aims to target long-term offenders. Having said that, the judge will retain a discretion to debar a person with a long criminal record from entering the program. This might be particularly appropriate when the past criminal record contains violence.

Motion agreed to.

Bill read a second time and passed through remaining stages.

RETAIL LEASES AMENDMENT BILL

Second Reading

Debate resumed from 28 October.

Mr CHAPPELL (Northern Tablelands) [9.20 p.m.]: The Opposition will not oppose this bill. Indeed, it is a pleasure for me to acknowledge the distance the legislation has come since it was but a gleam in the eye of a fresh new Minister several years ago. I had been told by important people that this legislation would not work, because it was not the way that the former Government did things. In fact, the Retail Leases Amendment Bill which was introduced by the former Government was appropriate and necessary. It was, ultimately, supported by both sides of the industry in much the same way as this bill has been supported. By that I mean that the two warring parties were brought together. They had been warring for a long time. In a sense they were put together in a padded cell and told to sort out the problem. They did so, and that is essentially what the Government did in relation to this legislation.

The Government told the parties concerned to sort out the problem, to take ownership of it, and to improve conditions as they had existed in the past. They were told that if they could tell the

Government of the day what they wanted the Government would comply with their request. That is exactly what has happened. I give the honourable member for Port Jackson full credit for achieving that, because it is not easy to get people with raw commercial considerations in mind to come to the bargaining table, represent the interests of their members and achieve appropriate outcomes. A huge number of inquiries have been held, and a huge number of cases have been dealt with by the retail leases unit. Essentially they have been sorted out in good spirits and achieved proper and appropriate outcomes. That is what it was all about in the first place.

At the end of the day those in commercial operations, as in most other spheres, need a structure in which to operate. That is what the Government, the officers of the department and the unit have given them. Over a period trust in a common purpose and achieving a desired outcome has been established. For some time the retail leases advisory committee has carried this work forward with executive staff. It has achieved productive outcomes in what was, by and large, a minefield of dissent, confusion and lack of clarity. At the end of the day the Retail Traders Association in New South Wales, the Shopping Centre Council of Australia, the Property Council of Australia and other organisations needed to know they could do business in good faith and achieve an outcome in a fixed operating structure. They needed to do so with full and honest disclosure amongst themselves, and they have achieved that.

We have moved forward, but some shortcomings in the original bill have been acknowledged. It was always realised that several drafts of the legislation would be needed to get it right. I believe we are very close to achieving that. The spirit of the original Act was essentially achieved by full disclosure of relevant matters in good faith by lessors and lessees, and that has underpinned the Act over the past 4½ years. Under the legislation retail property owners and managers will have to continue to provide disclosure statements, which have underpinned the Act so far. They will have to disclose to merchants all of the information available to them at the time of entering into a lease.

Retail property owners and managers of shopping centres will have to provide information about existing and proposed tenancy mixes, plans for redevelopment and any other issues which are important to people who are about to go into business or are transferring their business from one location to another. Those matters are fundamentally

important to those seeking to invest in and carry on business. The legislation requires retail merchants to make disclosure statements to lessors acknowledging that they have received full disclosure from the lessors and that they understand what that means. That is important. In effect, the disclosure says, "We continue to operate in good faith. I enter into this contract understanding what you have told and given me." If the lessee does that he can proceed to run his business without having to worry about the lease, the contract terms or whether someone is trying to trick him.

Merchants will also be required to declare whether they have taken separate independent professional advice. If they have done that everyone will know that they are not amateurs playing with business, but are serious business people who understand the commercial terms of the lease and the legalities that confront them and are prepared to do business on those terms. There will be a new disclosure requirement for a lessee assigning a lease to another merchant. When a retailer is selling a business to another retailer halfway through the lease, the three parties will know what is being sold, what is being bought and what the new relationship with the lessor will be. The assignor's disclosure statement will require the merchant selling the business to declare to the incoming business owner, the new merchant, all of the relevant information regarding the lease, the conditions, what is likely to happen, and what is known about the trading performance of the business in that trading centre.

All of those matters are important. At the time the original Act was written one particular problem was ratchet rents, which are prohibited under the Act. However, lessors continue to be able to exploit lessees. The legislation has further limited that practice. Current market rent has always been a problem—how to define who should assess the rent, and so on. When current market rent applies to a retail shop it has been subjective, but the bill provides for a special retail valuer. When the parties have failed to agree the specialist retail valuer will detail all the matters that go towards assessing the current market rent. The specialist retail valuer determining the current market rent that is acceptable to both parties will resolve yet another problem.

There has been a problem in that a lessor has been able to pass unrelated costs on to a lessee. That ability to pass on unrelated costs is limited by this amending legislation, which prohibits a lessor from requiring a lessee to pay amounts in respect of interest and charges that may not have been made known to the lessee, and so on. Once again the bill

has full definition, clarity and good detail. Perhaps the greatest achievement of this further development in retail leases is that the bill incorporates the unconscionable conduct provisions of the Federal Trade Practices Act. Those provisions give business, particularly small business, affordable access to justice on matters relating to unconscionable conduct by a party. The intention of the bill is to afford protection to both lessees and lessors against the misuse of power in this respect, particularly with the provisions of section 51AC of the Federal Trade Practices Act now becoming available under New South Wales law.

All members of this House should try to provide a framework in which both landlords and tenants involved in retail leasing can do business in good faith and in full knowledge of the circumstances in which they do business with each other, and in particular with full knowledge of the circumstances that might arise in the currency of a lease. It could be realignment of the shop, a change in the mix of retail traders, and similar sorts of things. This amending legislation provides an improved version of such legislative provisions and the manner in which they will work.

The Opposition recognises that in this particular instance the Government has worked well with both sides of the industry to produce an outcome. As I said at the outset, the honourable member for Port Jackson has done a particularly good job in bringing these amendments together, in very much the same spirit in which the Act was originally legislated, that is, by bringing the two major parties as well as ancillary parties together at the bargaining table and saying: This is your problem, you sort it out, and the government of the day will give you what you want. That procedure having been adopted, the industry as a whole, and as a consequence the community as a whole, will benefit from this measure. The Opposition supports this legislation and recognises it as an advance on existing legislation.

Mr MERTON (Baulkham Hills) [9.32 p.m.]: Retail leases, being complex and involved, all too often require reconciliation, if at all possible, of the interest of the landlord and of the tenant. Philosophical issues often arise when one tries to set out in legislation sufficient detail to codify the rights of the respective parties. On the one hand is the fundamental concept that lessors, being the owners of the premises, should be free to deal with their premises as they see fit. On the other hand, the lessees—who in many instances have life savings tied up in particular businesses—believe that they are entitled to a real say in the control of the leased

premises, and in particular the length and terms of the tenancy.

The Retail Leases Act 1994, which was introduced by the honourable members for Northern Tablelands when he was Minister, attempted to grapple with the problems and resolve the conflicts that arise between lessors and the lessees. I congratulate the honourable member for Port Jackson on the effort she has put into preparing this legislation, for I realise the difficulty in trying to reconcile the conflicting or competing interests of lessors and lessees. But, after the legislation has been operating for four years, it has become obvious that there are problems in its operation, and the Government had introduced this amending bill. I should imagine that when the original legislation was passed some landlords thought it went too far, and many lessees thought it did not go far enough.

A typical problem arises where a landlord grants a lease of premises for five years but does not provide for any option at the end of that period. Near the end of the five-year term the tenant must approach the landlord for a renewal of the lease, but at law the landlord is not obliged to renew the lease and might decide not to do so. In such circumstances the tenant might say, "I have invested five years of work as well as my life savings in this business in this particular shopping centre, and now I face the prospect of being thrown out onto the street."

The tenant would know if the goodwill of his business derives from its location in the shopping centre, and could well be of the view that relocation to a strip shopping centre at the other end of town could see the goodwill of the business dissipate. The current legislation attempted to resolve that problem by providing that unless the lease was accompanied by a certificate from an independently instructed solicitor the lease itself is presumed to run for five years, irrespective of the term specified in the lease. In that respect, the law was strengthened to provide that unless the tenant was advised by a lawyer independent of the lessor, the lease would run for a guaranteed five years. I do not pretend to know how to solve all the problems that arise from the renewal of leases.

Landlords might correctly say that they own the premises and they should have some say about whom the premises will be let to. The lessor also may have all his money tied up in particular premises and, if at the end of the day, he does not want a particular shopkeeper, then that should be the landlord's prerogative. I have already outlined the position of the tenant who says, "That is all very

well for you, Jack, but my life savings are in this business, and if you do not renew it I am in strife." That may well be a problem we will always have, though I note that the Federal Government has introduced legislation that attempts to overcome such problems.

The bill before the House deals with a number of important issues that arise between lessees and lessors who enter into retail leases. The bill has a number of important provisions, and I congratulate the honourable member for Port Jackson for introducing them. The bill makes clear that the assignment of a lease not currently subject to the 1994 Act will not bring the lease under that Act. Thus, if the lease has been running before commencement of the 1994 legislation, if it is assigned to a party after this bill becomes law then the lease still is not subject to the 1994 Act; it reverts to the situation that existed before the introduction of the 1994 Act, even though the new owner took over the business after the commencement of the 1994 Act. In other words, there is a continuation of the previous lease conditions, and the lease is not to be subject to the bill before the House.

The bill will impose greater sanctions on lessors who fail to give disclosure statements to lessees before the lease is entered into. I believe every tenant should be entitled to complete, proper, full and frank disclosure as to the obligations of the tenant. It is unfair that a person should sign a lease on particular premises only to find out further down the track that considerable extra money is payable, whether that be in the form of outgoings, rent increases, or other matters not disclosed in the lease. A simple case is where the outgoings are grossly understated or not fully disclosed.

It is interesting that the legislation will require the giving of disclosure statements to lessors. That is a somewhat unique provision. The bill will insert into the Act a provision that a proposed lessee, under a retail shop lease, must give to the proposed lessor a lessee's disclosure statement not later than seven days after receiving the lessor's disclosure statement. In other words, that would be a statement by the lessee that he or she has or has not sought independent advice in relation to the lease and the representations on which the lessee is relying when entering into the lease.

It will be an offence for a lessee to fail to give a lessor a lessee's disclosure statement. In other words, this legislation will require a statement by the lessor and full disclosure of the lessee's obligations under the lease. That is a fairly comprehensive

document. It must set out the number of shops in the centre, the type of business that the premises will be used for, and so on. The statement must also give details of parking and a complete statement of outgoings, specifying the amounts for council rates, water rates, and other outgoings in respect of the premises. In return, the tenant must tell the lessor whether or not the lessee has sought independent advice in respect of entering into the lease.

The bill provides for licensed conveyancers to sign certificates enabling requirements relating to the term of retail shop leases not to apply. Earlier I referred to certificates provided by independently advised solicitors. It is practical that licensed conveyancers be able to provide such certificates. Honourable members will be aware that a fundamental problem has been that some retail leases contained a so-called ratchet clause. Under such clauses leases reviewed every 12 months could be adjusted by the consumer price index figure, the current market rent, 10 per cent, 5 per cent or a fixed percentage, whichever was the greater. That meant that the tenant was always behind the eight ball. Regardless of how things were going; he could never get ahead.

If the consumer price index was 3 per cent, the owner could opt for the current market rate or a fixed percentage if it was greater than the CPI. However, under this legislation landlords must specify how the rent is to be varied every 12 months. New subsection (4) of section 18 provides that a landlord cannot limit the amount of any rent decrease. Currently, if a lease states that at the end of 12 months the tenant will pay the CPI or the current market rental and the current market rental is less than the rent at the time the lease was signed, the rent increase will be the same as the current market rent. However, the rent could be less than it was when the lease was signed; if there is a negative CPI the rent will be reduced.

New subsection (4) of section 18 provides that no limit can be placed on the amount by which the rent can be reduced. Under this bill a lease cannot contain a clause stating that the rent will not be less than a certain figure, notwithstanding that the CPI may have reduced. Such a clause will be void. Effectively, the landlord cannot get a ratchet-type increase through the back door. If the landlord specifies the current market rent or CPI and it goes against the landlord, so be it; that is to the tenant's advantage. I can understand why legislation along these lines has been introduced.

The bill provides for the appointment and powers of specialist retail valuers in relation to the

determination of current market rents for the purposes of retail shop leases. A specialist real estate valuer with at least five years experience in valuing retail shop leases will be appointed when the rent for a specific year or a lease renewal is to be determined by current market factors. That is a worthy provision. The bill further provides that a lessee will not be liable to pay interest and other charges incurred by the lessor. A retail lease which states that the lessee must pay any interest incurred by the lessor will be void.

In some cases lessees are required to pay amounts in respect of land other than land associated with the retail shop concerned. In some cases unscrupulous landlords—and they do exist, as do bad tenants—made the lessee pay a proportion of the rates for a property completely unrelated to the shop the subject of the lease. Under this legislation such a clause will be unenforceable. Tenants must pay only those outgoings relating to the premises they are renting. In relation to relocation of retail shops not located in retail shopping centres, compensation will be available for a fitout paid by a lessee when a retail shop lease is terminated on the ground of proposed demolition. Leases often contain a demolition clause. Some landlords have been known to say that they wish to redevelop the property, give a demolition notice to the tenant, get vacant possession of the premises and then not proceed to redevelop the property. Under this bill a landlord who does not proceed with demolition must pay compensation if the tenant was forced to vacate the premises on the ground of proposed redevelopment.

The bill contains other important amendments. It should be noted that retail leases do not relate specifically to shopping centres; they can relate to any retail premises, whether they be a street shop or a shop in a complex. Bearing in mind the conflict of interest between tenants and landlords and the tremendous investment—many people invest their life savings, and mortgage their house, in a retail business—tenants are entitled to certain protections. As I said, this is good legislation and the Opposition is pleased to support it.

Mr McBRIDE (The Entrance) [9.46 p.m.]: I support the Retail Leases Amendment Bill. This important legislation provides protection for people at the bottom end of the chain, that is, ordinary leaseholders of shops, especially those in large shopping centres. The broad objective of the amendments is to enhance the existing Act and to provide a legislative environment which will lead to a change in behaviour and, in time, the culture concerning dealings between landlords and tenants

in relation to retail shop leases while not impinging on the property rights of landlords. I have been involved in a small business. People do not understand that a landlord is not a retailer, and that creates a conflict in discussions between leaseholders and landlords.

Tenants have a perception that the landlord is interested in the retail side of their business when that is not the case; the landlord is only interested in the rental return on his asset. There is a major conflict between two people who have a different perspective in terms of doing business. In the case of major shopping centres it is a matter of big versus small. People who lease a shop in a major shopping centre usually mortgage their home—indeed, all their capital is usually put into the store. They are actually buying a job. However, they are not necessarily skilled managers or administrators. They are ordinary people who want to work for themselves, and they consider running a shop or small business as a way of being their own employer.

Often when they enter those positions they do not have the same skills as those in large businesses. Within a large business there may be a legal section, an administration section, an employment section and a payment section. However, in a small business the person must be able to carry out all those duties and understand all aspects of business. For example, employment in a small business is not a simple matter; it involves all the same aspects as a large business. All of those aspects must be handled by the small business person. As I said earlier, most people do not have the skills. They may be good at a particular area of their small business, but it does not mean they have all of the other skills. Skills are learnt on the job and quite often during that learning process the business suffers financially through lack of knowledge and ability on the part of the owner.

Small business people usually receive advice from accountants, but accountants know nothing about the operation or management of a small business. Accountants know how to minimise tax and attract other advantages for the business. That is fine as long as the cash flow is all right, but if there is trouble with cash flow or the small business person can no longer work in the business through ill health, the cash flow drops and the so-called tax advantages become a disadvantage because the monthly outgoings are not met. The business is really in strife. This bill addresses many of those issues, including particularly the big and small issue.

Mr Windsor: Are you talking about farming?

Mr McBRIDE: I am not talking about farming, I am talking about small business.

Mr Windsor: You're outside the leave of the bill.

Mr McBRIDE: No. These issues apply to any business. As the honourable member for Tamworth points out, these comments are equally applicable to farming. Agribusinesses have come in with all those skills and competed against farmers who do not have those skills. It is unfair competition. Anyone who has been involved in small business knows that this reflects the outcomes of all other small businesses. The objective of this bill will be achieved through addressing issues that continue to lead to disputes between retail landlords and tenants and by discouraging the application of unconscionable conduct in retail leasing transactions by establishing provisions that prohibit such conduct.

Ordinary people in small business do not understand the power of the landlord when writing rental contracts. When we negotiated a lease for my business we sought a lawyer's opinion. That lawyer said, "This contract is totally unconscionable." If it had been put to a fair and reasonable person, he or she would have said that it was outrageous, totally unfair, totally biased and in favour of the landlord. The standard practice throughout New South Wales and Australia was that every cost associated with entering into a lease was borne by the tenant and not the landlord. If the landlord hired a lawyer or legal firm at a cost of \$3,000 a day and the small business person hired the local bloke on the central coast for \$300 a day, the cost of the landlord's lawyer had to be paid by the small business person. That person could not say, "I think that's too expensive."

Mr Peacocke: It's cheap.

Mr McBRIDE: Peacocke and Peacocke might provide a fair deal. However, if the landlord chose Mallesons, or Corrs for that matter, the small business person would have to pay that bill without any say in the matter. The small business person thinks the costs of entering the lease will be \$X for legal fees, insurance and so forth, and the landlord's costs are \$3,000 just for the lawyer to review the contract. Suddenly the costs of getting into business have increased dramatically. Retail contracts contain these unconscionable and totally unfair items. It all boils down to whether the small business person wants the business to be in a shopping centre. If so, the deal is to sign up otherwise the landlord says, "It does not bother me. Go. I'll just get another bunny to come in and take your place. That's not a problem."

Landlords work on the number of people through the door. The landlord can say that so many people go through the shopping centre and that is the opportunity to get hold of clients. The small business person says, "That doesn't seem fair", but the landlord says, "We don't care." The small business person can try to pull out of the process, but they will be responsible for those costs anyway. It is certainly a learning process for the ordinary person. The ordinary small business person does not appreciate the unconscionable behaviour of the landlord.

I suppose sharecroppers and farmers could behave in the same unscrupulous way. I do not know whether that is true. Perhaps someone from the Opposition will be able to tell me. This bill is most important because it deals with the issue of unreasonable rental contracts. As a retailer I discovered the rental situation was always the same. Landlords have no interest in the difficulties retailers face because they are not themselves retailers. Another example of problems with leases concerns the term of the lease. A lease may have been signed for five years, but then the landlord changed the system. The landlord said, "You have five years with a three-year option." The next thing that happens is that the option is dropped from the lease.

As honourable members mentioned earlier, the business operates for five years building up goodwill. At the end of that five years the goodwill is lost if there is no option to renew the lease. That change was brought in for one reason: to screw the retailers. What can a retailer do in that situation? If the retailer does not agree to the new conditions set out by the landlord, the business is lost. If the lease is not renewed, the small business person is shown the door and all the effort put in over that five-year period has been lost. The business walks out the door when the retailer walks out.

The lease renewal problems resulted from treatment of big and little tenants. The landlord can push the small business to the limit, the small business person does not agree to the conditions, the landlord does not renew the lease and the small business person loses everything. Retail leases contained another condition involving the sale of businesses. I refer again to the example of the five-year lease. If the business were sold during that five-year lease period and the new person who took over the business tenancy went broke, the original business owner becomes liable for the rent for the duration of the lease.

The retailer was hooked again! Even though the business had been sold and the lease was taken over, the original owner was the last resort for

recovery of rent. If the new owner of the business was unsuccessful the landlord could go to the previous owner for payment of rent for the duration of the lease. The choice would have to be made about starting up the business again or paying the rent for the remaining period. Ordinary retail tenants were disadvantaged under current legislation. This bill addresses some of those issues. However, being a former retail tenant I do not believe the bill goes far enough, but it is a leap forward. I know many business people who lost everything and it was not because they did not work hard.

Mr Schipp: Bad business people.

Mr McBRIDE: They were not bad business people. Landlords can relocate businesses that effectively can destroy the business. I know someone whose business was doing fabulously well in a shopping centre. The landlord said, "We don't want you there because you're doing so well. We want to put you down that end of the shopping centre so you will attract business down there." That person was relocated and had to pay the relocation costs and shop fitout. However, when he moved, his business halved and he went broke. Was that a bad business man? Just because the honourable member for Wagga Wagga might have been lucky and his business went well he should not think it was because he was a great manager. There is a degree of luck that goes with it as well.

Mr Schipp: You make your own luck.

Mr McBRIDE: Oh, get out. Fair dinkum, the one thing I hate about small business people is that if their businesses go well they reckon it is because they are brilliant.

Mr Schipp: You don't know how hard I work.

Mr McBRIDE: They all sweat blood, but that does not mean they all go well. It used to be that 60 per cent of small businesses went down the tube in their first 12 months. It was not because they did not work hard, it was not because they did not put the energy in—things just went bad. Obviously, the honourable member did not break a leg.

Mr Schipp: They did not research things before they went into it.

Mr McBRIDE: The honourable member is probably a landlord now, that is his problem. Is he a landlord? I bet he is. He could not give a stuff about those poor people down the other end. All he is worried about is getting a return on his property. I am disappointed because the honourable member for

Dubbo, the honourable member for Tamworth and the honourable member for Albury are totally different. The honourable member for Wagga Wagga is on his Pat Malone here. I congratulate the honourable member for Port Jackson on working so hard, over a long period, to bring this bill before the House. It is a great leap forward for tenants.

Mr Schipp: It was Bryan Vaughan.

Mr McBRIDE: I agree, it started with Bryan Vaughan six years ago.

Mr Schipp: And Gerry Peacocke.

Mr McBRIDE: I acknowledge the contributions of the honourable member for Dubbo and the Hon. B. H. Vaughan. However, the honourable member for Port Jackson introduced the bill into the House. She has spent a number of years getting it to its current stage. It is a great leap forward for ordinary tenants. This is the sort of legislation that Labor governments should be introducing. They should be looking after the ordinary small business people to ensure they have the wherewithal to protect themselves from rapacious landlords.

Mr WINDSOR (Tamworth) [10.01 p.m.]: I will speak briefly to the bill. Unlike the honourable member for The Entrance, I do not hate small business people. I support the bill and commend the honourable member for Port Jackson for her work. I have been a member of the Joint Standing Committee upon Small Business. The committee has come across a number of issues that are raised in the bill, not the least of which is the House of Representatives inquiry into fair trading, and the relationship between lessors and lessees that has been raised in that inquiry. I hope this Parliament and the Federal Parliament will look at a number of issues, including the security of payment to subcontractors. The honourable member for Dubbo, the honourable member for Wagga Wagga and I looked at this issue some years ago with others in the business community. The standing committee is currently looking at it.

Another issue that must be examined is the law of bankruptcy and the way in which some people in the business community are abusing bankruptcy laws. I understand that has Federal ramifications, but these are major issues within the business community. Although this bill has some grey hairs on it, it is a good piece of legislation. It gives the small business community a better deal. It makes some changes to the Act that will give a fair deal across the board and, hopefully, will give

greater viability to some small businesses. The honourable member for The Entrance concluded his speech by suggesting that the bill should have gone further.

I do not think any legislation should guarantee a certain level of profit. There is a certain level of caveat emptor in any business dealings. There should be a level at which the ability of the business person is rewarded above business people who do not have any ability. I note that the honourable member for Wagga Wagga was an outstanding small businessman in his own right and he left small business to come into Parliament. Changes within the Retail Leases Amendment Bill should enhance the ability of many small business people to maintain viability.

I refer to security of payment. Obviously small business and big business have experienced conflict in relation to how they deal with each other and their bargaining power, particularly in a major shopping centre development where there is one major investor and a lot of small tenants. That situation is different from a main street in a country town or suburb, where small businesses will gain greater access to custom. Certain pressures can be, and have been, applied by the developer in the retail lease arrangements. This bill will have a positive impact on the unconscionable dealings that have occurred from time to time. It will improve the determination of market rentals. Disclosures between landlords and tenants in relation to the proposed use of premises will obviously have a positive impact. One of the things that will have an impact on the small business community in particular concerns compensation for fixtures and fittings. Obviously, dispute resolution and unconscionable behaviour are major issues and the provisions in the bill will be welcomed by the small business community.

Some time ago I had talks with the Retail Traders Association—I know the honourable member for Port Jackson has been involved in discussions with that association and other business groups in relation to this bill. I compliment her for introducing this bill. This is an area in which small business and big business have been in conflict, have experienced feelings of mistrust and of wanting to retain some sort of competitive edge over each other. A legislative package that comes to grips with most of these issues—although not everyone will be happy with this bill—is a step in the right direction to deal with some of those long-term problems. Those problems would remain if it were not for this legislation.

I encourage the Government—and the coalition if it wins office in March 1999—to have a close look at the process involved and to look at the security of payment in relation to subcontractors. There are problems in this area. I do not suggest that business people should be excused for every mistake they make—if they make mistakes they deserve to go broke—but sometimes pressure can be applied, and the honourable member for The Entrance highlighted some instances of that. The Parliament has to allow business to take its natural course but to ensure that it does so on a relatively even playing field. I commend the bill.

Dr MACDONALD (Manly) [10.10 p.m.]: I welcome this bill, although I point out that it does not go far enough. For about 18 months I have been involved in retail tenancy issues involving small businesses associated with Warringah Mall, the very large shopping centre in the northern beaches operated by AMP. Small businesses at the mall last year faced serious problems. I raised several of those problems publicly, with AMP and with the Retail Traders Association. I organised a visit of the Joint Standing Committee upon Small Business on 24 October 1997 to small businesses at Warringah Mall.

Businesses at Warringah Mall were being affected by major renovations that were being undertaken, and are ongoing, at the shopping centre. Approximately \$130 million is being spent on upgrading the shopping centre. A great deal of noise is being generated and tenants are confronted by building work, disruption of business, reduced patronage and various relocations. In order to clear the way for renovations, businesses were given orders to close up shop on expiry of their leases, with no offer of alternative space. These orders affected families whose livelihood was tied up in running a small business. The goodwill of those businesses had in some instances been built up over 20 years. The experiences of one business, which shall remain nameless, were particularly graphic. The business had been a tenant at the mall since the late 1970s. It was a profitable business, attracting 3,000 customers per week, employing 10 staff and paying in excess of \$100,000 per year in rent.

In March 1997 the business received a notice that AMP required vacant possession of its premises by 30 June of that year. The business was not offered alternative space; it was merely told to close up and get out. Other tenants with leases of a

similar expiry date were faced with the same situation. The business to which I refer wrote to the mall management acknowledging that AMP had every right to seek vacant possession but pointing out that it, as a good tenant, should at least be offered the opportunity to fit out other premises or retain some viability of business until the renovations were complete. The business was given no assurance of any sort. AMP merely responded that at the end of the renovations all applicants would be judged on their merits.

Effectively, AMP was saying that tenants would have to close down for a year or 18 months, with no assurance of new premises. People were put out of work and businesses faced a loss of goodwill. The business to which I refer estimated the value of its goodwill at that time to be in excess of \$400,000, and it was being told to walk out. What an unconscionable action on the part of AMP. The business stated in its letter to management:

Is this the way big business (AMP) treats small business in centres? Would AMP policy holders be pleased to know how you treat your tenants? Tenants who have never missed a rent or outgoings payment, have participated in centre promotions and who have never complained.

I was roused by the experience of this business. I thought, "AMP—what sods, what a rotten lot." I examined the matter in more detail. My attention was drawn to a House of Representatives report entitled "Finding a balance: towards fair trading in Australia—Report by the House of Representatives Standing Committee on Industry, Science and Technology". Honourable members would be aware that the report is comprehensive. In the fair trading inquiry, small retail tenants raised issues of major business conduct including lack of security of tenure—particularly the inability to sell businesses close to the expiry of a lease term and the loss of goodwill; the calculation of rent; the calculation of variable outgoings; lack of disclosure or misleading information given to lessees during lease negotiations; changes in tenancy; and lessors' exercise of their considerable discretion to redevelop shopping centres and compulsorily relocate tenants, causing damage to small retail businesses.

Those issues were identified clearly in the House of Representatives report, and have been picked up and acted upon in this bill. Having examined the case of small businesses in the major complexes in my area, I identified four major concerns. The first concern was that of inequality in bargaining power, which exists particularly at the end of a lease. There is no certainty for a small business operator who has put in years of hard work. The second concern was the capturing of

goodwill. It is very difficult for a business to sell near the end of its lease, and of course goodwill does not extend beyond that. The House of Representatives report discusses that concern.

The report's recommendation 2.4 includes various provisions to be included under the uniform retail tenancy code—for instance, minimum lease terms of five years; sitting tenants to have the option of lease renewal for a further five years; sitting tenants to have a right of first refusal of the lease for subsequent five-year periods; and the option of casual leasing in clearly defined circumstances but only at the request of the lessee. In terms of goodwill, one has to recognise that a good tenant contributes to the capital value of a centre in a number of ways. The tenant fits out the shop and provides a good front business for the centre. The tenant also provides for a good name—what might be termed "intellectual property". Landlords are always looking for well-known and well-respected names, yet it appears that they have scant regard for their tenants towards the end of a lease. They are therefore in an inequitable position of strength versus small business.

My third concern was the need for the determination of rent by an independent valuer. The problem is that the landlord has knowledge of circumstances and is able to ratchet up the rent, an experience encountered over and over again. In the case of Warringah Mall, AMP knew that tenants had nowhere else to go, so tenants were charged higher rents. Recommendation 2.7 of the House of Representatives report states that the level of market rent on lease renewal should be determined by an independent valuer.

My fourth concern related to the provision of low-cost effective dispute resolution. Representations were made to me on that issue. Broadly speaking, small businesses are unequal bargaining partners of shopping mall managers, which has resulted in unfair leasing arrangements. Small businesses need protective mechanisms to even up the balance in negotiating power. The New South Wales Joint Standing Committee upon Small Business established an inquiry into retail tenancies. The committee has yet to report. I am surprised that this bill has been introduced prior to the outcome of the committee's inquiry. The committee is examining several matters pertinent to this issue and this bill. It is considering matters such as the length and term of retail leases; end of lease renewal; tenant participation in lease documentation; compensation for business disruption, for example, relocation; dispute resolution and the effectiveness of the Retail Tenancy Tribunal and other legal processes; treatment of goodwill; and possible solutions.

As I have said, I support much of the bill's content. However, I have to consider whether the four areas about which I have concern—inequality in bargaining power, capturing goodwill, determination of rent by an independent valuer and provision of low-cost effective dispute resolution—have been provided for. The bill addresses inequality in bargaining power in the adoption of provisions to prevent unconscionable dealing. The honourable member for Port Jackson in the second reading speech commented that the Government was mindful of the rights of property owners and did not want to diminish those rights. She said that the matter could be sorted out by alternative dispute resolution and through the Administrative Decisions Tribunal. With regard to capturing goodwill, I am disappointed, that the recommendations of the report "Finding a Balance"—the five-year lease with a five-year renewal option and a right of refusal for later five-year periods—have not been taken up in this legislation. In other words, tenants will remain uncertain about goodwill at the end of their lease.

The determination of rent by an independent valuer is provided for in the bill where parties fail to agree on determination of the current market rent. The provision in the bill of low-cost, effective dispute resolution certainly means that most things can be dealt with by way of alternative dispute resolution and the Administrative Disputes Tribunal, and the bill sets up a new division of the Administrative Disputes Tribunal called Retail Leases.

Will the bill address all the submissions that were put to the inquiry or will it gloss over some of them? The bill provides for a number of solutions that have been identified by the inquiry. In other words, compensation for business disruption during relocation and, as I said earlier, dispute resolution. In conclusion, this is an advance on the current unconscionable behaviour in regard to productive and respectable family businesses that have been disrupted in a most unreasonable way. I was moved by letters I received from respectable, successful businesses operating in my local shopping centre. I took up the matter with the Joint Standing Committee upon Small Business when it visited my area and that has been reflected in this long-overdue legislation.

[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.

RETAIL LEASES AMENDMENT BILL

Second Reading

[Debate resumed.]

Mr PEACOCKE (Dubbo) [10.22 p.m.]: I congratulate the honourable member for Port Jackson on this legislation. It will be a feather in her cap in years to come and an achievement that she can remember with pleasure. For good reason the Opposition supports this legislation. I recall that just prior to the 1988 election campaign, which resulted in the coalition winning office, one of the most frequent complaints was from tenants in shopping centres. This amending legislation was foreshadowed by me in 1988 in an address to the Building Owners and Managers Association—BOMA. I shocked that association when I stated that it would have to get together with the Retail Traders Association and the Shopping Centre Tenants Association and work out a code of conduct to be legislated. I said if they would not do that I would do it for them.

There was great resistance to that proposal. One has to understand that property rights are fundamental to our society. A delicate balance has to be reached between the property rights of the owners of property and the rights of their tenants. The Retail Tenancy Act was passed after two years of very intense negotiation between the three organisations—BOMA, the Retail Traders Association and the Shopping Centre Tenants Association. It was a monument to good sense that a basic agreement, vigorously opposed by some owners of large shopping centres, was reached. It is interesting to note that most of the owners of the big conglomerate business centres now agree that the New South Wales code is a leader in Australia, and it is used as a model. This legislation is a logical step forward from that original code.

This legislation will introduce some real elements of justice to both sides. I do not want to canvas the whole of the legislation but I will talk about two parts of it. As a practising lawyer for more than 30 years, and having had a lot of clients who entered into leases in shopping centres, one of the salient features was that so many solicitors and legal advisers failed to advise their clients, who were tenants or lessees, on the real content of the lease. As a matter of fact on dozens of occasions I strongly advised clients not to enter into leases, but they said that they had to get into the centre where the action was and that they would sign anyway. Of course, they encountered disaster down the track. In those early days of shopping centres there was an enormous difference in the power of the lessor and the power of the lessee.

The power of the lessors was often used capriciously, dishonestly and unconscionably. To give an example of the unconscionable use of that kind of power, I recall that a chemist, who was a tenant in a large shopping centre, built up an excellent business in that centre. His was the leading pharmacy in Dubbo at the time. The manager of the shopping centre in question had a friend who wanted to get a good business and when the chemist's lease expired it was not renewed. The fact that another chemist, a friend of the manager, entered into a lease in the centre speaks for itself. The fact is that quite often in the past tenants were their own worst enemies. Because they lacked power they did not exercise their rights and they signed documents which they should never have signed. I blame a lot of solicitors and legal advisers for allowing that to happen.

This legislation provides for a compulsory requirement for certification of the disclosure statements to be signed by the lessee's solicitor and given to the lessor within a period of 14 days. The major and most attractive part of this legislation is the provision relating to unconscionable conduct in retail shop lease transactions. For the first time that has introduced a long-overdue, equitable jurisdiction, if I can put it that way, in the dealings of both the lessor and lessee in respect of retail tenancies. The bill gives a wide scope for determining what is unconscionable conduct. I have pressed for that for years and I am glad that someone, namely the honourable member for Port Jackson, and this Government has had the courage to proceed with it. I give them full marks for doing so.

However, it works both ways because it is not only landlords who are unconscionable to tenants; sometimes tenants are unconscionable to landlords. I would point out that there are cases of tenants having much more market power than owners of shopping centres. Major retailers, particularly food retailers, have immense power and they sometimes operate in retail shopping centres which are owned by people with much less power. The unconscionable conduct provisions are a logical extension of what is fair and proper in retail leases.

I commend the Government for those provisions which will provide a two-tier method of dealing with unconscionable conduct in retail shop leases; the lower level with the tribunal, which will keep costs down. However, there is a right of appeal and that is limited, as it should be, because a powerful shopping centre owner can afford the high cost of appeals to the Supreme Court whereas a small tenant cannot. I hope that shopping centre owners will accept this provision. Some may demur

and there may be some resistance, but time will show that a fair regime in leases in shopping centres will be beneficial to the lessor, to the lessee and to the customers.

It is a just provision but, of course, justice depends on how it is administered. It remains to be seen how the tribunal deals with those cases and what case law develops from them. Certainly one could give a wide-ranging number of examples which are clearly unconscionable. No honourable lessor or lessee would indulge in those, but, nevertheless, they have happened. This provision is a method of dealing with those cases quickly, cheaply, sensibly and justly. I stress that a large number of shopping centre owners in this State have for years behaved quite conscionably, because they realise it is in their best interests to do so. There are some cowboys and sometimes they are the owners of the premises, but sometimes they are the managers who have an agenda, often unknown to the owners.

This legislation will be almost the final amendment that is needed to the original Act to make it fair and equitable to both owners and tenants, but it recognises quite clearly the property rights of owners. In a democratic society we should never forget those rights. The legislation is well drafted and is a fair approach to a difficult problem. The legislation is good for the retail industry and for the owners of shopping centres. After all, it is to everyone's benefit that the system operates fairly, equitably and reasonably. This legislation is just about the final step in making that code valuable to owners, tenants and the general community. I congratulate once again my friend and colleague the honourable member for Port Jackson on having introduced this legislation.

Mr GLACHAN (Albury) [10.33 p.m.]: I join my colleagues in congratulating the honourable member for Port Jackson. Certainly something needed to be done about leases of retail premises. In the past unfair landlords had taken advantage of their tenants. I have been a tenant and a landlord and I have seen the situation from both sides. I remember the devastation that my wife and I felt about our small business when our landlord told us that on expiry of our lease the rent would be increased by 360 per cent. We were shocked, and took the only steps we could. We went to the bank, borrowed money and bought premises into which we moved our business. We made sure that we would never be in that position again.

I have heard of landlords of shopping centres who, when seeing a store was doing well and

making money, had asked for an increase in rent. Many unfair practices have occurred. My colleague the honourable member for Dubbo mentioned that sometimes it is not the owner of the premises but the manager who increases the rent. The management of one shopping centre was not legally able to increase the rent. Instead, management increased the operating costs of the centre which added enormously to the costs of cleaning. Management levied outrageous costs on their tenants, which caused enormous stress. The tenants could see that the money they were charged for cleaning the common areas was not being spent on cleaning. It was a totally false charge, in effect an increase in rent.

Soon after I was elected as a member of Parliament I was distressed when the lessee of a small corner store told me that the landlord was treating him and his wife very unfairly. The landlord owned the premises which comprised the business and the home in which the tenants lived. The tenants wanted to sell only their business and they had a buyer. All their hopes were tied up in that business. From the sale of the goodwill, the stock and the plant they were hoping to be able to buy a home. They had worked hard, seven days a week; the husband had a full-time job and worked part-time in the business with his wife. The landlord would not sign the lease over to the person who wanted to buy the business unless he was paid a certain amount of money.

That amount was almost equal to the goodwill they had in the business. Therefore they would have worked for many years for absolutely nothing. That was totally unfair, but that sort of practice was common. I rang the landlord and told him that what he was doing was unfair. I said to him, "You have received the rent that was agreed on, which was fair and reasonable. You have been treated fairly, they have paid the rent. How can you do this to those people?" He replied, "The law lets me do it and I am going to do it. I have every right to do it. People have treated me badly in the past and now it is my turn to get back at someone." That was totally unfair. Certainly there needs to be fairness on all sides. Landlords need to remember that the best asset they have in their premises is a contented tenant who is making money and is happy to pay, and who is completely happy with every aspect of the lease and their business.

I am a little concerned with one aspect of the bill. Maybe I have not interpreted it properly, but it seems to me that if there is a negative increase in the consumer price index it is possible that the rent might be reduced. That would be unfair to the

landlord, because the value of his property depends on the level of rent he gets for it. If the rent goes down the value of his property also goes down. That is not fair to the landlord. Otherwise the bill will solve a lot of problems for both sides. As the honourable member for Dubbo said, the bill will help everyone to better understand their responsibilities and give everyone a fairer go. That is what we all want to happen.

Mr SCHIPP (Wagga Wagga) [10.38 p.m.]: My concern with this legislation is that it may create an illusion that people can go into a retail business and be protected by Big Brother. I do not dispute that there are problems with large shopping centres, and that that has been well documented over the years. I remember the efforts of the honourable member for Dubbo to get legislation passed and codified during the early days of the Greiner Government. This legislation broadens the law beyond shopping centres; it refers to the bulk of retail trading, which is done through strip shopping, the small landlord and tenant arrangements.

As the honourable member for Albury said towards the end of his contribution, a person who invests in a property anticipates a return on that investment. New subsection (4) of section 18 provides that a lease cannot have a provision that a rent cannot be lower than a specified level. That has been a condition of commercial leases for as long as I can recall; the rent can increase, but it cannot decrease beyond a certain level. If it were able to decrease beyond that level, how could one make an investment decision? If people do not invest in retail property, we will not have properties to enable businesses to operate.

The real issue I see in that provision is that it could create an illusion that a prospective lessee does not have to do any research of a business, giving people the impression that they can go into an arrangement blind. Traditionally, there have been problems where people have gone into businesses without doing research, or taking the usual precautions of business people. Not everyone can run a business. It involves hard work and long hours. When I was in business I did not have to work on Saturday afternoons and Sundays, but I still had to put in long hours. I recall one of my business mentors saying to me, "Always remember: you do not have a business just because your door opens onto a main street. The business is what you make it and the work you put into it."

I know that interruptions of business can be caused by landlords, but I return to what I was saying when I first spoke: I hope that tenants will

still realise they must do the hard yards, know what they are on about, and do their research. These days there are all sorts of ways in which to get advice; business enterprise centres and incubators are available to potential business people to learn the ropes about running a business. I appreciate that running a business these days is much more sophisticated, with computerisation and so on, than it was when I went into business. Back in the fifties, when I started in business, it was more or less a seat-of-the-pants operation.

I am concerned that this legislation goes beyond the original intent of controlling rental leasing arrangements in larger shopping malls, shopping centres, et cetera. One honourable member, I think it was the honourable member for Manly, spoke about the AMPs of this world. This legislation goes way beyond talking about the AMPs of this world. We are talking about the Ian Glachans and perhaps the Joe Schipps of this world—people who have made a decision to invest in property, who have taken the plunge and the risk and therefore expect some return. There is no certainty where a lessee or lessor can walk away from a property at a whim. It may be all right to enter into a 5 x 5 x 5 lease, but that will benefit only the retailer or tenant, because the tenant can terminate or extend the lease at any time. The owner must run the risk that at the end of the first term of the lease the premises will be left on his hands.

Many more issues are involved than protection mechanisms for a tenant. We must think of the many people who invest their hard-earned money in these sorts of lease properties so that others may have a go at business. I hope that there is a good balance in this legislation and that it is not a measure to prop up those who would operate businesses. They too must accept that they are taking a risk by entering into business. These days, the failure rate in business is enormous.

Mr Glachan: It is not always the landlord who causes the problem.

Mr SCHIPP: Absolutely. We must be fair dinkum and recognise that some people just do not have the capacity to run a business. When administering any legislation it must be borne in mind that we are not just dealing with rogue landlords; we are talking about a broad sweep of people who invest in retail property and deserve some thought when it comes to this type of legislation. We do not want Big Brother dominating every aspect of our lives.

Mr KINROSS (Gordon) [10.44 p.m.]: I shall be brief, as many honourable members have already made a number of references to the good work that

has led to the presentation of this bill, following on from the good work of the honourable member for Northern Tablelands when he was Minister.

Mr Glachan: As well as the honourable member for Dubbo as Minister.

Mr KINROSS: I acknowledge the good work of the honourable member for Dubbo preceding this timely legislation. The first object of the bill is to make the assignment of a lease not currently subject to the principal Act subject to this amending legislation. That provision has merit. At least it is consistent. The principle is that something which was not caught by previous law should not now be retrospectively caught by legislation. To do so would be to deny one of the fundamental principles of legislation: that is, consistency of operation. A number of honourable members have referred to the provision relating to a decrease in rent. In that respect, I adopt the comments made by the honourable member for Albury, who said that, apart from rent, the upkeep and maintenance of a property that has a number of overheads may be dependent on a base rent. Therefore a reduction in rent would have a concomitant effect on the value of a property.

The provision relating to sinking funds is important, particularly in relation to strata corporations. By providing for such a fund and for distribution of funds one imports some security, even though it may be manifest in a rent increase or at least a proportion of the rental directed into a sinking fund. There are always things that can go wrong. One such instance would be recent storm damage that occurred and was the subject of a debate in this House. It is frightening to contemplate the consequence of the collapse of a landlord's business because of failure to take out adequate cover or insurance and therefore substantially jeopardising the tenant's business. A sinking fund may also operate to assist those who have particular needs on a temporary basis. That is why I welcome that provision.

The next matter to which I make reference is the compensation available for a fitout paid by a lessee. There was a Vietnamese bread shop in the Gordon centre in my electorate. A year ago, *A Current Affair* was ready and willing to roll on a story, but wanted me to talk about whether the lessee was being evicted because the person was Asian. I knew that was not the case. I could have made headlines by pandering to the whims of the media who wanted to sensationalise a story.

The Gordon shopping centre had concerns about the ability of the Vietnamese people to provide quality food and a level of service in

accordance with the ability of the lessee's shop to provide a large injection of capital which would equate with the ambience of the Gordon centre, a first-class shopping village. However, I believe that adequate compensation was not made to the proprietor of the Vietnamese shop. I am pleased that a provision of this bill will ensure that where there has been a substantial injection of capital by a lessee, the lessee will be required to be compensated by the lessor on the grounds of proposed termination of a lease or demolition of premises.

The provision regarding hours of operation is welcome. It is a matter that was picked up to some extent in 1994, when the original Act was passed. I hope that the Minister will always keep an eye on this matter. Here I am talking about main shopping centre tenants who must keep their premises open for all of the hours for which the shopping centre is primarily open. That is an oppressive requirement, especially if the shopping centre itself is not functioning well. It is a two-way street. I suggest the shops themselves provide the goodwill of the centres. This legislation should be carefully monitored to ensure there is not oppressive or unconscionable conduct—for which I see there is a remedy in the bill—in that a landlord could insist that a tenant operate for an unreasonable span of hours.

The bill achieves a reasonable compromise. There will always be landlords and lessees who want more, but the bill achieves a reasonable balance, and for that reason the Opposition does not oppose it. However, I reiterate lessees sometimes cannot pay. Honourable members will have seen the landlords from hell but recently *A Current Affair*, in the context of residential leases, showed us the tenants from hell. A shop proprietor whose landlord may have extended a helping hand, perhaps because of a cash flow deficiency, may expect too much. Reasonable balance is needed so that such matters can be considered fairly and equitably.

Finally, I shall place the lawyer's usual caveat on my remarks and say that none of my negative comments apply to the shopping centres in my electorate. Honourable members would be aware of the excellent St Ives shopping centre and the excellent work done by the centre manager, Margaret Middleton. They would also know of the Gordon centre and the work of Kevin McIntosh. They are both first-class centres. The legislation provides a reasonable balance between the rights of those centres and the rights of the shops that make up those centres.

Mr HUNTER (Lake Macquarie) [10.51 p.m.]: I support the Retail Leases Amendment Bill. I should put on the record the overview of the bill:

The object of this Bill is to amend the *Retail Leases Act 1994* (the **Principal Act**) for the following purposes:

- (a) to make it clear that the assignment of a lease not currently subject to the Principal Act will not bring the lease under the Principal Act,
- (b) to impose greater sanctions on lessors under retail shop leases who fail to give disclosure statements to lessees before the lease is entered into,
- (c) to impose a requirement on proposed lessees under retail shop leases to give disclosure statements to lessors before entering into leases,
- (d) to enable licensed conveyancers to sign certificates enabling requirements relating to the term of retail shop leases not to apply,
- (e) to prevent certain decreases in rent being specified or limited under retail shop leases,
- (f) to provide for the appointment and powers of specialist retail valuers in relation to the determination of current market rents for the purposes of retail shop leases and to limit the information that may be disclosed by valuers,
- (g) to prohibit provisions in retail shop leases that require lessees to pay amounts in respect of interest and other charges incurred by lessors,
- (h) to prohibit provisions in retail shop leases that require lessees to pay amounts in respect of land other than land associated with the retail shop concerned,
- (i) to establish requirements relating to sinking funds and to provide for their distribution,
- (j) to apply provisions relating to forced relocation to retail shops not located in retail shopping centres,
- (k) to make compensation available for a fitout paid by a lessee where a retail shop lease is terminated on the ground of proposed demolition,
- (l) to provide for statements to be given by assignors of leases to assignees and to provide protection from liability for assignors who give such statements and guarantors of assignors,
- (m) to prohibit lessors and lessees from engaging in unconscionable conduct in connection with retail shop leases and to provide for a remedy for any loss or damage caused by unconscionable conduct,
- (n) to confer jurisdiction on the Administrative Decisions Tribunal (the **Tribunal**) to deal with claims under the Principal Act and to set out the powers of the Tribunal when doing so and to make other provision with respect to dispute resolution, claims and proceedings under the Principal Act,
- (o) to extend the period within which the Principal Act must be reviewed from 5 years to 7 years,
- (p) to make savings and transitional provisions consequent on the enactment of the proposed Act.

The Bill also amends the *Administrative Decisions Tribunal Act 1997* to establish a Retail Leases Division of the Tribunal to deal with the new jurisdiction imposed by the Bill and makes a consequential change to the proposed *Fair Trading Tribunal Act 1998*.

This bill is of particular interest to me as a member of the Joint Standing Committee upon Small Business, especially as I am a member of the subcommittee dealing with retail leases. During the period that the small business committee has been examining this issue I have visited a number of shopping centres in New South Wales, including the Charlestown Square Shopping Centre in the Lake Macquarie city area, Garden City and Stockland Mall at Jesmond. At those shopping centres, together with the chairman of the small business committee, I met small business people. I listened to and learnt about their concerns and the problems they were encountering.

I believe that this bill will go some way towards remedying the predicament in which they found themselves. Many of the people I met were being treated unfairly and this bill will go a long way towards solving some of the problems they were encountering. Although I support the bill, I will continue to monitor implementation of its provisions. I will continue to work on the small business committee and to deal with small business people, especially those in shopping centres who have been unfairly treated in the past, to ensure that they are given a fair go.

Ms NORI (Port Jackson) [10.56 p.m.], in reply: I thank honourable members who have participated in the debate. It is good to see honourable members working together in a bipartisan way. Frankly, now that the massive saga of negotiation, which took 18 months to complete, is over I am not sure how I will get my kicks. However, the process has been a great process and it has been a great learning curve for me. At the outset I acknowledge that no government of either persuasion could have introduced this bill if it had been the first bill to deal with retail leases. This bill builds on previous legislation. The parties, who started at least 10 miles apart, had to go through a process of attrition, so to speak, and they eventually realised that the introduction of the legislation would not lead to World War III and that they could live with it.

A long chain of events has enabled the Government to achieve this result. I acknowledge the work done by the honourable member for Dubbo, the honourable member for Northern Tablelands and the Hon. Bryan Vaughan in another place, who made a considerable contribution to this

legislation. It is true to say that the process leading to the introduction of the bill has been evolutionary and I hope that the legislation is as near to perfect as possible. I thank the Treasurer, the Hon. M. R. Egan, who devolved responsibility for the legislation to me. Had it not been for his steadfast support for the principles I was trying to maintain throughout the negotiations, I doubt whether they would have been preserved. Since my second reading speech a couple of weeks ago I have been gratified by the response of industry stakeholders.

I thank the honourable member for The Entrance for introducing me to one of his constituents who had a problem with a lease in a shopping centre in his electorate. My meeting with that small business retailer was one of the many reasons I was determined that the legislation would come to fruition. The honourable member is entitled to some credit for having drawn that matter to my attention. He will now be able to explain to his constituent that had this legislation been in place at the time he entered into his lease he may not have suffered the difficulties that he did. The honourable member for Manly made one comment that I thought was a little unfair. He said that unfortunately the legislation did not go far enough and that at the end of a lease a tenant it still faced with uncertainty. That is not true. A landlord must give at least 12 months warning if the lease is not to be renewed, and a particular process must then be entered into.

Discussions were never entered into on the assumption that a landlord could not determine who would be in the premises, tenant mix or the location of a particular retailer. The bill is not about preventing the landlord from making those choices, but the landlord must not act unconscionably. The bill is not about compromising or interfering in any way with the cut and thrust of ordinary commercial dealings, protecting tenants from trading difficulties or protecting the unprotected from themselves. If a person has made a stupid decision and has not understood the consequences, he or she must wear the consequences of the decision. The Government cannot protect people if they have not done their homework. The honourable member for Albury was concerned that there was no bottom limit to which a rent could fall in certain circumstances. Although a landlord may not choose this path, if the rent contract dictates that the rent will be based on the consumer price index, when the CPI is positive the rent will increase and when it is negative the rent will fall.

Far be it from me, as a member of the left of the Labor Party, to start spouting comments about market forces, but I remind honourable members

that what is good for the goose is good for the gander. The Property Council is aware of that principle and accepts it. To allow rent to increase or remain the same only when the CPI is negative would cause an artificial market value; the market value would be distorted. A landlord can seek rental adjustment to the CPI, to market value or to even a fixed percentage of income. Whichever rent adjustment is used, the rent will reflect the movement of the CPI either up or down. The honourable member for Wagga Wagga said he hoped this legislation would not lead potential retailers to believe they would be protected from themselves in all circumstances. The honourable member missed something in the detail.

The bill contains a new requirement for retail merchants to make disclosure. In that disclosure they must indicate whether they have taken professional independent advice on the commercial terms of the lease and whether they are able to meet all the conditions of the lease, including the ability to pay the rent specified and other outgoings. That is to ensure that more is done to ensure that the mums and dads, those without experience, those who have put their superannuation or redundancy package on the line, do not go into business blindly. I briefly considered the west German model, which requires a business person to pass a test and obtain a license before starting a small business. That model was too prescriptive and too limited. The bill goes about as close as it can to asking those entering new leases to spend \$200 or \$300 on a good lawyer and good accountant and to make sure that after the payment of costs for rent, fitout, buying stock and inventory they will be able to make a quid at the end of their lease, because at the end of five years they may well have to go because that is what they are signing for on the dotted line.

If a tenant is asked to move, relocate, demolish or sell the business the only requirement of a landlord is that that be done reasonably. The reason that path was chosen rather than trying to prescribe precisely what should happen at the end of the lease is that the latter is too difficult to implement. What might be reasonable in some circumstances may be extremely unconscionable in others. That is why it is left to the court to decide. The new tribunal will be guided by 11 points in determining unconscionable behaviour. The tribunal will not be restricted by those 11 points, but the points will be a guide in determining whether behaviour has been unconscionable. The bill does not seek to interfere with or compromise the normal cut and thrust of normal commercial relations.

I respond to some of the points made by the honourable member for Gordon and the honourable

member for Wagga Wagga by saying that the Government has agreed to work with industry stakeholders including retail traders, the Shopping Centre Council, the Real Estate Institute and the Property Institute to develop an education program for current and prospective retailers and landlords about the provisions of the bill and about the need to establish business skills and to seek professional advice prior to entering into a lease for a rental shop.

The bill goes about as far as retail legislation can go. It is now up to the industry and the Government to work together to improve skills and to develop a change in the behaviour of the parties to retail leases in New South Wales. It is hoped that the passage of the bill alone will reduce the number of complaints dramatically. The line has been drawn more clearly in the sand. I expect a great cultural shift. I expect that certain behaviour of the past will not recur because those who indulged in that behaviour will be too scared to continue with it. The bill is subject to national competition policy review. Indeed, that process has already started. I am sure that process will provide an opportunity to iron out any difficulties in the bill, if indeed there are any.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BILL RETURNED

The following bill was returned from the Legislative Council with an amendment:

Residential Tenancies Amendment (Social Housing) Bill

SUBORDINATE LEGISLATION AMENDMENT (REGULATORY FLEXIBILITY) BILL

Second Reading

Debate resumed from 28 October.

Mr KINROSS (Gordon) [11.07 p.m.]: I lead for the Opposition and indicate that the bill is not opposed. The objects of the bill are sufficiently set out in the overview. The bill requires a principal statutory rule to be performance based if it has an appreciable cost impact on the business community or on the community as a whole. That is, the rule should impose requirements by reference to the objective sought to be achieved and enable the person required to comply with the rule to choose any appropriate method of achieving that objective. The Opposition is pleased to be dealing with performance-based criteria by which regulatory instruments will be judged.

The business community often looks to appropriate objective criteria. However, all too often it has been neglected; it has not been consulted and it has often wondered about the impact of legislation. Many countries have formalised mechanisms. Environmental impact statements are required under environmental legislation. This legislation contains occasional references to regulatory impact statements. The Opposition supports such statements because until the cost-benefit approach is taken it is not possible to make a final judgment about the true benefit of legislation.

The bill also requires any principal statutory rule that is not performance based to have an alternative compliance provision, that is, a provision that authorises the exemption of a person or thing from that rule subject to compliance with other requirements to meet the objectives of the rule. In other words, the concomitant is that if the rule does not conform we need to know why it should be exempted or why it should not have to meet the requisite performance-based objectives. The bill will also require an assessment in the regulatory impact statement for any relevant principal statutory rule of whether the rule should be performance-based or have an alternative compliance provision. In addition, the objectives must be stated in the rule or in an explanatory note accompanying the rule.

Finally, the bill will confer on the Regulation Review Committee the function of overseeing the proposed requirements. I was a member of that committee before the coalition lost office in 1995, and I know that it does a great deal of good work. The continuing work of Opposition members on that committee, including the work of the honourable member for Camden, is appreciated. It is important that the Regulation Review Committee, which is one of the standing committees of the Parliament, has oversight of the legislation. The committee is frequently the bane of Ministers. When the coalition was in government the committee was not popular for requiring Ministers to explain why regulations were needed or why regulations would not be repealed. However, the importance of the committee is undoubted.

The legislation has been a long time coming. It is another case of the Government taking a substantial period, nearly four years, to bring about reform. No doubt other Opposition members will make further comments about that. While the bill creates some flexibility, which is predicated on performance-based and objective criteria, some control remains in the hands of the Minister. The legislation does not provide for any appeal against a decision of the Minister. That is a major weakness in the bill and something about which members on both sides of the House are concerned. However, I will leave it to members of the Regulation Review

Committee to raise those concerns. The Opposition does not oppose this legislation.

Mr SHEDDEN (Bankstown) [11.12 p.m.]: I was given a briefing by the Cabinet officers on this legislation on 21 October. Other members of the Regulation Review Committee were briefed on 28 October. In future it would be better if the committee was provided with an earlier opportunity to consider details of legislation amending the Subordinate Legislation Act and the Regulation Review Act. The committee has a close interest in all such bills. It is particularly interested in this bill, because under schedule 2 the committee is required to administer its provisions.

Under this bill a principal statutory rule must be performance based if it has an appreciable cost impact on the business community or the community as a whole. In May 1996 the Government released a green paper for discussion identifying a number of strategies, including performance-based regulation and regulatory flexibility, designed to give business a chance to develop innovative ways to satisfy the objectives of regulations. The Regulation Review Committee provided a detailed response to that paper, expressing support for the concept of performance-based regulation provided safety was not compromised. The committee added that qualification because, in relation to a performance-based rule, one can only say at the end of the process whether the performance requirements have been met.

That is what makes a regulatory impact statement so important. The RIS must identify the considerations upon which a reliable judgment can be made about whether to proceed with a performance-based rule. If the assessment is inadequate then the decision taken on the basis of that RIS is unreliable. I mention that aspect because for several years the committee has drawn to the attention of this House the poor quality of many of the regulatory impact statements prepared under the Subordinate Legislation Act. The committee has suggested in various reports the need for the Government to put in place a proper training program with the necessary follow-up support so that departmental officers can perform the RIS assessments with confidence.

It would now be an opportune time to act on the committee's earlier recommendations because this legislation, if it is to succeed, will depend on effective impact assessment of regulatory proposals. When an RIS shows that a principal statutory rule should not be performance based, the Minister must make sure that an alternative compliance provision to the standard regulation is available. That provision can be included at the time the regulation is gazetted or it can be the subject of a subsequent

order by the Minister made in conformity with new section 9D. We are in fairly uncharted territory here but again I express my support for the principle of flexibility that lies behind that provision.

I have one major reservation about the alternative compliance provision, which I raised at the meetings with the Cabinet officers. Under the terms as drafted there is no scope for review of the alternative provision decided upon by the Minister. Stated in plain English, that provision allows the Minister to put in place an alternative to the regulation. The bill puts two restrictions on the Minister's power. First, he has to ensure that the alternative arrangement is at least as effective as the statutory rule. Second, he has to satisfy himself that the statutory rule will not cause an appreciable increase in risk to human health, to safety or to the environment.

The bill does not provide that the Minister has to carry out an RIS to back up his order. Instead, he can ask the department or a panel for advice. The Minister's order would not seem reviewable by the committee, as the order would be made well outside the disallowance period for the regulation. It could be made a year or so later. When this matter was raised in discussion with Cabinet officers they advised that a review of the actual order by the committee had not been intended anyway. They said if the Minister did not comply with the preconditions to the order—for example, regarding an increase in risks—then the order would be invalid. That view overlooks new section 9E1, which provides that a failure to comply with any provision of the new part does not affect the validity of the rule.

In summary, the situation in relation to those orders would seem to be that they are not disallowable by Parliament or subject to examination by the Regulation Review Committee, and they are not invalidated by a failure of the Minister to comply with the conditions governing the making of them. I expressed the opinion to the Cabinet officers during their briefing that this situation should be corrected prior to the tabling of the bill. I was subsequently advised that the provisions of the regulation would be reviewed at a later stage. So long as the limitations of the bill are acknowledged and subsequently dealt with, there is probably no urgency at this stage to correct them.

Dr KERNOHAN (Camden) [11.18 p.m.]: I speak as a member of the Regulation Review Committee, and I would like to add a few remarks to the points raised by the previous speaker. If ever a bill should have been the subject of an exposure draft seeking public comment, this is it. This bill provides for a major departure from the way in

which regulations have been made in this State for the past 200 years. Although the Government released a green paper on regulatory innovation in May 1996 for comment by the public, it considered the different regulatory strategies only in general terms. It dealt with a number of other alternatives that have not been adopted in this bill.

These strategies were performance-based regulation, negotiated rule making, class exemptions for small business, regulatory flexibility and third party certification. As only two of these strategies appear to have been adopted in the bill, the public would have benefited from a statement evaluating each of the alternatives as well as the release of the bill in draft form for comment. This, after all, is the same standard required for principal regulations before they are made. The Regulation Review Committee, in a reference to the green paper in its ninth report, supported the concept of increasing the effectiveness of regulations by promoting flexibility, provided safety was not compromised.

No-one would deny that the days of the old draconian command and control type regulations are numbered; they are unresponsive to changes in technology and to the new solutions that the marketplace can offer. However, recent events have shown that there will always be a need for this House to have oversight of the alternative ways in which regulations can be made in order to secure public safety. The members of the Regulation Review Committee were briefed on the bill by the Cabinet Office on 28 October, just before the bill's first reading. This again shows that consultation on the bill was far from ideal. At the briefing committee members indicated a number of ways in which the Parliament's scrutiny of these new forms of regulation could be enhanced. I think members were particularly concerned that under new section 9B the Minister will have no veto over the method chosen to achieve the objective of a performance-based rule if it emerges that the method chosen is unsafe.

By contrast, under new section 9D an alternative compliance order can be made only if the Minister is satisfied that it will not cause an appreciable increase in risks to human health or safety or to the environment. The committee was also concerned that alternative compliance orders under new sections 9C and 9D will not be disallowable even though they are in fact alternatives to existing regulation. Instead, the Cabinet Office advised that the orders are open to legal challenge. This provision has the potential to tie up the State's regulation in complex and expensive legal action. Moreover, the object of the Subordinate Legislation Act was that the sanction for noncompliance with the Act should be determined by Parliament, not by the courts.

Another of the proposed amendments of concern to committee members is item [4] of schedule 1, which seeks to insert new clause 4A stating that matters involving implementation of an intergovernmental agreement that have been the subject of regulatory assessment in accordance with principles approved by the Council of Australian Governments do not require a regulatory impact statement. In the event that such a statutory rule is made implementing an intergovernmental agreement it would be appropriate to require that a copy of the assessment be forwarded to the Regulation Review Committee within 14 days of being published in the gazette and that it be tabled in Parliament with the statutory rule.

This practice would be consistent with the requirements of section 6(2) of the Subordinate Legislation Act for ordinary regulatory impact statements. There is nothing wrong with promoting flexibility in regulation, but I believe that this bill somewhat undermines the intent of the Subordinate Legislation Act. Under certain circumstances the Minister will have absolute power, as the legislation does not provide any appeal to his or her decision and the Regulation Review Committee is bypassed. This is the thin edge of a return to an era when Ministers were not accountable for their actions. That worries me.

Mr HARRISON (Kiama) [11.24 p.m.]: I support the main object of this bill, which is to require Ministers to either make performance-based regulations or specify alternative methods of compliance with regulations. Performance-based regulations are those which specify the ends they seek to achieve rather than the means to achieve them. The Regulation Review Committee has already reported on the growing acceptance of these forms of regulations in other States and nations. Perhaps the best example of a performance-based regulation is the Building Code of Australia, or BCA, which since 1990 has been under review to progressively replace prescriptive requirements with performance-based provisions. Performance-based regulation is still relatively new in Australia although it has been used widely in the United States for a number of years.

The issues involved were recently summarised in a publication of the Natural Gas Supply Association of the United States entitled "Factors to consider when evaluating performance-based regulation". Even though they approached the issue from the perspective of a gas utility, I would mention some of the more important factors which need to be taken into account in introducing this new form of regulation. Performance-based regulation should provide quantifiable benefits to all parties. This should be the first and most important test applied to any proposal. An approach that benefits only a utility or some customer classes but

not others should not be appropriate. Furthermore, the benefits should be largely quantifiable. While it is true that some things of clear value are not easily translatable into quantifiable form, the majority should be. Beware a proposal that tries to float through on intangibles.

Finally, the benefits should be demonstrable. Proponents of a particular program should have the burden of explaining in detail exactly how the proposal will work and exactly how each customer class will reap tangible benefits. Reward should be paired with risk. Programs that provide an upside for achievement but no downside for mismanagement are asymmetrical and flawed. The same thing is true of a program that provides a reward for the utility without rate reduction for customers. Explicit service and safety standards should be agreed to as part of a performance-based regulatory scheme. One potential way to reduce costs is to eliminate service. Another is to save on maintenance or safety-related expenditures that might not cause an immediate noticeable decline in standards.

As part of the process of implementing a performance-based regulatory scheme all parties should agree up front with regard to exactly what is expected in the way of safety standards and minimum service quality requirements. Performance-based regulations should have monitoring and compliance requirements. At the very least some forum must be maintained whereby aggrieved parties can raise issues and present evidence to support their position. All performance-based rate proposals must contain a review process. These are just the more important factors. The conclusion is reached that performance-based regulations offer many conceptual improvements over the status quo. However, as there are just as many potential pitfalls as improvement opportunities, the evaluation of individual proposals will require a great deal of care.

These factors become important when we consider the new supervisory function given to the Regulation Review Committee under the bill to consider whether the special attention of Parliament should be drawn to any regulation because of non-compliance with the obligations contained in the bill. The Cabinet Office provided committee members with a summary of the bill on 28 October and I am aware that the chairman has informed the Premier of a number of important changes that could be made to secure the proper review of the new procedures. I indicate my support for the bill. There are some qualifications that I and other members of the Regulation Review Committee will bring to the attention of the Premier, but in essence and on balance the bill has great merit.

Motion agreed to.

Bill read a second time and passed through remaining stages.

TRAFFIC AMENDMENT (SPEEDING ANTI-EVASION MEASURES) BILL**Bill introduced and read a first time.****Second Reading**

Mr SCULLY (Smithfield—Minister for Transport, and Minister for Roads) [11.29 p.m.]: I move:

That this bill be now read a second time.

Speed is one of the principal causes of accidents on our roads. In New South Wales last year speeding was a factor in 36 per cent of fatal accidents and 19 per cent of serious accidents. Speed-related crashes resulted in the deaths of 208 people, with a further 1,300 persons being seriously injured. To combat this the Government has implemented a strategy aimed at reducing speeding and speed-related deaths and serious injuries. This strategy includes high-profile public education campaigns and visible police enforcement. In addition, the Government has implemented such initiatives as double demerit points and the new penalties regime. This Government is committed to road safety. Part of the Government's strategy requires effective enforcement of the speed limits on our roads.

Until recently police enforced speed limits using radar-based devices to measure speed. To ensure the effectiveness of radar, the use of radar detection or radar jamming devices was made illegal. The aim of that legislation was to ensure that motorists who broke the law by speeding could not escape the penalty for doing so. The legislation also provided police with the power to seize radar detection and radar jamming devices. In the last financial year there were almost 900 offences relating to illegal speed detection devices. With advancing technology, police now use a variety of devices to measure vehicle speed, including instruments based upon laser technology. This new police technology has inevitably led to the creation of a range of countermeasures. They include a variety of detection and jamming equipment such as jamming devices that aim to deactivate police laser-based speed measurement instruments; laser-reflecting number plates; and devices that aim to detect or jam all forms of radar, photo radar and laser-based speed monitoring devices.

These devices are widely advertised over the Internet by suppliers in the United States of America, the United Kingdom and even here in

Australia. The advertised cost of the devices ranges from about \$170 to \$700. Under current legislation the sale, purchase or use by the public of this new generation of detection and jamming devices is not illegal. These devices enable their users to avoid police enforcement and to continue to speed, thereby endangering their lives and those of law-abiding motorists and pedestrians. The continuation of this loophole is clearly unacceptable and the Government, in introducing the bill, is moving to close the gap.

The bill expands the existing legislation, by broadening definitions in the Traffic Act to prohibit any device designed to jam or detect speed measuring instruments. As with the current situation with radar detectors and jammers, police will have the power to seize this type of equipment from users. This bill addresses a legal loophole stemming from advances in technology. These reforms are not about banning particular types of equipment but about banning any equipment designed to render ineffective police speed-measuring instruments. This bill does not make it an offence to use such a device if it was designed for and was being used for another, legitimate purpose.

In addition, the provisions of this bill do not apply to a motorist if the motorist shows that he or she did not know, and could not reasonably be expected to know, that a prohibited device was in a vehicle driven or owned by him or her. This bill should send a clear message to the community that no speed evasion devices or substances will be tolerated in New South Wales. The legislation provides a three-month period of grace to enable motorists to remove any detection or jamming devices that will become illegal under the new legislation. Public service announcements in statewide newspapers and motoring magazines will notify the public of the requirements of the new legislation.

To ensure that owners of laser-reflecting number plates are not adversely affected, there will be a three-month grace period for replacement of those number plates free of charge. These legislative changes will ensure that there is a clear and unequivocal message to motorists who wish to circumvent the law. The amendments will make both existing technology and any relevant future technology illegal. I commend the bill to the House.

Debate adjourned on motion by Mr Beck.

House adjourned at 11.35 p.m.