

LEGISLATIVE ASSEMBLY

Thursday 6 December 2001

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

Mr Speaker offered the Prayer.

CHILDREN (CRIMINAL PROCEEDINGS) AMENDMENT (ADULT DETAINEES) BILL

Second Reading

Debate resumed from 5 December.

Mr WHELAN (Strathfield), on behalf of Mr Debus [10.00 a.m.], in reply: I thank honourable members who participated in this important debate.

Motion agreed to.

Bill read a second time and passed through remaining stages.

COURTS LEGISLATION AMENDMENT (CIVIL JURIES) BILL

Second Reading

Debate resumed from 28 November.

Mr HARTCHER (Gosford) [10.03 a.m.]: The Coalition does not oppose this bill and has no objection to the amendments circulated by the Attorney General. Obviously, those amendments will be dealt with in Committee. In the history of development of the common law the role of the jury is one of enormous significance and dates back even earlier than the Norman Conquest, which revolutionised England and the English legal system. It is not incumbent on us today to detail the history of juries. This bill does not abolish juries in civil jurisdictions. It simply requires that there be a special need before a jury can be empanelled in a civil matter, other than in some civil jurisdictions such as motor accident claims, for which juries were abolished some years ago. The bill provides for juries to continue in defamation proceedings.

A jury acts as the community panel, taken at random, to ensure that the community participates in the justice system. A jury ensures that the justice system reflects as far as possible the prevailing views of the community as to what is reasonable and what is unreasonable. The Coalition's position is not endorsed by the New South Wales Law Society; nor is it endorsed by members of the New South Wales bar who have been in contact with us. Indeed, I am not aware of any official position adopted by the Bar Association. However, it is incumbent on us to have regard to the views of the Law Society, which is a respected body that represents the majority of legal practitioners in this State. The Law Society wrote to the Attorney in November commenting on the amendments to the bill. In that letter the Chief Executive Officer of the Law Society, Mr Mark Richardson, said:

The use of juries in civil trials and the reform of the jury system has been the subject of extensive examination in recent years. As you will appreciate, historically the determination of the facts in common law proceedings has been a matter for the jury; in cases where a jury has been empanelled, the law applicable has to be the subject of explanation and direction by the presiding judge so that a jury can at least appear to understand it. Due to media attention, there is extensive community interest in the jury system arising out of the reporting of high profile cases. That attention frequently gives rise to debate, and the principal non-economic areas in which there appears to be a degree of pressure for reform relate to the nature of the jury's verdict, the composition of the jury and the notion of community involvement, based on the ability of jurors to reflect community standards in their determination. There is no doubt that "most ordinary jurors experience gross difficulty in following the argument and retaining in their minds all the essential points of issues, particularly in a long hearing of complex character. The jury was identified by Lord Simon in the UK debate over the Juries (Amendment) Bill "as a microcosm of democratic society".

The recent case of Hogan versus the Roman Catholic Church led me to comment to the media that the role of juries in civil actions needed to be re-examined, and I do not resile from that comment now. I take comfort from the fact that the Court of Appeal set aside the decision of the jury in Hogan's case. As is well known, the Hogan

case involved the strapping a student received while at school some years ago. He sued the school and church authorities as the owner of the school. The Court of Appeal found that the verdict was wrong and ordered a retrial. The advice I received from Mr Semmler, QC, goes to the heart of this matter. In a letter to me he said:

I appreciate that there was a great deal of consternation about a jury's decision in one case earlier this year, Hogan v Trustees of the Catholic Church. However the result in that case which was probably wrong, was corrected on appeal on 31 October 2001: see Trustees of Roman Catholic Church v Hogan [2001] NSWCA 381.

The Hogan case, which was featured in the media, raised a degree of concern. I believe that the verdict was wrong. Indeed, it was so gross as to merit some investigation of the role of juries. I do not agree with the contention by the Law Society or members of the bar that it should be treated as a one-off case. The verdict shows there is a defect in the system, which needs to be addressed. I do not know whether the proposal to abolish juries in all these cases is appropriate. Perhaps judges could be given a different system of directions, or we could remove the right of juries to assess the amount of damages. Juries could find the facts and judges assess the damages, as occurs in defamation cases. There are a number of ways to handle the situation. The Government has taken a step to remove juries from civil actions. The Coalition does not quibble with that. All honourable members would be familiar with the situation in the Australian Capital Territory where juries do not hear any civil actions at all, including defamation cases.

Mr Debus: And in South Australia.

Mr HARTCHER: In South Australia too, the Attorney tells me. There have never been any complaints of concern among the bar, from the Law Society or from the community generally that the community is missing out or that justice is not being seen to be done. Honourable members would be aware that many high-profile figures prefer to take their proceedings, particularly defamation cases, to the Australian Capital Territory rather than risk the lottery that a jury represents. Juries are unaccountable and nothing is known of their antecedents, other than that they comply with the requirements of the Jury Act: they are of a certain age, they are citizens, they are on the electoral roll, they do not have criminal convictions and they do not serve in certain occupations. Nothing is known about the deliberations, compromises or discussions that take place in the jury room, unless an offence is alleged, which is rare. The community has largely been in ignorance as to how juries reach their decisions. In the administration of justice as the twenty-first century advances, one would expect to have an accounting for the way in which juries, if they have a role, carry out their role. Mr Semmler went on to say:

... the right of a party in a civil action to requisition a jury has existed since 1844, since Richard Windeyer introduced in the NSW Council the Bill which was to become 8 Vic. No. 4.

That right is a very historic one. The community has not shown much concern about this legislation. When juries were abolished from motor accident cases 20-odd years ago, there was an enormous amount of concern, led of course by the Labor Council of New South Wales. The Labor Council strongly objected to the abolition of juries in motor accident cases. The Labor Council has not offered a view on this matter. Other than the Law Society and some members of the bar, there has not been a great deal of concern expressed to the Opposition. Mr Semmler went on to say:

The importance of civil juries has been recognised at the highest level of the judiciary in this country. Justice Kirby referred to the history of civil jury trials and of their importance in his judgment in Pambula District Hospital v Herriman (1988) 14 NSWLR 387.

In a speech given to the Australian Legal Convention on 10 October 1999 (and reported in the Australian Law Journal in March 2000) the current Chief Justice of the High Court of Australia said that juries, including civil juries, represented an important point of contact between the administration of justice and the community. He said that the common law tradition of having disputed issues of fact determined by a jury did much to keep the courts in touch with the public and with community standards. Jury trials continue to serve a number of important purposes which include citizen participation in the administration of justice.

Mr Semmler went on to say:

There are lots of advantages to civil juries so far as the administration of justice as a whole is concerned. Most importantly in terms of moving cases in crowded court lists, in my experience civil jury cases are more likely to settle than cases before judges whose predilections are predictable. Juries in a sense are a "wild card" and because of that are a potent force for settlement of civil cases. Although a jury trial, if it proceeds, will take longer than a trial before a judge alone, it is simply wrong to assert (as was done in the Second Reading Speech) that civil jury cases take three or four times longer to conclude than cases heard by judges alone. Please see the enclosed research paper by Joanne Harrison (now Master Harrison of the Supreme Court) para 4.1 on this point.

The most important thing about civil juries is that in the limited number of cases in which they can now participate they introduce a refreshing common man's approach to the factual issues to be decided which is broader, and often more in touch with what actually happens in the real world, than the more narrow view of judges who are usually in late middle age, and the product of tertiary education and professional practice, and moving sometimes in a narrow social circle and unacquainted with or out of touch with life in the raw.

The Attorney should not feel that those comments apply to him. The civil jury has fulfilled a valuable role. All of us in the community are grateful to those members of the community who give up their time, often at personal sacrifice, to participate. But all of us would be conscious of the fact that the legal system as it evolves must serve the needs and requirements of society. I personally believe, and it is a view endorsed by my colleagues in the Coalition, that it is important that the whole process of justice be transparent. I do not believe that the introduction of wild cards into the equation whose views are unaccountable and unpredictable is a good component for a justice system. The community is entitled to expect certainty, transparency and an understanding of how a decision was reached.

Why then should there be an exception for defamation cases? I suppose it is more traditional that defamation has to reflect community values, as matters of reputation change in the community. Matters that 20 or 30 years ago people would take very seriously, they no longer take so seriously. For example, allegations of sexual misconduct 30, 40 or 50 years ago had an enormous impact in society. They no longer have such an impact. Certain views on, say, racism, which 30 or 40 years ago were common place, the community now regards as unacceptable. Therefore, a person's reputation in the eyes of his peers changes as community standards change. That is why a jury has an important role in defamation cases.

Juries in civil actions were abolished in the home of juries, the United Kingdom, nearly 60 years ago in the late 1940s under the Attlee Labour Government. However, it is interesting that juries were maintained for defamation and for actions that were seen as personal matters, such as breach of promise of marriage and, I believe, when people sued the Crown for personal injuries. Juries were used in those cases to ensure that the standards of the community were more adequately maintained. Actions for breach of promise of marriage have been abolished for many years. Only defamation is seen as a cause of action where the community's views on what is acceptable conduct and an acceptable standard are paramount in the determination of a decision. That is why defamation is exempted. I have assured some people that their views would be brought to the attention of the Parliament on this important matter. In a letter to me T. D. Kelly and Co, which has a long reputation as a firm of solicitors specialising in personal law injury, wrote:

The Carr government has no mandate for this measure. It seeks to abolish on what amounts to 24 hours notice a right that has existed for all in our community for the last century.

The letter went on to state:

The reference in Mr Debus' speech to retained judges' discretion is illusory window dressing, and indeed quite misleading.

The proposition advanced in the second reading speech that jury trials make a greater demand on the Courts' time than non-jury trials is factually incorrect.

That comment is supported by the report that was produced some years ago and I think it is the same report that has been referred to by Mr Semmler. The letter went on to state:

The central flaw of this argument is that it takes no account of the different statistical likelihood of settlement between jury and non jury cases.

Mr Semmler also made that point. The letter continued:

The further proposition that the Court is least disrupted when a jury trial settles on the morning of hearing is also factually inaccurate....

Civil juries are presently available as of right in all of the Australian States except in South Australia and Western Australia.

A very legitimate point that has been missed is the definitional aspect of when a party is to be entitled to ask of a judge to grant a jury hearing. My understanding is that it is when a party demonstrates a special need to the judge. Section 76A (2) (b) states:

the court is satisfied there is a special need for the action to be tried by a jury.

"Special need" is not defined and it will obviously be a matter for judicial discretion. One would hope that over a period judges will evolve a process of determining what is "special need". It has been put to me that "special

need" should be replaced by more traditional words that have a greater tradition of judicial interpretation—a term such as "in the interests of justice". The section would therefore read, "the court is satisfied that in the interests of justice the action be tried by a jury". That would maintain the judge's discretion, obviously, but would also at least give judges a reference point when making their determination after an application for a jury trial has been made. What will constitute a special need? Well, who knows? The point has been made, and it may result in an amendment in the Legislative Council. As I have indicated, the Coalition's position at this stage is simply to support the bill but if an amendment is proposed in the Legislative Council, obviously the Opposition would need to consider that aspect. Having made those comments, the Coalition does not oppose the bill.

Mr LYNCH (Liverpool) [10.22 a.m.]: The Courts Legislation Amendment (Civil Juries) Bill in essence provides that civil actions in the District and Supreme Court are to be tried without juries unless the court otherwise orders. My own knowledge of juries in civil actions stems from my time as solicitor acting for plaintiffs in common law actions for damages in what are, or were, generally termed industrial accident cases. These were largely claims for damages against negligent employers whose employees were injured at work. Certainly, in my experience there are a number of issues with the use of juries. Almost without exception, defendants—more specifically, the employers workers compensation insurers and its solicitors—would elect to have the claim heard by a civil jury of four, by filing a requisition for a jury. This was done on the basis that some jurors and juries would be far more niggardly and far more anti-worker than most judges.

Of course, visions of niggardly juries have sometimes proved to be spectacularly wrong, requiring the subsequent intervention of the Court of Appeal, as happened recently with one well publicised case. However, despite those occasional failures of the theory, it was largely accepted that requisitioning a jury was a tactical decision aimed at disadvantaging workers. It was obviously believed by defendant solicitors who requisitioned juries almost without exception, and it was equally believed by plaintiff solicitors—I include myself—who tried to have juries dispensed with at every conceivable opportunity. I always thought that part of the problem was frankly a class issue: workers from western Sydney would face civil trial by a jury who were in no sense their peers—at least on these sorts of issues. The drawing pool for juries sitting in the Sydney central business district [CBD] Supreme and District Courts tended not to have much in common with many of my plaintiff clients.

There were also practical problems with civil jury trials. Most obviously, there was the expense of the trial. A trial with a jury inevitably took longer. More had to be explained and had to be explained more slowly when a jury was involved. The longer the time taken, the greater the costs involved—both to the parties and to the court system. It also meant more witnesses in this sense: In a trial by a judge alone, medical reports could simply be tendered to the court. In a trial before a jury the doctor has to be physically present to give evidence. That was obviously going to take longer and thus be more expensive. Additionally, plaintiff solicitors would normally receive an extortionate bill from the medical practitioner for his extraordinarily valuable time. I must say that getting doctors to court to give evidence in jury trials was the bane of my life as a practitioner. It was, I think, worse for the plaintiff than for the defendant.

The defendant used medico-legal experts who generally expected to go to court when they wrote a report and indeed it was their business to do so. The plaintiffs usually wanted their treating specialist to come to court. By definition, that doctor's main role was treating people rather than giving evidence. In one case of mine, about which I still have nightmares, I acted for a woman who injured her hand in an industrial accident. Her treating specialist, a quite well-known specialist in Sydney, refused to come to court. If he had not come to court, the client for whom I acted would have lost her case. A subpoena was served upon him and he still refused to come. Eventually the process server of the subpoena had to give evidence before the court to allow the issue of a warrant to have the doctor dragged along to court. Apart from raising everyone's aggravation levels, this was, obviously a much more expensive process.

Having said all of that, I make the point that there is another side to this argument. The comment I have made about the unrepresentative nature of juries is in fact an argument that is easily countered. Whatever the weaknesses of jury panels, they are in fact more representative than judges. There may well be a North Shore bias in some jury pools, but if there is there is still a much higher proportion of judges living on the North Shore than there are jurors. There is an even more fundamental objection to all this, at least as far as industrial accidents are concerned. There is an even more fundamental objection to the complaints that the juries have been removed from industrial accident cases. That argument is that the frequency of civil actions with juries reduced because industrial actions generally were much reduced after 1987 and, most particularly in my view, in practical terms have now been abolished.

The legislation that was considered last week and that dealt with the recommendations of the Sheahan report effectively ends common law claims for damages for industrial accidents. There has been all sorts of

bipartisan rhetoric suggesting that some damages claims will continue, but I just do not think that that will be the case. In that sense, the concerns I have expressed about juries are probably not terribly relevant now because I just think those claims will not exist. There are, however, other potential civil claims in which juries may have been able to be continued to be used more frequently than they would be after the passage of this legislation. The use of juries has had a long tradition and has many defenders. One of its defenders is T. D. Kelly and Co., who sent me a facsimile dated 29 November 2001 on this topic. That letter cited the view of Judge Lord Atkin in 1922 which in turn was cited by President Kirby who was then of the Court of Appeal in *Pambula District Hospital v Herriman*. The comments from Lord Atkin were as follows:

... for the first time in history the British subject is permanently deprived of his right to have common law actions tried by a jury. For the future the right to a jury is taken away. Whether a jury shall try a dispute is left to the uncontrolled discretion of a master or a judge—I speak reluctantly because I cannot bring myself to believe that this far-reaching result was intended by the legislature. Trial by jury, except in the very limited classes of cases assigned to the Chancery Court, is an essential principle of our law. It has been the bulwark of liberty, the shield of the poor from the oppression of the rich and powerful. Anyone who knows the history of our law knows that many of the liberties of the subject were originally established and are maintained by the verdicts of juries in civil cases. Many will think that at the present time the danger of attack by powerful private organisations or by encroachments of the executive is not diminishing. It is not without importance that the right now taken away is expressly established as part of the American constitution.

... there already existed a rule that a judge might direct trial without a jury in cases where an action required prolonged examination of documents or accounts or any scientific or local examination which ... could not conveniently be made by a jury ... I do not myself see any inconvenience in trying before a jury contested facts, even though upon their ascertainment questions of law may emerge. It seems to me to be everyday practice to try such cases with a jury...

Of course, one could object that this language is somewhat archaic, with its references to protection from encroachments of the Executive. In fact, those comments, whilst framed by Lord Atkin as being based on English Civil War battles was really about conservative fears in England in the 1920s about the social democratic challenge of the labour movement.

Mr Hartcher: Oh, here we go, it's a class war.

Mr LYNCH: That is perhaps an explanation of some of the comments that are made and if the honourable member for Gosford could get his ideological blinkers off and attempt to understand the relationship between changes in law and changes in society he might understand the legislative process a lot better than he evidently does at the moment. Despite that, it is certainly true that Lord Atkin and those that follow him make a substantive and substantial point. To placate the honourable member for Gosford, it is perhaps worth noting that it is not merely those with conservative pedigrees who speak in the sorts of terms that Lord Atkin did. E. P. Thompson in his work *Whigs and Hunters* spoke of the particularly obnoxious piece of legislation called the Black Act and wrote as follows:

It was a power which made nonsense of a whole costly historical paraphernalia whose proclaimed object was to safeguard the liberty of the subject. One part only of the traditional procedures of inherited law remained as a safeguard for the accused—the jury system. The acquittal of John Huntridge by twelve men, who knew themselves to be exposed to the retribution of 'interest' and who were probably astounded at their own temerity, provided a salutary check to the growth of arbitrary power. Men will, on occasion, act not according to their own interests but according to the expectations and values attached to a certain role. The role of juror carried (and still carries) such an inheritance of expectations.

Of course, Thompson there is talking in the context of criminal trial by jury, although many of the points he makes apply to civil juries as well. There are, equally, examples in Australia of acquittals by juries, from the acquittal of the Eureka rebels to Lionel Murphy's declaration of his faith in the jury system after his acquittal. In the first case there was clearly evidence that could go to a jury. In the second, of course, Murphy should never have been prosecuted. On the other hand, juries are not a perfect solution. Juries convicted shearers after the 1891 dispute over the shearers strike. They convicted the IWW 12 in 1916. On the other hand, when the State is uncertain of its case and cannot risk acquittal, it resorts to removing juries, as in the Diplock tribunals in the northern counties of Ireland or the Ashcroft military tribunals in the United States.

But this bill does not propose removing jury trials for criminal matters. That would obviously be intolerable and would have unmitigated opposition. Many of the principles, however, that are relevant to that debate are also relevant to civil juries. What this legislation does in relation to civil juries is to attempt to walk a middle path. The present position allows anyone in a civil trial who wants a jury to have one. This bill says you can have a jury trial if you can establish a need for one. It does not, as I understand it, abolish jury trials for civil actions. If it did, I would be expressing considerable opposition to the bill. The weakness of the bill as it is drafted is that it provides no indication of the bases upon which a special need for a jury can be established. I understand from the Attorney that he will suggest to the relevant judicial officers that practice notes be issued setting out the criteria that are relevant.

My fear is that if those criteria are not set out, with the pressure that is currently on lists and on senior judicial officers to get through lists, it will be only too easy for applications for a civil jury to be rejected by list judges just to speed things up. If that were to happen, I believe justice would not be done. If I have been too optimistic about what I think this bill does, and the end result is indeed that civil jury trials are abolished by this legislation, I will obviously be happy to have it revisited. That is not, as I understand what the Attorney says, the aim of this bill. I would have considerable concerns if that were the aim. As I say, that is not what I think is intended and I assume that the Attorney and his department will monitor the situation.

The defence of civil trials by jury can be put in very simple terms by saying that civil juries allow the commonsense of ordinary citizens to replace what is sometimes the overly conservative approach of sometimes hidebound judges. That is putting, somewhat more forcefully, the words from Peter Semmler that were quoted earlier by the honourable member for Gosford. I have spent a lot of time over the years reading advices from Mr Semmler. I usually end up agreeing with them. It seems to me that the general position of principle he puts is right, but I do not think this legislation is about abolishing civil juries. If it was about doing that completely across the board, there would be a lot more opposition to it than there currently is.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [10.33 a.m.], in reply: I thank the honourable member for Gosford and the honourable member for Liverpool for their contributions to the debate. I assure my colleague the honourable member for Liverpool that I certainly do not intend that this legislation should in any way lead to the virtual abolition of civil juries and I assure him that it would always be my intention that the effects of the bill should continue to be monitored. If its effects were in anyway substantially different to those that we now propose, we would revisit the whole measure. As I said in my second reading speech, this bill does not abolish civil juries. Rather, it seeks to strike a balance between the various competing priorities and to simplify the law with respect to civil juries.

Courts need to be able to efficiently manage their lists and resources; lawyers should not be able to requisition jury trials simply to gain a tactical advantage; jurors—who perform a valuable community service—should be inconvenienced as little as possible; and parties with a special need for a jury trial should be able to have their matters heard before a jury. Parties will have to demonstrate to the court that there is a special need for a jury trial before resources are allocated to the matter. The bill, as has been indicated on a number of occasions, is not prescriptive about the special need that must be shown because it is intended that each case will be considered on its merits. There will be some areas where it is likely that judicial officers would continue to use a jury. They could certainly include actions where there might be questions of fraud or major issues of credibility involving either the plaintiff or defendant. That is obviously where the common experience and commonsense of a panel of jurors has the most utility.

Once the bill is enacted, as I have also indicated, I will suggest to the Chief Justice and the Chief Judge that they issue an appropriate practice direction about the matters which the court would consider when deciding that a special need exists. The judges will decide and, as I have said, it is most likely that the special need will exist in those cases where the credibility of a party is directly of concern. The bill retains the status quo with respect to defamation in the Supreme Court Act for the time being. My department is presently consulting the Australian Press Council about that council's proposals for reform in this area. Any proposals for legislative reform in the area of defamation will have to be considered after this process has been completed.

I should mention that earlier this year I wrote to the Chief Justice, the Chief Judge of the District Court, the Law Society and the Bar Association about these proposed amendments. Indeed, I provided each those heads of jurisdiction and the professional organisations with a copy of the bill once it had been prepared, in order that they might comment upon it. The Law Society and the Bar Association have raised concerns about reducing the role of civil juries. The Bar Association has argued that the attainment of quicker and cheaper adjudication of disputes could be enhanced by more, not less, frequent use of juries. It has argued that sensible advocates will not risk trying a jury's patience by needlessly wasting time. It has argued that case management techniques should make use of this capacity to combine an advocate's brevity and the jury's rapid, and virtually inscrutable, decisions.

A range of factors contribute, I believe, to the parties' ability to achieve quicker and cheaper adjudication of their disputes. The Government has increased the resources available to the courts. It has increased the number of judges and magistrates, and the expenditure on court administration, and put in new management systems. Waiting times and hearing times have improved in virtually all jurisdictions. Well-prepared practitioners who avoid wasting the court's time also contribute to a quick and efficient justice system.

Advice that I have received does not support the view that disputes could be resolved more quickly and cheaply by a greater use of juries. For example, in the District Court, parties often estimate that a case involving a jury will last three or four times longer than a case without a jury. Jury decisions can be appealed as can other decisions of the court.

The legislation seeks to strike a balance between various competing priorities. Courts need to be able to efficiently manage their lists and resources; lawyers should not be able to requisition jury trials simply to gain a tactical advantage; and jurors should be inconvenienced as little as possible. But, in the end, parties who have a special need should be able to have their matters heard before a jury. The Law Society has pointed to the jury's ability to offer a balanced community view and to the wide satisfaction that community views are reflected in a jury's verdict. It is concerned, however, that the "special need" tests may be onerous. As I said earlier, there will be cases in which it is appropriate to have a simple jury. In those cases the jury's decision will reflect the views of the members of the community who serve on it. It should also be recognised that judges themselves are members of the community with a range of different experiences. Ultimately, as I have said, it will be a question for the courts to decide the "special need" that has to be demonstrated before a jury trial is ordered. It is intended always that each case will be considered on its merits. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

New clause 5 and schedule 2

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [10.41 a.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

No. 1 Page 2. Insert after line 10:

5 Amendment of Defamation Act 1974 No 18

The *Defamation Act 1974* is amended by omitting "To the extent that section 88 of the *Supreme Court Act 1970* applies to proceedings for defamation, it" from section 7A (5) and by inserting instead "Section 86 of the *Supreme Court Act 1970*".

No. 2 Page 6, schedule 2 [1], proposed section 86 (2), line 9. Omit "and". Insert instead "or".

Amendment No. 1 makes a consequential amendment to the Defamation Act 1974. It clarifies the link between the Supreme Court Act and the Defamation Act to ensure that the status quo is maintained in relation to defamation matters. Section 7A (5) of the Defamation Act currently refers to section 88 of the Supreme Court Act. The bill omits section 88 of the Supreme Court Act, which provides that defamation proceedings are to be tried with a jury. The provisions of section 88 in relation to defamation matters are incorporated into new section 86 (1). Amendment No. 2 simply corrects a typographical error. Proposed section 86 (2) incorporates the provisions currently contained in section 89 (2) of the Supreme Court Act. The word "and" was inadvertently transposed into section 86 (2) instead of the word "or".

Amendments agreed to.

New clause 5 and schedule 2 as amended agreed to.

Schedule 1 agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

CRIMES AMENDMENT (SELF-DEFENCE) BILL

Second Reading

Debate resumed from 28 November.

Mr FRASER (Coffs Harbour) [10.44 a.m.]: I support the Crimes Amendment (Self-Defence) Bill but I raise concerns about civil liberty and the protection of victims in their use of self-defence. The current law does

not provide for members of the community to defend themselves against a criminal who attempts to break into their house or business for the purpose of committing an illegal act. Indeed, the community is not protected against a criminal who, after release from gaol, instructs solicitors to take action against the victim for injuries caused to the criminal when the victim was defending himself or herself. Such a state of affairs is absolutely ludicrous, and the community as a whole has been screaming about it for many years now. I believe that this legislation does not go far enough in that regard.

The community has for many years sought legislation to protect people's civil right of self-defence. Over the years there have been many instances of criminals breaking into a house and perhaps tripping on a rug or, alternatively, being apprehended by the owner, and subsequently the criminal has sued the owner and won the compensation case. That is absolute lunacy. I am sure that members would remember the case of a video shop owner in Lismore. A person broke into the premises and held up the proprietor. The proprietor chased the criminal, apprehended him, and then detained the criminal until the police arrived. Yet, that business proprietor faced assault charges from the criminal. It is absolutely ludicrous that in this day and age a business proprietor is not able to defend his property, business and person against the actions of a criminal.

The Coalition previously put forward similar legislation. During question time the Government made sport of the Coalition, accusing it of not having policy. However, the majority of policies that are coming forward from the Government, especially during this session and even more especially during this week, are straight-out lifts from Coalition private member's bills. The sad part about it is that the Government had the opportunity to change perhaps one word in the legislation put forward by the Coalition and introduce it as Government legislation. Such legislation would have been far better than the legislation the Government now presents to the House as supposedly legislation required by the community. As I said, the Coalition is leading the way on law and order—as it is on many other issues—purely because there is no arrogance within the Coalition. However, there is an arrogance within the Government, in the sense that it will not listen to the community.

Mr Debnam: It doesn't listen to the community.

Mr FRASER: As the honourable member for Vacluse rightly says, the Government believes it does not have to listen to the community. To some extent, the Government is in the enviable position of having a huge majority in this House, and it therefore believes that what it thinks should happen is what the public expects should happen.

Mr Debnam: It knows what's best for them.

Mr FRASER: As the honourable member for Vacluse said, the Government thinks it knows what is best for the community. However, the public realises, as the Coalition realises, that in 2003 the marginal Labor seats will return to the Coalition. The processes that the Coalition has been going through will enable us, when we return to government, to present legislation to Parliament that reflects the aspirations of the community. The public has been calling for this type of legislation for some time. Whilst I do not oppose the bill, I believe that it is too little too late. I commend the bill to the House.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [10.51 p.m.], in reply: The honourable member for Gosford spent some time criticising the bill because it does not provide certainty. He asked the rhetorical question: If somebody threatens me with a knife, can I shoot him with a gun? Effectively, he was asking for the inclusion in the bill of measures to provide certainty about the myriad possible situations that may arise when people are defending themselves against attack.

The plain fact of the matter is that it is logically and practically impossible to provide that kind of certainty. That is why the bill provides, as well as it can in the circumstances, clarity about the law and close guidance about the principles and circumstances that should be considered by a judge and jury as they come to a decision in any case. The honourable member for Coffs Harbour made the peculiar assertion that the Opposition was overlaid with new policy initiatives and that somehow or other the Government was stealing these gems of intellectual initiative that the Opposition had produced.

In a press release in October this year, speaking on the question of self defence, the honourable member for Gosford said that his Right to Self-defence Bill would simplify self-defence by stipulating what level of force was acceptable to be used against an assailant to protect oneself. Further, during the second reading debate

the honourable member for Gosford said his bill would tell us exactly what level of force is acceptable in a particular situation. But despite his having said he would stipulate the level of force, his bill—he used another version of the model criminal code template that the Government has used with improvements—has exactly the same wording as this bill: "a reasonable response in the circumstances". They are the words in the bill and they are appropriate. It is quite misleading to say that those words stipulate anything more than the basis upon which a jury can consider an appropriate response in a case of self-defence.

On the other hand, the Government has developed the model criminal code to reintroduce the partial defence of excessive self-defence. This is an element that was not included in the mere template that the honourable member for Gosford introduced. It is a very important alteration to the model criminal code. The partial defence of excessive self-defence is also supported by the Bar Association and the Law Society. The Government has ensured that there will be a defence if the grievous bodily harm is occasioned in response to an attack on property. That is something else that was omitted from the bill introduced by the honourable member for Gosford. The honourable member for Coffs Harbour, who has now left the Chamber, was blissfully unaware that in this respect the Government's bill was manifestly better than the bill introduced by the Opposition. It provides for several of the defence of property issues that he raised.

The honourable member for Gosford foreshadowed an amendment dealing with immunity from civil liability. This is not necessarily a bad concept but it is not appropriate to include it in this bill. The foreshadowed amendment cannot be supported by the Government. It is so far reaching in its application that, if included in the bill, it could lead to absurd and unjust results. For example, under the Opposition's amendment a person who breaks into a house and assaults or even kills the occupier and then successfully raises self-defence would be immune from any civil liability whatsoever resulting from the criminal conduct in breaking into the house.

As that example demonstrates, the question of whether a person who successfully raises self-defence is immune from civil liability can be very complicated. The issue is made even more complicated by the bill's reintroduction of excessive self-defence as a partial defence to murder. This partial defence, if successfully raised, would lead to the accused being convicted of manslaughter rather than murder. In such a case, important questions arise as to what civil liability should arise as a result of the actions of the accused.

The Government is giving very careful consideration to questions relating to immunity from civil liability when self-defence is successfully raised. It is proposed that early next session a separate bill will be introduced to comprehensively deal with civil liability in such cases. Further, it is the view of the Government that a bill dealing with questions of civil liability relating to the successful raising of self-defence should not be an amendment to the Crimes Act, which deals with criminal offences, but more properly should be separate legislation that deals only with the subject of civil liability. For those considered reasons the Government rejects the amendment foreshadowed by the honourable member for Gosford. I thank all honourable members for their contributions and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

Mr HARTCHER (Gosford) [11.00 a.m.]: I move the Opposition amendment:

Page 5, schedule 1. Insert after line 12,

[5] **Insert after section 344**

344E Immunity from civil liability

A person who carries out conduct in self-defence is immune from civil liability resulting from his or her conduct.

I appreciate the Attorney General's response to the matters raised by the Opposition. I have also had the benefit of advice from Parliamentary Counsel. The Attorney General said that there are potential problems in the case of an assailant who invades a home and kills the homeowner and then claims to have acted in self-defence. With due respect, I would have thought that that is a somewhat far-fetched position. I cannot imagine how anyone

could draw a reasonable inference that a person is defending himself when he is invading the home of somebody who is using force to repel his invasion. Nonetheless, I take the point that has been put by the Attorney General and Parliamentary Counsel.

I am advised by Parliamentary Counsel that under section 352 of this proposed Act a person acting in self-defence may, without having to obtain a warrant, arrest the assailant if the assailant is in the act of committing an offence, or has just committed an offence, or has committed a serious indictable offence for which the assailant has not been tried. Therefore, that gives a power of arrest to someone to apprehend, detain and use all reasonable force necessary for the apprehension or detention. That means, therefore, that a person would not be civilly liable if he or she were seeking to effect an arrest. The specific circumstances to which I referred during my contribution to the second reading debate, of which the Attorney is aware, happened in Western Sydney, where a husband and wife were the victims of a home invasion. The man who entered their home badly assaulted them, was apprehended and subsequently convicted and sent to gaol. However, on his release he instituted civil proceedings against them because their dog had bit him during the invasion.

Everybody would agree that that was an absurd civil action—that is no reflection on the Crown. Such an incident is not covered by the power of apprehension under section 352 because neither they nor the dog were attempting to make an arrest: they were simply trying to defend themselves. That case exposed what I reasonably believe to be a weakness in the law—that a civil action could be maintained by an assailant in those circumstances. I appreciate the fact that the Attorney General has no trouble with the concept of this amendment and believes that it has some value. Essentially, he argues that it should not be part of the criminal law but that it should be subject to a separate law. I do not know what separate law could be enacted to envisage such an exculpation of civil liability—perhaps the Attorney may have some thoughts in that regard. I do not believe that people acting legitimately in defence of themselves or their property should be liable for any civil action, however absurd.

It is not a question of whether the civil action will succeed. I do not know the outcome of the action involving the dog—it was probably unsuccessful. Homeowners should be spared from having to go through a court case. After having been subjected to an horrendous home invasion and having been assaulted, they should not be dragged to court by the criminal who carried out those acts. Going to court is an enormous psychological and traumatic re-enactment of the dreadful events they went through. I do not think anybody would disagree with that. As I say, the Attorney has indicated that he does not have a problem with the concept. I stand by my amendment, notwithstanding the well-reasoned advice of the Attorney and Parliamentary Counsel.

It is an important principle. I hope that if the Government does not accept this amendment in its legislative form today it will enact the principle in some carefully considered form in future legislation. People are entitled to know that they will not be the subject of civil actions which are, unfortunately, very common now. In the United States of America it is not uncommon for these actions to take place—absurd as they are. New South Wales, like the rest of the world, tends to follow the experience of the United States. We are all conscious of that. Rightly or wrongly, America sets the cultural tone and culture, in its widest sense, embraces legal systems—notwithstanding what Karl Marx may have had to say about the subject.

The TEMPORARY CHAIRMAN (Mr Lynch): Order! I call the honourable member for Gosford to order and ask him to return to the leave of the bill.

Mr HARTCHER: With those words, I commend the amendment to the Committee.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [11.05 a.m.]: I am suffering a degree of disorientation, having listened to the honourable member for Gosford speak of Karl Marx. I believe in the specific case he raised that the common law would still successfully deal with the issue and send the home invader, who was complaining about being bitten by a dog, packing. I am not sure that any new legislation we introduce will have the capacity to stop a person from taking another to court in what, objectively, are utterly unreasonable circumstances. Having said that, as the honourable member has acknowledged, the Government continues to accept the general validity of the principle that he has raised in this matter and it will introduce legislation in the new year to cover the matter. For the present, the Government accepts the proposition put by many experts, including Parliamentary Counsel, that it is not appropriate to put this amendment in a piece of criminal legislation.

Amendment negatived.

Schedule 1 agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

INDUSTRIAL RELATIONS (ETHICAL CLOTHING TRADES) BILL**Second Reading****Debate resumed from 30 November.**

Mr HARTCHER (Gosford) [11.09 a.m.]: This bill is said to be designed to in some way ameliorate the dreadful working conditions of many thousands of mainly migrant women in Western Sydney. Those women are exploited as outworkers. They generally work at home or in factories or makeshift establishments, making clothing for minimal payment or virtually no payment at all. This ongoing problem has had media attention over the years. It is an unfortunate aspect of our society that these sweatshop practices, which have been eliminated from most industries over the years, continue in the manufacture of clothing. Labor has been in office in New South Wales since 1995. Prior to the 1995 State election Mr Carr, the then Leader of the Labor Opposition, went to Western Sydney as part of a public relations blitz to expose some of these unsavoury practices, and pledged that a Carr Labor Government would clean them up. That was in 1994. It is now 2001 and effectively nothing has been done.

The Coalition Government at that time, under the leadership of the then Minister for Industrial Relations and Employment, now Leader of the Opposition, Mrs Kerry Chikarovski, established a clothing industry outworker task force to hit at these exploiters of migrant women. That task force was charged with trying to do something to protect those exploited outworkers and ensure that the industrial laws of this State are upheld. Amazingly, the Carr Labor Government, upon taking office in 1995, disbanded that task force. That action was not objected to by the Labor Council of New South Wales. If ever there were an example of the hypocrisy of the Australian Labor Party and the New South Wales Labor Council over their much-professed aim of protecting workers and preventing exploitation, this is it. Thousands of migrant women, many from the Middle East or Asia, work for something like \$2 per day or on a piecework basis of a few cents a garment. Those exploited women are unrepresented by any union or any champion acting on their behalf. They were supported by the Coalition, which had put in place a task force of industrial relations inspectors charged with the responsibility of trying to eliminate that exploitation.

The Labor Party, which turned the issue into a public relations exercise for the purposes of the 1995 State election, upon taking office disbanded that task force. If that action had been taken by a Coalition government we would have been hearing, all day and all night, that the Coalition does not concern itself with workers. But because that action was taken by a Labor Government, somehow it is all right. Back in 1998, when I was acting shadow Minister for Industrial Relations, I raised this very point with the Industrial Relations Society in the Southern Highlands. The response I received from a representative of the Labor Council present was that the disbanding of the task force did not really matter because the practice still continued and the task force had not wiped it out. On the basis of that argument, one might disband the police force because there will continue to be crime whether we have a police service or not.

We had the well-publicised case of the Australian Council of Trade Unions [ACTU] launching its campaign against the exploitation of clothing outworkers by the introduction of a labelling system. We had also the ridiculous incident with Ms Jennie George, then President of the ACTU, going into a shop, accompanied by a number of television cameras, and berating a poor shop assistant and asking whether clothing in the shop was produced by exploited outworkers. That was a typical public relations stunt by Ms Jennie George, now occupying some Labor-held seat as a result of an administration committee deal that ruled everyone else out of the selection process. But that is typical of what we have come to expect from the New South Wales branch of the Australian Labor Party. That is all that was done by the ACTU.

The former Australian Textile Workers Union, which had amalgamated with the Clothing and Allied Trades Union to form a new hybrid, has done zero about this issue. Those well-paid, over-fed union officials sit in their offices in Sussex Street, with their expense allowances and free cars, and get about in very flash clothing, but they have done absolutely zilch for the workers that they are said to protect. I am sure those officials will have lodged a few applications with compliant Labor governments for grants to do something about enforcement of the law regarding outworker exploitation. And they probably received those grants. I have not researched that matter but if I did I would not be surprised to find that they received say a \$50,000 grant to investigate this form of exploitation. Of course, the \$50,000 would have been spent and nothing positive would have been seen for it. We are used to grants being given by Labor governments to mates for spurious purposes. But that is a subject that I will not go into now.

After seven years, the Carr Government's proposal now is not to institute a code but to set up a committee to develop a code. The proposal is to establish an Ethical Clothing Trade Council to prepare a code

of practice for the clothing industry—but not until at least 12 months after the commencement of the activities of the council. So there will be a gap of at least 12 months before the council can even enact a code. All of this rings a warning bell. The warning bell tells us that in March 2003 the Carr Labor Government needs to go to the election with something in place to show that it cares for the exploited women in clothing outwork.

But what has the Carr Government done? It will set up a council. What will that council be doing by March 2003? It will be preparing a mandatory code of practice. That code of practice will not even be in force by March 2003 because the council will not be established until 2002, and the code of practice cannot come into force until 12 months after the council commences operation. So the code of practice cannot operate until after the March 2003 election. This sort of hypocrisy needs to be exposed. It is hypocrisy, piled upon hypocrisy, piled upon hypocrisy. Labor members who go to branch and trade union meetings and pretend they are looking after the workers of this State have stood by and watched as their Government rode roughshod over the rights of workers with its workers compensation legislation.

That was after some members of the Government used police to barge through workers so that they could get into Parliament House. Some crossed picket lines. Others, with higher moral and noble fervour, stood in the Domain and refused to cross the picket lines. That was earlier this year. Now the Carr Government, after seven years of claiming to be doing something about the plight of the migrant women of Western Sydney who are being exploited by the clothing industry, has introduced legislation that will have no effect whatsoever. It will simply defer any action that might be taken until after the March 2003 election. The Government is hiding behind the smokescreen of this legislation. That is a disgrace.

The Coalition was determined to do something about this issue. The Coalition, with Mrs Chikarovski as Minister, did do something about it. The work that we did was obliterated by the Carr Government when it took office—without any explanation or excuse. Why? The task force simply did not suit the priorities of the trade union movement: industrial relations inspectors were looking after exploited women in this State. I would be surprised if any Government member participated in this debate. I suspect none of the so-called defenders of workers will say a word about exploitation of outworkers. Yet this is going on in their electorates. This does not happen in Gosford, Southern Highlands or Coffs Harbour; it happens in Liverpool, Bankstown, Blacktown, Mulgoa and Mount Druitt—in all of the Western Sydney seats held by members of the Australian Labor Party.

A report was prepared on outworker exploitation. That report was commissioned by the New South Wales Government as part of its ploy "Let's be seen to be looking as though we are doing something, but not actually do it." That report, of course, was referred to by the Parliamentary Secretary when he introduced the bill. The Government, which is supposed to be concerned about this issue, did not even ensure that the Minister introduced this bill. That task was given to the Minister's faithful Parliamentary Secretary, who just stood up in this Chamber and read the second reading speech.

Mr Amery: Haven't you got anything to say?

Mr HARTCHER: I have a lot to say. The Minister, who just interjected, will not contribute in this debate about exploited women in this State. In the seven years that the Minister has been a member of this Government he has never said anything about these exploited women. Part of the overall hypocrisy of this Government is simply to put off this issue until after the March 2003 election. In 1999 an issues paper was circulated behind the label "New South Wales Government's Clothing Outwork Strategy." The Minister, in his second reading speech, said:

This received numerous remedial options. The strategies were refined as a result of submissions received and the resulting package of initiatives embodying many of the key elements has been carefully tailored and funded.

What are those initiatives? What are the remedial programs? One remedial program involves a council establishing a mandatory code of practice, which will not come into force for at least 12 months. The Coalition rejects that approach. The Coalition makes it clear that it regards that simply as window-dressing by the Government. The Government does not expect its campaign to be any more successful than its previous so-called campaigns. The Government admits that about half the Australian clothing industry is located in New South Wales. The Government has not sought to achieve a national program or a national code of practice to stamp out these insidious activities. A national code of practice is the only effective way to stamp out these practices.

Who will identify where the clothing is produced—whether it is in New South Wales, Queensland or anywhere else? This law will apply only to retail in New South Wales. The bill does nothing to prevent

businesses from moving interstate to avoid any legislative changes that might be attempted by the New South Wales Government. Members of the Coalition intend to move amendments to this legislation to at least require some accountability. We will move an amendment requiring the Minister to prepare and table in Parliament an annual report on the number of investigations undertaken by him and his department into this exploitation and the number of prosecutions that have resulted from those investigations. We are interested to see just how active the Minister and his department have been in the worker exploitation area. We want a full report to the Parliament each year.

We intend to move an amendment to ensure that all reports made by the Ethical Clothing Trades Council are tabled in Parliament. We intend to move a further amendment that any determination and any code of practice should be reviewable by Parliament in the same way as other regulations are reviewable by Parliament. We intend to test and examine the potential effectiveness of these codes of practice, we intend to debate them and we intend to expose the inadequacies of the Government in relation to those codes of practice. The Coalition is determined to do something for the exploited women of Western Sydney. Clearly, this Government is not. The Government said that it has in place various voluntary mechanisms involving retailers, manufacturers and subcontractors, but it admitted that those voluntarily mechanisms have not been successful.

Those voluntarily mechanisms were loudly touted by the Premier, no less, when he announced them in 1997-98. I can recall hearing his voice on the radio as, in those honeyed tones, he announced firm initiatives to stamp out these insidious practices. Like everything else and like this legislation, it was all part of a public relations exercise. It was not designed to achieve anything. It achieved nothing. I indicate that the Coalition will move these amendments in another place. I put the Government on notice that its window-dressing for the 2003 election will not pass unnoticed. This legislation is a joke. It is hypocrisy piled upon hypocrisy. It does the Carr Labor Government no credit at all that it has been in office for almost seven years and it has done nothing to protect the exploited women of Western Sydney.

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Corrective Services [11.25 a.m.], in reply: I acknowledge the contribution of the honourable member for Gosford to debate on this bill. When the honourable member commenced his contribution he highlighted some of the issues that the bill is designed to address, that is—to use his words—the dreadful conditions that apply in particular to migrant women working in unfortunate circumstances in home industries. In recent times that type of work has been growing not only in this country but around the world. These problems have arisen because that type of work has not been properly policed or codified—issues on which this Labor Government has been working for some time.

I refer now to some of the comment made by the honourable member for Gosford in his contribution. The honourable member said that the Government had done nothing in this area until now. What sour grapes from someone who, for seven years, was a Minister in the former Coalition Government. At that time this matter was just as much an issue as it is today. The former Coalition Government did nothing at all in that seven-year period. Coalition members are probably embarrassed by the fact that this Labor Government is now addressing the issue, through the introduction of this legislation. Why did the former Coalition Government do nothing in its seven years in office? Why is the argument of the honourable member for Gosford so shallow now?

Earlier, the honourable member for Gosford provided us with some of the answers to the questions that I have just asked. Opposition members could never achieve progress because of their inherent distrust, dislike and even hatred of the union movement. A Coalition government would find it almost impossible to improve workers conditions. All its industrial legislation has always been about qualifying actions taken by the union movement to improve workers conditions and so on. What do we find when we look at *Hansard* and at the record of the former Coalition Government? Which group in this State complains whenever legislation is introduced in this Chamber or it is debated in the public arena to enable union officials to inspect poor working conditions in factories?

Which group in this State says that it should be given notice about those issues so that they can be resolved? The group in this State that complains about union officials going into workplaces is the Liberal Party. So it is a little shallow for Opposition members to say that the Leader of the Opposition and her team are doing something about this issue and that the Government is too late. In order to support my argument that the Coalition distrusts the union movement and its role in industrial relations, I refer to the words used by the honourable member for Gosford. He referred to, "these well-paid over-fed union officials" and "grants to mates".

That anti-union bile demonstrates why members of the Coalition will never address the working conditions of those in this industry, just as they did not address those issues in their seven years in office. The

honourable member for Gosford referred to the fact that the Parliamentary Secretary introduced this bill on behalf of the Minister. The honourable member for Gosford should be aware that the Minister for Industrial Relations is a member of the Legislative Council. I represent that Minister in this House. Last Friday the Parliamentary Secretary, the honourable member for Bankstown, a former official in the Australian Workers Union, introduced the bill on behalf of the Minister—which is purely a procedural measure.

The honourable member for Gosford spoke about timing and referred to some comments made by the Premier in 1995. An ongoing task force comprised of the Department of Industrial Relations, WorkCover and clothing union representatives has been working on this issue for some time. The Government has consulted with the trade union movement and with industry, and we have come up with a package of amendments that I believe will go a long way towards addressing the poor working conditions under which many people in the industry work. The message to those who employ people in poor conditions or pay them under-award wages was stated in the second reading speech:

In addition to current award and legislative provisions concerning liability and recovery, the bill inserts a new mechanism which will allow a clothing outworker to claim underpaid remuneration from his or her employer. The claims procedure will apply to all employers throughout the contracting chain, including deemed employers, but excluding any person whose sole connection with the clothing industry is the sale of clothing by retail. Under the procedure a claim will be made by serving a statutory declaration with supporting details on the apparent employer. The apparent employer is the person whom the outworker believes to be his or her employer.

If employers in the industry pay people under-award rates or employ them in poor conditions, they should not believe they have gotten away with it by simply dispensing with their services. In effect, the bill provides for a retrospective claim against employers who have not paid the appropriate rates. Overall, the bill is a big step forward towards improving the dreadful conditions under which many outworkers are employed. I acknowledge that many people find the remuneration from this type of work helpful in meeting household budgets because they do not have to leave the home. The Government is not trying to throw the baby out with the bathwater, to use an old expression. We are codifying reasonable conditions and providing a mechanism for resolving disputes relating to the mistreatment of people working in this industry.

The Government, the Minister for Industrial Relations and the Premier should be commended for bringing forward this legislation. Sour grapes from the Opposition, mealy-mouthed comments about overfed, well-paid union officials and complaints how long it has taken to bring in the bill will not prevent the Government from implementing this strategy. The Government will not be deterred from working with the industry and workers over the next year or so to put the code of practice in place and to correct the problems that have been identified by Labor Party members, particularly the Premier, and the trade union movement over the past years. I commend the bill to the House.

Motion agreed to.

Bill read a second time passed through remaining stages.

COAL INDUSTRY BILL

Second Reading

Debate resumed from 28 November.

Ms HODGKINSON (Burrinjuck) [11.33 a.m.]: I lead for the Opposition on the Coal Industry Bill. I am pleased to say at the outset that the Opposition supports the bill. Honourable members will be aware that the New South Wales coal industry is a major employer, with some 9,500 workers involved in the industry. In 1999-2000 coalmining accounted for more than 70 per cent of total income from mining in New South Wales. I have dug up some statistics on coalmining and mining in general. Australia is the world's leading coal exporter. Of those exports, about 45 per cent come from New South Wales. In turn, New South Wales provides 36 per cent of Japan's thermal coal imports and coalmining accounts for \$3.75 billion in New South Wales export earnings. New South Wales' total export trade is projected to grow from 76 million tonnes to 83 million tonnes by 2005. A capital investment of \$2.2 billion in new coal projects is proposed for New South Wales. It is an exciting time for the New South Wales coal industry.

The engine rooms of the Asian economy—Japan, South Korea and Taiwan—are highly dependent on New South Wales as a provider of coal. People in the Newcastle district will verify that trains measuring up to two kilometres in length often make their way to the ports north of Sydney, as they do into Wollongong,

carrying their loads of what is often referred to as black gold, bound for steelmaking and electricity generation plants in Asia. The open-cut and underground mines in the rich vineyard areas of the Hunter Valley north of Sydney provide more than 22 million tonnes of thermal grade coal to Japan and some 7.6 million tonnes to South Korea. Taiwan takes about 7.5 million tonnes of the State's thermal coal each year.

Smaller amounts of coal are exported to countries such as China, Hong Kong, Malaysia, Philippines, India, Israel, Pakistan, Turkey, South Africa, New Caledonia and South America. At 1.3 million tonnes, the United Kingdom is New South Wales' largest European consumer of thermal coal. About 4.3 million tonnes of coking coal come from the coalmines to the south of Sydney and is exported to the steel mills of Japan, South Korea, India and Europe. More than 80 per cent of Hunter Valley coal is extracted under open-cut methods. There are an estimated 10 billion tonnes of recoverable coal reserves in the State. Coalmining is fundamental to the economies of the electorates of many honourable members, including those who represent the Hunter Valley, the Illawarra, Lithgow and Gunnedah. A coal region in Gloucester is also of prime importance to this State.

On the subject of mining, I will recount to the House a little of my personal history. My grandfather, Jack Hodgkinson, known as Hoddy to his mates, was not a coalminer but a goldminer. He came from around the Dalton area. I am told by many of his old mates that he was unsuccessful digging for gold so he ended up marrying instead. The oldtimers love to recount that story to me, so I naturally take an interest in mining. This bill is important. It is essential to get it right for future occupational health and safety, workers compensation and mines rescue functions. The coal industry has had a notorious safety record, and the bill is of great significance to coalminers, their families and their communities. It is also important to the operators, who make a significant contribution to the State and to Australia via local investment and export earnings.

The Minister in his second reading speech referred to the history of the coal industry in New South Wales during the past century. It is important to reflect on the historical perspective when considering this bill. Coal was a critical energy source for growth industries in Australia, particularly after World War II. There was a high demand for coal but that demand was not met. There were many problems in the industry, such as production inefficiencies. Many miners suffered poor health, safety conditions were virtually non-existent and equipment was old and past its use-by date. The whole industry was in serious need of a revamp. At that time the workers took their lives into their own hands when they went to work. Recently there have been serious injuries and deaths among miners. For that reason we need to ensure that the bill goes through, and that it goes through with the support of industry and the workers.

The coal strike in 1949 resulted in a severe restriction on coal, and manufacturing and construction industries were brought to a standstill. At that time coal was recognised as Australia's most important energy source; it provided heat for homes and lighting for businesses and homes. As I said, the working conditions were dreadful and dust diseases were common. Many miners were unable to continue working after their thirtieth birthday due to dust diseases. The working conditions in those days were dreadful, compared with working conditions in 2001. We recognise that it is necessary to continue to support the occupational health and safety of workers and to look after the health of workers. We can look back with horror and learn from that experience, and trust that Australia never sees times like that again.

Joint legislation was brought forward in 1946, and the Joint Coal Board [JCB] was established in 1947 to assist with the modernisation and restructure of the New South Wales coal industry. The Joint Coal Board was efficient in assisting with the health problems experienced by miners, including the eradication of the dreadful disease known as black lung. In 1946 some 15 per cent to 20 per cent of coalminers suffered from that disease, but it has been all but eliminated now. This bill repeals the Mines Rescue Act 1994, which reconstituted the Mines Rescue Board. The board's objectives were to provide a rescue service to deal with emergencies arising at underground coalmines in New South Wales and to use the rescue service in connection with emergencies in other mines.

This bill provides for an approved company, the Mines Rescue Company, to take over the current functions of the Mines Rescue Board. The bill is a significant departure from the current industry structure. It will wind up the operations of the Federal-State administered Joint Coal Board, which currently provides occupational health and safety, mines rescue and workers compensation functions to the coal industry. The Federal Government has signalled its intention to withdraw from the JCB, and the Federal Parliament has already passed the Coal Industry Repeal Bill 2001. That legislation cannot be proclaimed until this bill has been passed through the State Legislature. As I said, this bill repeals two pieces of State legislation, the Coal Industry Act 1946 and the Mines Rescue Act 1994.

Significantly, the bill allows for the establishment of two industry owned and operated companies that are subject to the approval of the relevant Minister of the day. The proposal is a major shift away from a joint government-owned coal board structure to a position in which the industry takes a large step forward into the private provision of critical services with government oversight. The bill dissolves the Joint Coal Board and, by necessity, replaces the core functions essential to the safety and well-being of coalminers across New South Wales. Earlier I recounted the problems experienced by coalminers. The bill repeals the Mines Rescue Act 1994 and, instead, implements an industry-owned company to be known as the Mines Rescue Company which will take over the functions of the Mines Rescue Board and be entirely responsible for the provision of mine rescue services across the coalmining districts of New South Wales. The company will also play a role in rescue operations at mines when the need arises.

I turn now to specific provisions in the bill. Part 2 provides the framework for dissolving the Joint Coal Board and the Mines Rescue Board. Under the dissolution, the assets, rights and liabilities of those boards will transfer to the approved industry-owned companies by way of the ministerial holding corporation that operates under the State Owned Corporations Act 1989. The dissolution of those boards will not adversely affect the staff of the two organisations. Schedules 1 and 4 will ensure that staff are transferred to the approved company, and they specify the retention of current salaries and conditions. I understand that arrangements have been made for employees of the Joint Coal Board to transfer their superannuation to an approved scheme, while the staff of the Mines Rescue Board will remain with their current superannuation scheme.

Part 3 sets out the establishment of the industry owned and operated companies to which I referred earlier. This is an integral part of the legislation, and it is the core tenet of the bill. Part 3 provides for the Minister to approve one or more companies registered under the Commonwealth Corporations Act 2001 for the purpose of exercising one or more of the functions set out in the bill. To put it simply, that is the mechanism for establishing the Mines Rescue Company and the Coal Service Corporation. Importantly, any company proposed under this legislation, firstly, cannot be approved by the Minister unless it is wholly owned in equal shares by the New South Wales Minerals Council, as the Minister pointed out in his second reading speech, the Construction, Forestry, Mining and Energy Union [CFMEU] or a subsidiary thereof, or is a wholly owned subsidiary of another approved company that is so owned.

Secondly, the Minister can approve only one company at a time to provide mines rescue services and only one company at a time to provide workers compensation services. Thirdly, the companies must provide the functions set out in their notice of approval. The functions that can be included in the notice of approval are set out in clause 10 (1) and broadly reflect the current functions of both the JCB and the Mines Rescue Board. Clauses 10 (2) and 11 set out other ancillary functions that the companies may engage in.

Schedule 5 relates to the board of the approved companies that will operate under this legislation. The bill provides that the board of directors for any company operating on the approval of the Minister must comprise two directors nominated by the Minerals Council, two directors nominated by the CFMEU, two directors with appropriate expertise jointly nominated by the Minerals Council and the CFMEU, and a seventh director who will serve as managing director and chief executive officer. That director will be externally recruited from the people nominated by the other directors. All board appointments will be for a period of five years. The bill provides for the Minister for Industrial Relations to appoint, for six months, a transitional managing director and chief executive officer while the recruitment and appointment process is finalised.

The corporate governance arrangements set out in the bill are regarded by the Opposition as the best possible way for the new companies to operate free of government control. The Opposition is satisfied that the companies constituted under this legislation will be financially and legally independent of government, and that the new arrangements leave in place a degree of government oversight which should provide the appropriate degree of scrutiny to ensure that the new arrangements are in the best interests of coalminers and the owners and operators of coalmines. Much of this bill deals with the arrangements that will be put in place for workers compensation for coalminers.

Coal Mines Insurance, which is presently a wholly owned subsidiary of the Joint Coal Board, is the sole provider of workers compensation insurance for the New South Wales coal industry. While in the past the Opposition called for the inclusion of Coal Mines Insurance in the general workers compensation scheme, in this instance we recognise that the structure proposed in this legislation is appropriate. We recognise the need to maintain stability in the coal industry, and we support the need for an industry-specific workers compensation fund. We also recognise the solid support of both employers and unions for the continuation of the current workers compensation scheme for the coal industry.

A key provision in the legislation is the proposal to establish a company to provide rescue services to the coalmining sector. Part 4 deals specifically with the establishment of that company. The bill allows members of the Mines Rescue Brigade, which was established under the Mines Rescue Act 1994, to continue to be members of the brigade that will operate under this legislation. The bill is an appropriate response to the Commonwealth's decision to withdraw from the Joint Coal Board. It will allow industry participants to own the companies that provide core services to the coalmining sector. The legislation represents an important transition for the State and for the coalmining industry as a whole, and the Opposition is happy to support it.

Mr MARKHAM (Wollongong—Parliamentary Secretary) [11.51 a.m.]: It gives me great pleasure to contribute to debate on the Coal Industry Bill. However, it is a sad day when one remembers that the Joint Coal Board has been in operation for 54 years and the bill sounds the demise of that government-sponsored organisation. During those 54 years I have had quite a lot to do with the Joint Coal Board. Prior to being elected as a member of Parliament I worked in the coal industry for 26 years. From 1962 to 1964 I worked at Kemira colliery, and for the following 24 years I worked at Coalcliff colliery. Kemira colliery, or Keira mine as it was known prior to 1954, was a mine in which the sons of family after family worked.

On my mother's side, my grandfather, my great-grandfather and my great-great-grandfather worked at Keira mine. In fact, my great-grandfather was killed in an accident at that mine on my mother's birthday. After being elected as a member of this place I waited until 31 August 1988 to make my inaugural speech so that I could honour my great-grandfather. It was also my mother's birthday and, coincidentally, the anniversary of my father's death. It gave me pleasure to do that, but it also saddened me.

I worked underground as an electrician on the afternoon shift at Kemira mine for a couple of years before I went to Coalcliff colliery. When I was at Coalcliff I worked underground on one of the first longwall units ever established in Australia. It was the worst mining mechanism one could possibly imagine. The 200-metre face of the unit had been installed incorrectly, and the men worked on the return. The dust on that longwall unit was so thick you could not see your hand in front of your face. That unit operated for about nine months before it finally collapsed. The depth of the dust that came out of that longwall unit was unimaginable. I can recall leaving the mine in the afternoon and coughing up black rubbish from my lungs. That went on for many months after I stopped working on the longwall unit.

The commitment of the Joint Coal Board to the control of hazards resulting from the inhalation of dust earned it an international reputation as a pioneer and leader. That commitment will continue when the provisions of the Coal Industry Bill come into operation. I assure the Minister that I will closely monitor the legislation, and there is no way I will stand by and allow any deterioration in the protection afforded to coalminers in this State. During the decade leading up to the establishment of the Joint Coal Board in 1947, the problem of dust-related lung disease among the coalmining population attracted increasing public attention. The Miners Federation embarked on a program of disruptive agitation on the issue. Compensation costs spiralled, placing additional pressures on production in the war and post-war years. As mainstream medicine came into contact with these wider social concerns, medical opinion about coal dust and miners' health began to change. Earlier authoritative opinion that coal dust was not harmful began to move towards a belief that it caused miners' respiratory ill-health.

I worked with miners who were "dusted". The daily suffering of those men was unbelievable. They could not walk more than 10 or 12 metres without gasping for breath. I saw those men suffering and I also saw them die. About three years ago legislation was introduced in this Parliament that allowed workers who had contracted a respiratory disease to pursue workers compensation claims. The legislation provided for the worker's family to pursue the claim if the worker had died. For too long the drawn-out process involved was regarded by miners and their families as a means of not paying compensation; it was hoped that the worker would die before the claim could be resolved. As a result of that legislation, the families of such workers can continue to pursue workers compensation claims.

When I worked in the mines the Joint Coal Board would medically examine miners every two years. The board would perform a full lung capacity test, including an X-ray, to make sure that miners' lungs were not starting to clog up. The last time I had a chest X-ray, it was for the purpose of the parliamentary superannuation scheme. The doctor said to me, "You have a shadow on your lung, we had better do another check." I said, "Yes, I know, it has been there for a long time." That could be the result of exposure to dust; I do not know. I have not had any lung problems so far but there is the possibility that I have something on my lung. The Joint Coal Board never told miners about the risk of lung disease due to dust exposure. I found out about it some time down the track after making inquiries. I was able to secure X-ray prints for the four or five examinations I had had earlier, and those X-rays showed that the shadow had been there for all that time.

I want to relate an amusing story about Bob Parkinson, a story I have related on a number of occasions. Bob was a giant of a man. I recall that when we went for the Joint Coal Board medical examinations we would be asked a series of questions. Every two years we would be asked whether we smoked, how many cigarettes we smoked, whether we drank, how much we drank, and many other questions. On the day that Bobby Parkinson went for his medical examination there was a new doctor. Bob Parkinson liked his beer. Each afternoon after work he had something like 16 or 18 schooners to wash the dust out of his lung and stomach.

Mr Amery: It's as good an excuse as any.

Mr MARKHAM: It is as good an excuse as any. When Bob Parkinson went for his medical examination, the new doctor asked him whether he smoked or drank. He said, "Oh yeah, I don't mind a beer now and then." The doctor said, "How much do you drink?" Bob said, "You know, enough to quench my thirst." The doctor asked, "What would you drink—one beer, two beers, three beers?" Bob said, "Three beers? I would spill that much in an afternoon." That is a story that has been talked about for many years. In 1947 the Joint Coal Board recruited Dr W. E. George from the successful occupational health program at Broken Hill to establish a new medical unit with a focus on disease in the industry. After negotiations with both employers and unions, four separate units were opened in each major district. Those units began the process of conducting medical examinations to assess the prevalence of disease in the work force, to identify and remove "dusted" workers, and to protect those at risk.

At the same time, rehabilitation services were established for those who were ill, and an extensive medical research and post-mortem program was established. Despite some potential areas of industrial conflict over these issues, the board's medical program has operated since its establishment with a high level of trust and co-operation. Participation in the medical examination program has been exceptional over time, resulting in a strong sense of confidence in the claim that the industry is now almost completely free of respiratory diseases. That is not quite true because I know of some old-time mineworkers who still suffer from respiratory diseases. In their early working life they were subjected to very dusty conditions and they are reaching retirement age now. There is evidence that the number of new cases of respiratory diseases has diminished.

In 1943 a dust concentration standard was declared on the recommendation of the 1939 royal commission into health and safety. However, enforcement of the standard was relatively weak and the dust problem continued to exert pressure on the industry. The advent of the Joint Coal Board meant that there was then greater institutional and government commitment to enforcing compliance with the standard. The board began to manage the new amendments to the Coal Mines Regulation Act which mandated the installation of dust-suppression techniques and practices. I can assure honourable members that when dust-suppression programs were put in place at the mine at which I work it was done in a haphazard and hit-and-miss fashion.

On the escarpment of the Illawarra where the coal seams outcrop on the sea, most of the moisture trapped within coal deposits has already leached out over hundreds of thousands of years and the coal is very dry and dusty. An extraordinary amount of water was needed to try to suppress dust and in a lot of instances it did not work effectively. The number of people suffering from diseases from the mining industry in the Illawarra was probably greater than in most other coalmining areas in this country.

In 1954 the board formalised its dust control administration under a unique tripartite committee, the Standing Committee on Dust Research and Control, which was dedicated to the vigilant and strategic monitoring of dust levels and to supporting research on methods of dust suppression. After two decades of smooth and continued decline in dust levels, the committee's efforts have been challenged by the exponential increase during the past decade and a half of longwall mining and its attendant increased dust-make. As I said earlier, it is hard for people who have never worked in the industry to believe the amount of dust that is generated by the longwall process. In fact, there have been many attempts to try to reduce the amount of dust in front of the operation by water infusion of the coal seam. In the Illawarra, not only do they use water infusion, they have also embarked on a massive program of extracting methane gas out of the coal seam prior to production.

Much of the success which the New South Wales industry has experienced with disease eradication can be attributed to the co-operative efforts of this unique regulatory approach. Throughout the 1940s the increase in compensation claims for dust-related disability exerted extreme pressure on individual mines and on the industry as a whole. Apart from the extent of human suffering that such a burden represented, the new Joint Coal Board was also concerned that compensation burdens were preventing mines from investing capital in mechanisation and dust suppression. To ease the burden, the Joint Coal Board took over responsibility for

compensation and introduced uniform premiums to spread the costs across the industry. In doing so, it was able to maintain a tight rein on the difficult definitional issues which otherwise extended litigation and unpleasantness in matters of compensation. By easing many of the difficulties associated with compensation, the Joint Coal Board was able to provide a level of certainty in an otherwise deeply uncertain area.

The occupational health efforts of the Joint Coal Board were considered to be so successful that the occupational health program remained as a central focus of the restructured board in the 1990s. Nevertheless, the world in which the program was born and began its operations has changed. New socio-political configurations and new economic imperatives and pressures have all impacted upon regulatory regimes, with renewed emphasis upon self-regulation and user-pay systems. As a result, regulating occupational health in the coal industry is also in flux. As the board looks to the future, the challenge will be to maintain the extraordinary success with occupational health under changing conditions. I hope that the high standard set by the Joint Coal Board is the hallmark of the new organisation that will have the health and lives of coalminers under its jurisdiction.

The honourable member for Burrinjuck, who led for the Opposition, referred to the Mine Rescue Bureau. I have not referred to the bureau, but I can say that without that organisation the number of men that would have died in the past 30 or 40 years would be beyond comprehension. That organisation has to be maintained. The work of the Mine Rescue Bureau is crucial to the viability of the coal industry. We should all applaud the men who work with that bureau and risk their lives going underground to save other mineworkers who might be trapped. This bill takes that into consideration and I will make sure there is no reduction in the powers of that organisation.

Mr MILLS (Wallsend) [12.06 p.m.]: The Coal Industry Bill aims to implement changed arrangements in the New South Wales coal industry for the delivery of services for occupational health and safety, workers compensation, and mines rescue. I will commence my contribution by saying that I consider this both a sad and a happy day. It is sad for the same reason mentioned by the honourable member for Wollongong: that after about 55 years the abolition of the Joint Coal Board marks the end of an era. Many of the community benefits in the area I represent in the Hunter Valley, around Wallsend and surrounding districts and suburbs, resulted from one of the objects of the Joint Coal Board: it gave many donations to community activities. I have seen plaques in halls, parks and health centres with the words, "Funding for this project was donated by the Joint Coal Board", and the contribution of the board is evident in so many other aspects of our lives in the Hunter Valley. The Joint Coal Board obviously became an intimate part of the life, welfare and progress of our mining communities in the Hunter, and of course that will now end.

Of course, the Joint Coal Board was also an advocate for the coalmining industry. One wonders whether the new companies will be willing to advocate for the coalmining industry and those who support the miners and producers of coal. At the beginning of my speech I said this was a sad day and a happy day. The happy side is, I suppose, that the bill will bring to an end more than 10 years of uncertainty in the industry. When I was first elected to this place the Minister for Mines and Energy was the honourable member for Hornsby, Mr Pickard, a Liberal Party member. Even in the late 1980s the Joint Coal Board was under question.

Then during the 1990s the Commonwealth Government announced its intention to withdraw support for the Joint Coal Board, which had been established under the mirror Federal and New South Wales Coal Industry Acts of 1946. The Commonwealth Government said that its basis for that withdrawal was that it considered the Commonwealth had no role to play in the oversight and administration of the New South Wales coal industry. My analysis is that that action came from the development of the Competition Policy as an offshoot of the ideology of small government. The Commonwealth has now passed the Coal Industry Repeal Act of 2000, which repealed its counterpart Commonwealth Act and will transfer the assets, rights and liabilities of the Joint Coal Board to the body to be formed under the bill before this House. The Federal Act's proclaimed commencement awaits the passage of the New South Wales Act.

The New South Wales Government is taking this legislative opportunity to generally rationalise coal industry operations. The bill provides for the dissolution of not only the Joint Coal Board but also the Mines Rescue Board, which was established under the Mines Rescue Act 1994. The Mines Rescue Board exercises rescue co-ordination functions mainly in connection with underground coalmines in this State. The bill generally effects a reform plan supported by the industry parties—the Construction, Forestry, Mining and Energy Union [CFMEU] and the New South Wales Minerals Council—for the transfer of the functions of the Joint Coal Board and the Mines Rescue Board to new industry-owned corporations. Under the bill, those private companies will be subject to strict government scrutiny.

The bill embodies the agreed position of the industry parties in facilitating a scheme of industry self-regulation in the provision of occupational health and safety, workers compensation and mines rescue for the coal industry, with the Government exercising reserve monitoring and regulatory powers to protect the industry's workers and the public interest. This legislation implements the Grellman recommendations, which I will come to a little later. The union has indicated that it supports this measure, and I was pleased to see Ron Land, the secretary of the Northern Region Branch of the Miners Federation, here in Parliament last week. He was wearing his business suit, rather than the kilt that I often see him wearing. That meant he was here on business, which was to hear the Minister give his second reading speech. I was pleased to get Ron's personal assurance that the union was in agreement with the legislation as proposed. He obviously was pleased that it would put an end to all of the uncertainty that had pervaded the industry for far too long.

The bill has a number of major provisions, and I will go through them very briefly. One is to transfer the assets, rights and liabilities of the Joint Coal Board and the Mines Rescue Board to one or more industry-owned private corporations registered under the Corporations Law and approved by the Minister to exercise particular functions set out in the bill. Those functions are currently performed by the Joint Coal Board and the Mines Rescue Board. As a consequence we will have a new company, Coal Services Pty Ltd, whose shares will be distributed equally to the Minerals Council and the CFMEU. The new company will have the same health and welfare objects as the Joint Coal Board. Existing staff members of the Joint Coal Board and the Mines Rescue Board will have their employment and conditions safeguarded. The approved mines rescue company will be responsible for the establishment and operation of the New South Wales Mines Rescue Brigade.

It is proposed that the new company will be Mines Rescue Pty Ltd. Coal industry employers are required to effect workers compensation insurance for their employees with the approved workers compensation company, which is a continuation of the current 1946 Act stipulation involving the monopoly operation of the Joint Coal Board subsidiary company, the name of which is proposed to be Coal Mines Insurance Pty Ltd. The bill provides that the company will be a self-funding and self-regulating insurer outside the scope of WorkCover Authority supervision. The Minister will appoint each company's directors. There will be two CFMEU nominees, two Minerals Council nominees and two independents nominated jointly by the CFMEU and the Minerals Council. The chief executive officer is to be nominated by the other directors. I understand that reviews will be undertaken after one year and two years of the operation of the new Act.

I said earlier that I would expand a little on the workers compensation functions. To understand the future of the Joint Coal Board and the role of workers compensation functions, it is important to consider its history. Coal Mines Insurance Pty Ltd, then known as Mine Owners Insurance Limited, was incorporated in December 1921, and in 1996 it celebrated its diamond jubilee. The company's shareholders at its inception numbered 13 and consisted of individuals and companies which owned and operated coalmines. They included Hebburn Ltd, Rothbury Estates, Scottish Australian Mining Company Ltd, Caledonian Collieries Ltd, J. and A. Brown and Stockton Borehole Collieries Ltd.

The company's aim in 1921 was to underwrite workers compensation risks in the New South Wales coal industry, although within a few years other risks were also underwritten. The original board of directors numbered seven and were nominees of seven of the shareholders. Captain Thomas Langley Webb was the first chairman of directors. He was described as a shipowner and was the nominee of Hebburn Ltd. A subsequent chairman, Mr Thomas Armstrong, was, during a large part of his tenure from 1931 to 1944, a member of the Legislative Council of New South Wales. Business commenced on 1 January 1922. The company was immediately successful and declared a dividend of 10 per cent of paid-up capital at the conclusion of the first year's trading. So successful, in fact, was the company that between 1922 and 1948—the year the Joint Coal Board purchased all the shares in the company—payment of an annual dividend was missed only once. During this period dividends varied between 5 per cent and 25 per cent of paid-up capital.

The company's first policy was issued to the Scottish Australian Mining Company Ltd. Liability under the Workers Compensation Act was unlimited. However, liability at common law was limited to \$1,500, in current money values, and the cost of any "one disaster" was limited to \$100,000. Declared wages for this policy at the conclusion of its first year was \$304,000. Other original policyholders were James and Alexander Brown, at Minmi and Maitland; Newcastle Coal Mining Company Ltd, at Greta and Merewether; and H. F. Maddison, at Wallsend. Each of these policyholders was a shareholder of the company. It is interesting to note the company's business practice in setting premiums during the 1920s as disclosed in this extract of a private memorandum to directors from the company secretary in 1926:

In accordance with the discussion which took place at the last board meeting, I have to advise that I consider that the following premium rates should apply:

Our own shareholders policies 4%.

Other in the North and West 6%.

Southern Mines 8%.

It is clear from the above that the southern coalfields had no shareholding in Mine Owners Insurance Ltd. The company, however, attracted considerable business from colliery proprietors who were not shareholders. Occupational disease is a contentious issue in the 2000s, and it seems the 1920s and 1930s were no different. In 1930 Mine Owners Insurance commissioned an investigation into "miners nystagmus". It appears this condition was brought on by poor lighting in underground mines. What is of interest is a comment in that investigation which is still relevant today:

We all know how quickly a working man out of employment deteriorates, how soon he loses his muscular tone, how frequently he suffers from digestive disorders and sleeplessness brought on by worry. Worry over loss of income, anxiety for the future, inability to occupy his spare time except by standing at street corners discussing his ailments with his fellow sufferers.

Miners nystagmus is no longer a source of claims in the New South Wales coal industry and it is assumed that it was engineered out of the industry years ago. A typical letter to Mine Owners Insurance during the late 1930s from a policyholder—also a shareholder—said:

At a recent board meeting it was decided to approach your company in the matter of the supply to our underground employees with (sic) safety hats so as to reduce the incident of head injuries.

It is my contention that the cost of this equipment should be borne by your company and the employee.

Times have certainly changed since then. In 1947 the Joint Coal Board was formed, with one of its functions being the underwriting of workers compensation liability for the entire New South Wales coal industry. At that point in time Mine Owners Insurance was the largest insurer of workers compensation in the coal industry. The Joint Coal Board offered to purchase all the paid up shares for \$4 each. The board of directors of Mine Owners Insurance accepted the offer on 16 June 1948. Soon after that the company's name was changed to Coal Mines Insurance Pty Ltd and risks other than workers compensation ceased to be written. Since then the company has operated as a fully owned subsidiary of the Joint Coal Board.

In recent years the company has not directly underwritten workers compensation risks but it manages the insurance fund on behalf of the Joint Coal Board. Over the years the company has been proactive and innovative in a number of areas. During the 1940s the use of movie film in the investigation of claims was pioneered by Coal Mines Insurance. In recent years the company has been prominent in challenging the actions of service providers, lawyers, doctors and rehabilitation providers who have tried to use the compensation system purely as an opportunity to make easy income for themselves. As a result of these challenges, considerable amounts of money have been saved for the coal industry in New South Wales without taking away any benefit properly due to injured workers in the industry.

Throughout its 75 years, insurance liabilities under the company's management have always been fully funded. It has always been the company's policy to charge realistic premiums and to bring to account the full value of existing liabilities. Despite this, the policy premiums it has charged have been competitive and often lower than those for similar risks underwritten by others. This financial strength has been the result of stable, long-term underwriting and claims management. I am pleased to commend the bill to the House. Whenever honourable members are driving through Cessnock they should take the opportunity to visit the Miners Memorial Wall.

Mr Markham: There is one in Wollongong too.

Mr MILLS: I am told that there is also one in Wollongong. It is important for honourable members to be aware of health and safety issues in the coalmining industry.

Mr PRICE (Maitland) [12.21 p.m.]: I support the Coal Industry Bill and endorse the comments made earlier by my colleagues the honourable member for Wollongong and the honourable member for Wallsend, both of whom have mines in their electorates. I do not have any mines in my electorate now, but I certainly have a lot of miners. These legislative changes are of significance to my family. In 1896 my grandfather, Robert Drylie, was involved in rescuing miners involved in the Stockton mine disaster. I do not know how many people were killed in that disaster, but my grandfather and a number of other members of the then mine rescue team were awarded a Royal Humane Society bronze medal for their rescue efforts.

One has to remember that in those days the only way to get a draft through a mine was to have a furnace down below, so the first people to be killed in any explosion were the furnace men. I think on that occasion seven furnace men perished. It is significant that, even today, mines rescue has to be a key element in any organisation associated with the structure and operation of the mining industry. The Commonwealth

Government, which has withdrawn from its responsibility, has passed legislation to that effect. However, the implementation of that legislation is dependent on the passage of this legislation. I understand why the Commonwealth Government has withdrawn from its responsibility. Equally, I understand the State's reticence to rush into agreeing to that legislation without putting in place the right elements, which is what has occurred on this occasion.

The establishment of the Joint Coal Board still stands as the most comprehensive and positive move by two levels of government to reform the coal industry in this State—a significant outcome, given the crucial role of coal in Australian life and in the economy of this nation. At this point it is timely to remind honourable members of the performance of the coal industry in New South Wales over the last five years. For the period 1996-97 to 2000-01, raw coal production has increased by 12.2 per cent, saleable coal has increased by 10.8 per cent, employment has reduced by 31.4 per cent—a pretty significant reduction in any industry's employee level—raw coal output per employee has increased by 69.4 per cent, saleable coal output per employee has increased by 67.2 per cent and the dollar value of New South Wales coal exports increased by 12.9 per cent, from \$3.4 billion to \$3.8 billion.

The Joint Coal Board can certainly, amongst a number of other activities, claim credit for the elimination in New South Wales coalfields of the illness known as black lung or pneumoconiosis. In 1946 some 16 per cent of miners suffered from the disease. However, that disease has virtually been eliminated. The Joint Coal Board clearly played a significant role in improving the health and welfare of coalminers and their local communities. Today the Joint Coal Board continues to meet its charter through the provision of occupational health and rehabilitation services such as health assessments, injury management, work environment monitoring, health education services and a vocational retraining program.

Furthermore, mine rescue services have also played a significant role in the New South Wales coal industry since 1826—and before, as I alluded earlier. The presently constituted Mines Rescue Board has as its objectives the provision of a rescue service to deal with emergencies arising at underground coalmines in New South Wales, and the use of the rescue service in connection with emergencies at other mines. Under this program, there will be a significant change in the operation of the New South Wales Mines Rescue Brigade. The company will appoint brigade members from mine employees, with breathing and rescue equipment and training requirements to be provided by mine owners.

As is presently the case, levy contributions on mine owners defray the costs of its principal mines rescue functions. The importance of a mines rescue service was brought home to me in my former electorate of Waratah, which covered the area of Kurri Kurri and Cessnock. The influence of retired miners in that area was not insignificant. One very quickly learned how the town operated. We did not just have street meetings about community activities in Kurri Kurri; we had street marches, including bands and parades. The schools, the scouts and everybody else participated in those marches, which were organised by older people in the mining communities who remembered how difficult life was in the past and recalled the problems associated with mines.

If honourable members visit Minmi, where my grandparents lived for many years, and take a walk through the cemetery—which of course now falls within the electorate of the honourable member for Wallsend—they will realise how high the death toll was in that area. Seven members of one family, a not insignificant number, are buried in one grave site—uncles, brothers and sons who were killed on one day. No matter what happens in the mining industry we should never forget that it is one of the most dangerous industries in which anyone can be involved. We must not ignore those dangers, which are ever present no matter what precautions are taken. Retired miners in Kurri Kurri always ensure that their hospital is kept intact, and it would be a brave government that attempted to close down Kurri Kurri District Hospital.

The Coal Industry Bill has as its aim the implementation of reform arrangements in the New South Wales coal industry for the delivery of services for occupational health and safety, workers compensation and mines rescue. The bill effects a reform plan for the transfer of the functions of the Joint Coal Board and the Mines Rescue Board to new industry owned corporations approved by the Minister. Broadly, the functions of this new body will be to provide occupational health and rehabilitation services for coal industry workers; to promote the welfare of coal industry workers, including monitoring and promoting matters, including the approval of training schemes, relating to the health and safety of those workers; to monitor dust in coalmines; to establish, administer or provide workers compensation insurance schemes in relation to coal industry workers; and to establish, administer and provide administrative services in respect of industry superannuation schemes for coal industry workers and employees of approved companies.

Other functions of the body include mine rescue services and the collection, collation and dissemination of industry statistics, including statistics relating to the health and safety of coal industry workers. The Coal Industry Bill is an innovative response by New South Wales to the Commonwealth Government's decision to withdraw from its involvement with the Joint Coal Board. The bill sets in place arrangements for a secure, safe, viable and competitive future for the coal industry in New South Wales. The bill has the clear support of both sides of the coal industry, which is not insignificant. Both the Construction, Forestry, Mining and Energy Union and the Minerals Council are keen to access the largely industry self-regulating scheme that they have negotiated with the Government. I look forward to the implementation of this legislation. I am confident that its mix of public monitoring and industry self-regulation will be successful for coalmining workers, mine owners, and the State and national economies.

I refer to one issue that the honourable member for Wallsend mentioned in his speech: the provision by the Joint Coal Board of funds for facilities for towns that had employed mineworkers. Its generosity, if I can call it that, extended to extraordinary levels. In Beresfield, which is part of the Wallsend electorate, a coalmine was established during the Second World War: the Kent colliery. I was able to demonstrate by fairly heavy research in the area that mineworkers, retired mineworkers and children of mineworkers still lived in that area. Substantial amounts of money were granted to the Beresfield Bowling Club early in its establishment, to a number of sporting bodies in that area, to the local public school and, I suspect, to the Catholic school. A mine had not been established in that area since 1945 and there had been only one mine subsidence job.

This is a piece of our history. The commercial mining of coal had a tremendous impact in those areas. It cannot be ignored in the Hunter Valley. One of my branch members, now deceased, owned a mine. He and his brother worked it for many years and made a substantial amount of money out of that small operation. Mining is integral to the valley; it is like having dirty fingernails. We got past dust on the lung, but dust still remains in the blood of most families in the valley. This is a great piece of legislation, which I commend to the House. I congratulate the Minister on his perseverance.

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Corrective Services) [12.32 p.m.], in reply: My reply shall be brief to accommodate the constraints of the parliamentary program. In saying that, I apologise to honourable members representing the Hunter and the Illawarra who wished to speak to the bill but who, because of time constraints, were not able to do so. Honourable members who spoke supported the bill and the mine industry workers. I thank the honourable member for Burrinjuck for leading for the Opposition and supporting the bill. Her statistics about the extent of the mining industry showed how important the industry is not only to the economy but to the people who work in the industry. Like many honourable members, she referred to a family connection with mining—admittedly, her connection was to goldmining. Her grandfather Jack Hodgkinson worked in the goldmining industry. Her connection to the mining industry is similar to that of many members of this House.

I thank the honourable member for Wollongong, who says that this is a sad day to some extent. The honourable member for Wollongong has the closest relationship to the mining industry. He highlighted his 26 years employment in the industry, as well as his personal and family history. Members' emotional and family connections to mining made this debate moving and interesting. The honourable member for Wollongong told me that for some time after coming to this place the dust still came out of his pores and spoiled his white shirts. One does not get any more direct representation from the mining industry in this House than that! I thank the honourable member for Wallsend and the honourable member for Maitland, who represent the Hunter region. The honourable member for Wallsend spoke about the change this legislation will bring about. He acknowledged the industry's contribution to community projects in various parts of the Hunter, where plaques depict the role of the Joint Coal Board, and the industry's financial contribution to those projects.

The honourable member for Wallsend and the honourable member for Wollongong reminded honourable members of the memorial walls in Cessnock and Wollongong containing the names of mineworkers who have suffered tragedy since the late 1880s. The honourable member for Maitland talked about his grandfather Robert Drylie, who worked in a mines rescue team in the 1800s. His contribution highlighted the connection honourable members have with mineworkers and their affection for them, not only because they represent them but because of family connections. I feel somewhat humbled by that direct representation. I inform the House that my father, Vincent Cronshaw, and his brothers were coalminers. They worked in a Lancashire town called Burnley. My father worked there until about 1927 or 1928. He then became the only member of his family to move to Australia.

The irony is that in 1929 he became a policeman. In one of his first jobs he was part of a large police contingent that was sent to Weston and Rothbury during the lockouts and strikes that are very much a part of

this State's history. One can appreciate his role of working in the coalmines of England, then coming here, working in the police force and being involved in a confrontation with the miners who were locked out during that uncomfortable and difficult time. It must have been a difficult job for him. Many honourable members did not contribute to the debate because of time constraints. However, they would have recognised the importance of the industry and the workers within it. I thank honourable members for their support of the bill and for their sometimes emotional contributions to the debate. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

RESIDENTIAL TENANCIES AMENDMENT BILL

Second Reading

Debate resumed from 30 November.

Mr HUMPHERSON (Davidson) [12.37 p.m.]: The Opposition will not oppose the Residential Tenancies Amendment Bill. The amendment to the Residential Tenancies Act will alter sections 45 and 132 as a consequence of a decision by the Supreme Court in the Stannard case, which followed a ruling of the Residential Tenancies Tribunal. The case relates to action taken by a then public housing tenant. Notwithstanding that he was on a rebated rent arrangement—as is the case with 90 per cent of public housing tenants—he took action asserting that the market rent first applied to him when his rental agreement commenced in February 1991 had not been notified to him as having increased, in accordance with the Residential Tenancies Act, and therefore the rent that had been charged of him in excess of that amount was not legitimately charged.

That action is dubious in some respects in that it is a privilege to live in public housing. It is disappointing that a person who has benefited from taxpayer-subsidised and provided housing should seek some financial return and, in so doing, effectively disadvantage other people in public housing or who would otherwise benefit from public housing. The consequences of the decision by the Supreme Court are such that it is necessary—the Opposition does not oppose this—to alter sections 45 and 132 of the Residential Tenancies Act to provide that the department is not required to give notice of increases to market rent under section 45 of the Act to tenants who receive rebates, and to provide that any rent increase made before 1 January 1999 in respect of public housing is not invalid merely because notice was not given in accordance with the Act.

In this regard I mention the case of Stannard. I do not know why it has taken so long for the bill to be brought before Parliament. Nothing in this bill of which I am aware will have any consequences for any other tenants, and I do not think the Minister for Housing has an agenda or intention that has not been flagged. I will give the Minister the benefit the doubt. I am sure that the Parliamentary Secretary representing the Minister would advise me if that were not the case. Given the nature of the decision in Stannard, it is important that loopholes are closed to ensure that no other tenants seek to follow the path laid down by that case.

The Opposition fully supports the closure of the loophole and recognises that it is a very costly process to formally notify increased market rents to all public housing tenants across the State, given that 90 per cent of them do not pay market rent. Notification would be relevant to only the 10 per cent of them who pay market rent. Notifications sometimes lead to confusion as the full cost implications of notification are not realised by many people. Of course, notification has no impact on the payments made by the tenants. I have been advised by the Minister's staff, who have been good enough to keep me advised on a couple of matters, that 600 tenants a year move from rebated rent to market rent for one reason or another. People who are moving to market rents may not be fully aware before making the decision what the market rent might be.

I understand that the Minister has foreshadowed amendments to the legislation and that consideration is being given to bringing those amendments before the Parliament very early next year. However, they would be of relatively minor consequence. Presumably officers of the department will work with the Minister's officers to resolve this matter before it comes to Parliament, if indeed it is necessary to bring it to Parliament. The bill promotes efficiency because the perhaps unnecessary dispatch of 110,000 notifications is an expensive exercise, especially when conducted on an annual basis. The saving in costs is an important and necessary reason for the amendment. The amendment covers tenants who convert from rebated rent to market rent as their income circumstances change.

I am advised by the Minister's officers—and I am sure that the Parliamentary Secretary will confirm this in his reply—that there are no unintended or indirect consequences of this decision that will impact on

Aboriginal community housing in New South Wales. In the light of all those matters, the Opposition raises no objections to the bill. Having said that, I recognise that the source of the problem lies in the action taken by an individual tenant. I understand that the tenant received \$5,000 as a result of taking that action. The Opposition believes in principle and for reasons of morality that the losers in this situation are effectively the other needy people who are seeking shelter in this State. It is appropriate for the award of \$5,000 to be recovered and I believe that the Government is obliged to make reasonable efforts to recover that money. I am sure that the Parliamentary Secretary will acknowledge that point in his reply.

Mr MARKHAM (Wollongong—Parliamentary Secretary), on behalf of Dr Refshauge [12.44 p.m.], in reply: I thank the honourable member for Davidson and shadow Minister for Housing for his contribution to the debate. The proposed amendments will ensure that the Department of Housing is not exposed to claims from tenants for technical breaches of section 45 of the Residential Tenancies Act and that its limited resources are not wasted on meaningless notices of market rent increases to tenants who are not paying market rent. It is important that the notices of market rent increase which were issued by the Department of Housing prior to 1 January 1999 be validated. It is equally important that the precedent established by the Supreme Court in the case of Stannard not be allowed to stand so that tenants do not profit from the loophole that now exists. Even Justice Davies was uncomfortable with his decision. In his judgment he stated:

... the end result does not accord with my innate feeling of justice.

Justice Davies also acknowledged that the tenant was not disadvantaged but, because the department had failed to properly notify the tenant of market rent increases, the department was found to be in breach of section 45 of the Act. The irony of the Stannard case is that the tenant was not even paying market rent. This amending bill will not disadvantage any tenant and will ensure that the department's funds will be able to be applied to providing housing assistance to those in need. This bill also provides that the Department of Housing no longer has to send out notices of market rent changes to tenants who are not paying market rents. As more than 90 per cent of the tenants do not pay market rent, the notices are meaningless, costly and often cause confusion.

Currently more than 110,000 letters are sent out to tenants who do not need to be issued with notification. The tenants who are paying market rent will not be affected by this amending bill and will continue to receive notification of market rent changes as required by section 45 of the Act. I do not want the Department of Housing to waste valuable time and resources on meaningless exercises. In the course of consultation with tenant representatives about the proposed amending bill, it was argued that some tenants who are coming off a rebated rent may be disadvantaged because they would not be able to appeal an increase in market rent if they were not notified. Although this issue is difficult to quantify I am advised that, in a normal year, approximately 600 tenants move from a rebated rent arrangement to a market rent because of changes in their household income.

To ensure that that small group of tenants is not disadvantaged by this amending bill, I have given undertakings to both Shelter New South Wales and the Tenants Union to consult with them on future changes to section 46 of the Act. The shadow Minister referred to Aboriginal housing and I point out to him that a number of properties that were formerly under the ownership of the corporation have been vested in the Aboriginal Housing Office since it was formed as a statutory body representing the Crown. Where those properties were in the ownership of the corporation before 1 January 1999 and the corporation was a landlord of those properties before 1 January 1999, the provisions of item [3] part 5 of schedule 1 to the bill will apply to those properties. Properties of the Aboriginal Housing Office, other than those falling into this category, will not be affected by item [3] part 5 of schedule 1. The amendments proposed are necessary and sensible. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (SKI RESORT AREAS) BILL

Second Reading

Debate resumed from 30 November.

Mr BROGDEN (Pittwater) [12.48 p.m.]: The Coalition will not oppose this bill. As the House is aware, this bill arises from the report of Bret Walker, SC, which was commissioned by the Government following the recommendations made by the Coroner in relation to the 1997 Thredbo landslide. The landslide

and the subsequent reports on the incident revealed a number of deficiencies with respect to the development application process and the development process that is controlled by the National Parks and Wildlife Service at ski resorts.

In the long term it is probably no great revelation that concern was expressed about the role of the National Parks and Wildlife Service in this matter. The National Parks and Wildlife Service is not an agency whose primary role is in the development of these sorts of resorts. While the service has clearly gained some specialist planning skills in the area of development, it is more appropriate that a government agency with a primary objective and greater expertise in planning have primary responsibility for development application procedures and the like for resort areas, whether or not they are in national parks.

The bill sets out the legislative framework to allow the transfer of consent authority from the National Parks and Wildlife Service to the Minister for Planning and, through him, to Planning New South Wales. The bill has two objects: to amend the Environmental Planning and Assessment Act 1979 so that the ski resort areas in Kosciuszko National Park are subject to the requirements in part 4 of the Act, and to amend section 163B of the National Parks and Wildlife Act 1974 to enable the Minister for Planning, as the consent authority, to issue orders under part 6 of the Environmental Planning and Assessment Act 1979 and to carry out the regulatory functions contained in chapter 7 of the Local Government Act 1983.

The bill clearly delineates the role of landowners and lessors, and the role of the consent authority. That is appropriate. From that perspective, the legislation receives the Opposition's support. The bill will ensure that the transfer of responsibility from the National Parks and Wildlife Service to the Department of Planning is seamless so that planning and development decisions relating to the ski industry are made in the same way as decisions are made elsewhere in New South Wales. The Minister in his second reading speech said that a State environmental planning policy [SEPP] will be developed as an interim measure. I understand that that will be only for a period of about two years, and at the end of that period a regional environmental plan [REP] will be drawn up to allow for the ongoing management of ski resorts in Kosciuszko National Park.

The Opposition has some concerns about this bill. First, the Act is reasonably silent in terms of a strict definition of "ski resort". We will rely on the drafting of the SEPP and, beyond that, the REP to provide a specific definition of "ski resort". One concern—I am sure the honourable member for Hawkesbury, who will speak in this debate, will refer to this matter—is the potential lack of accountability and transparency in the application process. In recent weeks most honourable members have received a barrage of emails from concerned skiers about the current resort arrangements and leasing arrangements in Kosciuszko National Park, although that is a different matter. The Opposition is concerned that a lack of transparency will potentially lead to deals between lessors, landowners and the Department of Planning on future developments, and it will look closely at future issues relating to that matter. The Coalition has received from Andrew Cox of the Environment Liaison Office a list of concerns which I imagine will be used to formulate amendments in the upper House next week. If the crossbench members of the upper House put amendments forward, the Opposition will consider the merits of them and then adopt a position.

At this stage we have not seen any amendments, but I have a feeling that the concerns raised by the Environment Liaison Office will be used as the basis of amendments to the bill. It is concerned about the fact that ski resort areas can apply only to current ski resort buildings; the need for concurrence by the Minister for the Environment in development application processes; that ski resort areas may be identified in conflict with the Kosciuszko National Park plan of management; that the Department of Planning may allow a lower standard of environmental assessment; recognition of the continuing role of the Director-General of National Parks and Wildlife; that the power of the consent authority to give order to the National Parks and Wildlife Service should be limited; and that the National Parks and Wildlife Service should agree on the nature of consultation and accountability.

The Environment Liaison Office expressed those concerns to the Opposition and to the crossbench members of the Legislative Council this week. As I said, if amendments materialise at any stage the Opposition will deal with them on their merits. I repeat: The Coalition will not oppose this bill. It provides an important delineation between the role of the owner of a site and the role of the consent authority. Broadly speaking, it is not appropriate for the owner of a site to also be the consent authority for that site. That in itself has raised concern. The Opposition accepts the recommendations in the Walker report, and it will not oppose this bill.

Mr WEBB (Monaro) [12.55 p.m.]: The Environmental Planning and Assessment Amendment (Ski Resort Areas) Bill will be the last bill debated in this Chamber in 2001. I support the comments made by the

honourable member for Pittwater, who is the shadow Minister for Planning. While the Opposition does not oppose the bill at this time, it has some concerns about certain provisions. The bill resulted from the recommendations in the Walker report following the Thredbo landslide. I am concerned that the bill does not contain any measure to prevent a future tragedy similar to the Thredbo landslide. The Minister for Planning in his second reading speech detailed the reasons for the bill and how it will affect planning and development, and therefore the management, of ski resort areas in New South Wales.

Unfortunately, on my reading of the bill—which amounts to only two or three pages of amendments to the National Parks and Wildlife Act 1974 and the Environmental Planning and Assessment Act 1979—it is difficult to interpret the nature and quantum of the reforms now before the House. I am not arguing that reforms are unnecessary. Indeed, all those who made submissions to the Walker inquiry were adamant and forthright in suggesting changes to management and planning processes in the Snowy Mountains area of New South Wales to ensure that another disaster similar to the Thredbo landslide in 1997 does not recur, and to ensure the ongoing and effective management of ski resort areas.

Although we are talking about ski resorts, for a large part of the year these areas are used for summer tourism opportunities. Although the New South Wales ski industry is worth \$500 million a year, and its management, sustainability and development are paramount to the people of New South Wales and to the Government, a number of other significant industries may be affected by, or caught up in, the ramifications of the bill. I refer to the \$70 million a year trout fishing industry, which relies on creeks and streams in the Snowy Mountains. Summer provides recreation, tourism and conservation to the people of New South Wales who own the land we are talking about. The lack of a definition of "ski resort" is a case in point, because the Mount Selwyn snowfields lease 400 hectares from the National Parks and Wildlife Service on which to conduct its skiing operation. The village of Cabramurra has a role within the Snowy Mountains in conjunction with the Snowy Mountains Authority. The bill specifically excludes areas of management currently within the Snowy Mountains Hydroelectricity Authority from being implicated in the amendments in this bill. However, the lack of a definition of "ski resort" is a major concern.

Debate adjourned on motion, by leave, by Mr Webb.

[Mr Deputy-Speaker left the chair at 1.00 p.m. The House resumed at 2.15 p.m.]

BILLS RETURNED

The following bill was returned from the Legislative Council with amendments:

Fisheries Management Amendment Bill

Consideration of amendments deferred.

PETITIONS

Centennial Park Dogs Off-leash Area

Petition requesting that Federation Valley, Centennial Park, be reinstated as an off-leash area for dogs, received from **Ms Moore**.

Scottish Hospital

Petition supporting an upgrade of the Scottish Hospital, Paddington, that does not diminish the heritage value of the site, received from **Ms Moore**.

Genetically Engineered Food

Petition praying that the House suspend the commercial release and trials of genetically engineered crops, support the implementation of mandatory labelling of food derived from genetic engineering and fund independent scientific research to investigate the potential risks to health and the environment, received from **Ms Moore**.

Wilderness Access

Petition praying that the Government allow continued access to public lands, abandon plans to declare the south-east wilderness study area wilderness, and repeal the Wilderness Act 1987, received from **Mr Webb**.

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**.

Lake Burrinjuck Water Level

Petition requesting the Department of Land and Water Conservation to maintain the level of water in Lake Burrinjuck at a minimum of 45 per cent, received from **Ms Hodgkinson**.

Hawkesbury-Nepean Catchment Management Trust

Petition praying that the House reinstate the Hawkesbury-Nepean Catchment Management Trust as soon as possible, received from **Mr Rozzoli**.

Old-growth Forests Protection

Petition praying that consideration be given to the permanent protection of old-growth forests and all other areas of high conservation value, and to the implementation of tree planting strategies, received from **Ms Moore**.

White City Site Rezoning Proposal

Petition praying that any rezoning of the White City site be opposed, received from **Ms Moore**.

Cronulla Police Station Upgrading

Petition praying that the House restore to Cronulla a fully functioning police patrol and upgrades the police station, received from **Mr Kerr**.

Surry Hills Policing

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

Malabar Policing

Petition praying that the House note the concern of Malabar residents at the closure of Malabar Police Station and praying that the station be reopened and staffed by locally based and led police, received from **Mr Tink**.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE**Report**

Mr Campbell, as Chairman, tabled the report entitled "The Importance of Education for Children in Out-of-Home Care", dated December 2001.

Ordered to be printed.

QUESTIONS WITHOUT NOTICE

ANTI-STALKING LEGISLATION

Mrs CHIKAROVSKI: I ask a question of the Minister for Women. Does the Minister recall two years ago promising in this House to get tough on stalkers because, she said, they were "depraved and pathetic people"? Can the Minister explain why, under her supposedly get-tough legislation, just over 20 per cent of the 317 offenders found guilty of stalking were given custodial sentences, with almost 80 per cent of convicted offenders getting off with nothing more than a slap on the wrist?

Mr Whelan: Point of order: My point of order relates also to the length of the question, but principally it is about the hypocrisy of the Coalition, which opposed the introduction of stalking legislation. Don't be a hypocrite!

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

Mrs LO PO': I will certainly get an answer from the Attorney General.

WATER MANAGEMENT PLANS

Mr SOURIS: I ask a question of the Minister for Land and Water Conservation. Are the Namoi and Gwydir river management committees unwilling to sign off on the Government's water management plans because departmental responses to requests for information have been so poor? Where does that leave the Government's management plans now—if you know anything about the matter?

Mr AQUILINA: The Leader of the National Party finished off his question by saying "if you know anything about the matter". I know a lot more about this matter than he purports to know.

Mr SPEAKER: Order! I ask the Leader of the Opposition to act with a little decorum. She contravenes the standing orders by yelling and shouting as she walks from the Chamber while the Minister is answering the question.

[Interruption]

Mr SPEAKER: Order! I do not need the assistance of any comments from the Premier or from any other member.

Mr AQUILINA: As I said earlier I have it on good authority that I know more than the Leader of the National Party. That authority is the former member for Tamworth. His comment was quoted in the *Northern Daily Leader* of 20 November. The Opposition pledged \$40 million over 10 years to the Namoi Valley.

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

Mr AQUILINA: The former member for Tamworth said that that money was unlikely to eventuate and could simply be a by-election ploy. The headline was "Windsor casts doubt on \$40 million irrigation pledge."

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

Mr AQUILINA: That is what he said of the Coalition's \$40 million irrigation pledge.

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

Mr AQUILINA: The leader in the *Northern Daily Leader*, under the headline "\$40 million promise", said that the New South Wales shadow Cabinet "rolls out the pork-barrel".

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

Mr AQUILINA: He also said on 22 November that "committing money is easy when you don't have to deliver." That is precisely what the Opposition is all about. It is about making idle promises. It knows that it will not be able to deliver on those promises in this area.

Mr Souris: Point of order: My point of order relates to relevance.

Mr SPEAKER: Order! The Minister will remain silent.

Mr Souris: The Minister is referring to a task force chaired by the former member for Tamworth, Mr Tony Windsor, and those are the recommendations of that task force.

Mr SPEAKER: Order! There is no point of order. The Leader of the National Party will resume his seat.

Mr AQUILINA: That shows how valid these comments are. The former member for Tamworth actually knows something about the project. He knows that the Opposition will never be able to deliver on its promises. The Namoi Groundwater Management Committee is currently formulating a groundwater sharing plan for the upper and lower Namoi groundwater management areas. The groundwater sharing plan will cover final annual entitlements, reallocation rampdowns over the 10 years of the plan, account management rules, sustainable yield, recharge and local area impact rules as well as other local operational rules.

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

Mr AQUILINA: The community-based groundwater management committee will also consider socioeconomic and environmental impacts. The Government has also decided that a water use efficiency package of \$30 million will be made available to those groundwater users whose licensed entitlement will be reduced to under 90 per cent of their current usage.

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

Mr AQUILINA: The New South Wales Government will allocate \$15 million towards the package, which will provide grants of up to \$112,000 for users to cover the costs of developing irrigation and drainage management plans. Negotiations are about to commence with the Commonwealth on matching State Government funding. That is a commitment from the New South Wales Government. We are working hand in hand with people from the Namoi Valley.

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

Mr AQUILINA: We know where they are going, and they know where we are going. That is a lot more than the Opposition knows and will ever be able to deliver.

REGIONAL EMPLOYMENT OPPORTUNITIES

Mr MARTIN: My question without notice is directed to the Premier. What is the latest information on the Government's plans to relocate jobs from Sydney to Lithgow and other regional centres?

Mr CARR: Just over a month ago I reported on the success of the firearms registry being moved from Sydney to Murwillumbah. As well as bringing 50 jobs to the Tweed, customer satisfaction is at an all time high. The work force is highly motivated and it is achieving results. Since 1995, the Government has created more than 1,900 jobs in rural and regional New South Wales and it has relocated 1,100 jobs. We will move another 1,000 jobs by the end of 2003. There are, for example, 228 past the gate jobs that went from Sydney to towns like Glen Innes and Dubbo. The Registry of Co-operatives went to Bathurst; and the Infringement Processing Bureau will be up and running by this time next year in Maitland.

In Nowra, construction has begun on a purpose-built three-storey government building worth \$10 million and construction alone is underpinning 100 jobs in the Shoalhaven. That building will house the entire Department of Local Government. That does not complete the list. I do not want it thought for a moment that these jobs are going only to Labor-held electorates. There is, for example, the native vegetation unit, which is going, happily I think, to Wellington. Certainly Wellington is happy at the prospect of 24 jobs. Earlier this year, at the Country Labor conference, I announced that 100 Department of Land and Water Conservation jobs, currently based in Sydney, would go to Dubbo to create a centre of excellence in land and water management. I think it is fair to say that it is to the general satisfaction of the people, local government, the whole community, and certainly the local member.

One hundred and sixty jobs in the Department of Mineral Resources will move from Sydney to Maitland—a happy centre for this sort of relocation. The list goes on. I will now announce another relocation of government jobs from the centre of Sydney into regional New South Wales. I turn to the details. Can honourable members guess where the State Debt Recovery Office, which is currently located in Elizabeth Street, Sydney, is going to go?

Mr Martin: Lithgow.

Mr CARR: Who said Lithgow?

Mr Martin: I did.

Mr CARR: The honourable member is right! Isn't that perceptive? It has nothing to do with the fact that the honourable member for Bathurst asked the question, but it is a happy outcome for him. Those 132 jobs represent 132 pay packets going into local shops, local businesses, restaurants and services. Jobs for Lithgow on top of the relocation of the police assistance line—

Mrs Skinner: That is where the hospital is to be located, which is a happy move.

Mr CARR: As the honourable member for North Shore just said, the hospital will also be put there, which is a happy move. The honourable member helped me out by saying that there will be a brand new hospital at Lithgow.

Mrs Skinner: I am here to help you out.

Mr CARR: Most things in this Parliament happen through consensus. When there are changes to health services, Opposition members say, "Well done, Bob. Lithgow got that great new hospital." Everyone is happy. I now turn to the question of the building in Lithgow. Honourable members should stop congratulating the honourable member for Lithgow for a moment. They can do that when question time is over. The Government will work with Lithgow City Council to determine the best location for this building. The honourable member for Coffs Harbour keeps interjecting.

I am sure that honourable members are not aware of what the honourable member for Coffs Harbour did on 26 November. He rushed into ABC mid North Coast radio to declare that he had no intention of challenging George Souris for the National Party leadership. The Stasi advise me that there is no report of this challenge. The honourable member for Coffs Harbour took it upon himself to deny it, even when there was no challenge. The honourable member sees the humour in this situation. No-one is talking about a leadership challenge and there is no speculation, but the honourable member dives onto ABC mid North Coast radio to say, "I am not going to challenge George."

Mr Fraser: I am proactive.

Mr CARR: The honourable member for Coffs Harbour is proactive! This was a proactive leadership challenge denial. George, with friends like that! Honourable members should stop distracting me. I am here to talk about Lithgow and about jobs for Lithgow, which are positive issues. I am not interested in these exchanges across the Chamber. I am interested in Lithgow and the 132 government jobs. The silicon smelter is going ahead. Opposition members should make up their minds whether they are for it or against it.

Mr SPEAKER: Order! The honourable member for Bathurst will contain his excitement.

Mr CARR: I can understand the honourable member's excitement at this great announcement. I assure the honourable member that I will work with council on this question of locating the building. There might be an existing building that is suitable or a new building might be required. That is something that we will determine after consultation. By the way, we expect the move to be completed by the end of 2003. It is important to underline this fact. The relocation of government jobs from the city to the country, on a scale never before attempted in New South Wales, is not only good for country communities but also it will result in a re-energised work force in the government agencies involved. That was the case with the firearms registry in the Tweed, as the honourable member has confirmed. The honourable member for Tweed will recall our visit with the Hon. John Tingle, who pointed out that not just the local jobs but the quality of service had improved with the relocation. Certainly 50 jobs for the Tweed is important, but the quality of government service improved with that decentralisation.

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

Mr CARR: It is good at the end of the year to be able to draw on these encouraging, shall I say, grunts and supportive noises from our ever-articulate Opposition. All this is a vivid contrast with the inactivity of the seven years of the Greiner and Fahey governments. They were happy to have all these jobs locked up in city towers, and they kept building city towers to put government departments in. Never once did it occur to them that they could make an impact on country economies by doing what we are doing—relocating government jobs from Sydney to country.

OVINE JOHNE'S DISEASE LEVY

Mr TORBAY: My question is directed to the Minister for Agriculture. Will the Minister update the House on how the so-called voluntary levy for ovine Johne's disease [OJD] is being spent?

Mr AMERY: I notice reference in the honourable member's question to the so-called voluntary levy. There have been comments in rural media about whether it is a voluntary levy. Why is there a voluntary levy in the first place? Honourable members will recall the Supreme Court decision preventing the States from collecting levies on a per head or per capita basis. Therefore, in the past couple of years it has been difficult to find a formula to collect a levy from sheep producers. The levy is not something that the Government is initiating; this is part of the national OJD program, and we need it as the industry's contribution to the program.

I have some details. Honourable members will recall that letters have gone out to producers with 50 sheep or more, inviting them to pay a voluntary levy of \$100, to a maximum of \$350. Last year the honourable member raised with me the number of people who received a letter from the Department of Agriculture and who may have had only a dozen or so sheep. I believe that they should not have to pay a levy or be inconvenienced by the administration involved in it. This year, people who have less than 50 sheep will not have to pay a levy, but we are also capping the levy at \$350 for those very large wool producers around the State.

The reason for this is that last year we found a number of anomalies. People with small holdings, a few dozen sheep, were paying \$100 and those very large wool producers, some of the biggest wool producing farms around the State, were paying the same amount. We tried to make it more equitable. The levy is based on each producer's stock numbers as recorded by the rural lands protection board. Those who have 50 to 500 sheep will pay \$100; from 501 to 1,500 sheep, \$200; from 1,501 to 3,000 sheep, \$300; and the fee for those with more than 3,000 sheep, the larger operations, will be capped at \$350.

The levy is being raised to support the national OJD program and to assist affected producers. Affected producers can access \$1,000 to help them develop business plans and property disease management plans, so this money is going back to producers. One of the criticisms of the program is that money has been allocated by the State and Federal governments and by the industry but a lot of it has been spent on planning. This levy will send more money back to affected producers. They will also be provided with \$5 per head, up to a maximum of \$25,000, to help with the implementation of a number of management plans. This is not something dreamed up by the Government. These measures were suggested by the New South Wales OJD industry advisory committee, which is made up of New South Wales Farmers, rural lands protection boards, OJD-affected producers, goat industry representatives and Stud Industry Association representatives. I accepted that committee's advice to bring in the levy the way it has been done.

I am pleased to announce to the House that the New South Wales OJD advisory committee, the New South Wales Farmers Association and the Sheep Meat and Wool Producers Council of Australia have all put out press releases in recent times urging farmers to pay this voluntary levy. It is the industry supporting itself.

Mr Armstrong: If they don't pay it, what happens to them?

Mr AMERY: It goes back to other legislation to impose another levy.

Mr Armstrong: It becomes compulsory.

Mr AMERY: The honourable member for Lachlan should be aware that the wool industry is supporting the OJD program. It supports it and recommends that the levy be collected from the industry as its contribution towards what has been a joint Federal and State government and industry package. Overall, I think the matter has been resolved. The honourable member for Northern Tablelands will be aware that he will not be able to take back to his office my answer in *Hansard* today and benchmark it against any alternative policy document from the Coalition. When the honourable member checks his computer, he will be able to look at my answer but when he looks for a proposition from the Coalition, he will not be able to find one.

Mr SPEAKER: Order! I call the honourable member for Murrumbidgee to order for the third time.

Mr AMERY: I understand his frustration in not being able to compare the Government's industry policy initiatives with the lack of policy from the Coalition.

Ms Hodgkinson: That is rubbish!

Mr AMERY: Will the honourable member send me a copy of the document? Please send me a copy.

AMBULANCE SERVICE PERFORMANCE

Mr CAMPBELL: My question without notice is to the Minister for Health. What is the latest information on improvements to the New South Wales Ambulance Service following the findings by the New South Wales Auditor-General?

Mr KNOWLES: Earlier this year the Auditor-General delivered a highly critical report into the performance of the New South Wales Ambulance Service. The Auditor-General found that despite a massive injection of taxpayer funds, big upgrades in communication systems, a total replacement of the ambulance fleet with brand new Mercedes, the lowest cost to patient service in Australia, and a customer satisfaction rating of almost 100 per cent, response times were still poor, the use of technology was less than adequate and the industrial relations landscape was archaic.

History records that we removed the board, appointed Barrie Unsworth as the new chairman, restructured senior management and appointed a new general manager of operations. Since then there has been solid improvement in performance. While I am the first to place on record that there is still a great deal to be done, those improvements are worth noting. In November 2000, that is a year ago, the number of ambulances in metropolitan Sydney reaching patients within 10 minutes was 42.5 per cent. One year later, this November, that figure has improved to 58.5 per cent. In rural and regional areas, the corresponding figures show an improvement from 45 per cent to 55 per cent. The average performance of call-taking within 30 seconds at Sydney operations centre has improved by 100 per cent, and the number of ambulances assigned within three minutes improved by more than 13 per cent.

When we compare this July and August with the same months last year, the response time to 000 calls has improved by nearly 5 per cent for responses within five minutes, over 10 per cent for responses within 10 minutes, and nearly 6 per cent within 15 minutes. These improvements have occurred despite there being an overall increase in the number of attendances and calls. I pay tribute to the men and women of the New South Wales Ambulance Service, the Health and Research Employees Association and the management of the ambulance service for their efforts thus far. They are responding to community and government expectations. However, there is more to be done and further improvements to be made.

Following the recommendations of the Auditor-General, the Government appointed the international consulting firm ORH Ltd to carry out an operational review of the service. The review looks at operational procedures, rostering of staff, rapid response units, patient transport service staffing, skills mix, and mobilisation and fluid deployment techniques. From day one, the review undertook its task with representatives from the Ambulance Union on the project team. In particular I pay tribute to Dennis Ray from the Health and Research Employees Association and Peter Payne from ambulance management for their leadership and expertise.

The research component of the review has been completed, and we have entered the consultation phase. I assure those interested in this policy that no changes will be implemented until the consultation and opportunities for comment are completed next year. Frankly, there are no surprises in the review findings. Indeed, they reinforce the general views of the Auditor-General and provide a pathway forward. They make it clear that more ambulance officers and patient transport officers will be required. But they should be funded through substantial reductions in present and historic overtime payments, which reflect some of the biggest proportions of the salaries budget for any comparable service in the world. The resources are already there to provide further improvement if there is a constructive and co-operative change to some work practices in rostering, skills mix and deployment.

For example, at present, traditional practice in Sydney, but not in country areas, is that two paramedics work as a team at all times. I am advised that this is almost unique in the world and has no real clinical basis. If ambulance crews were established on a paramedic and regular ambulance officer mix we would be able to ensure that more cases receive paramedic treatment than occurs at present. This is not new. It occurs in London, Amsterdam, Auckland, Brisbane, Rome, Seattle, Manchester, Edinburgh, Montreal, Toronto, Glasgow, Christchurch and Oslo, to name just a few cities comparable to Sydney. However, we are not mandating those changes or, indeed, any changes. We seek to obtain the co-operation of the work force in the positive spirit that has been developing over the past several months. I have made it clear to all parties that I want genuine consultation leading to genuine and lasting reform. With the improvements so far, I am confident that that is now a real possibility.

MANILLA COURT CLOSURE

Ms HODGKINSON: My question is to the Attorney General. What action will the Attorney General take to alleviate the concerns expressed publicly today by the New South Wales Law Society that a victim from Manilla, who applied for an apprehended violence order and needs to access the court in Tamworth by public transport, must travel on the same bus as the perpetrator since the Government closed Manilla court?

Mr DEBUS: The Manilla court is not open for the very good reason that, apart from anything else, there is no provision to separate violent perpetrators. It is not necessary for people to travel together. However, if they go to court they must sit in the same room. In the Manilla court they could not be separated.

REGIONAL EMPLOYMENT OPPORTUNITIES

Mr BLACK: My question without notice is to the Minister for Regional Development. What is the latest information on government assistance to job-generating projects in rural and regional New South Wales?

Mr WOODS: I thank the honourable member for his interest in this matter. It is always good to talk about the expansion of business and industry in country New South Wales, and the efforts of country people in creating prosperity and, more importantly, the jobs that go with it. That is good, but it is even better—and it happens all the time—when the Government is giving a hand, knocking down the barriers and assisting business and industry in that expansion. Today I am pleased to advise the House of the expansion plans of two companies located in regional New South Wales with the assistance of the State Government.

Mr SPEAKER: Order! There is far too much audible conversation. The honourable member for Murrumbidgee will remain silent.

Mr WOODS: Rennie Produce in Hillston is a large grower, packer and distributor of potatoes. Since the late 1980s production by Rennie Produce has increased to almost 37,500 tonnes of potatoes, which are transported annually to major supermarket chains like Coles and Woolworths across New South Wales, and to overseas markets. Rennie Produce has worked with the Department of State and Regional Development to diversify its business and invest in a cherry orchard, packing shed and cool room at Hillston. It is the largest employer in the Hillston area, and has been operating for more than 11 years.

The company's expansion is likely to create nearly 200 full-time equivalent jobs in growing and harvesting by 2005. The company predicts that it will have 150,000 cherry trees on the farm at Hillston in the same period. Optimum growing conditions, good management and secure markets make the company's foray into the cherry industry ideal. I am advised that the company has already secured contracts in Taiwan, and the climate in Hillston will enable Rennie to get its cherries to market sooner than competitors and to get premium prices. They will also export cherries to the United Kingdom and Hong Kong, as well as domestic markets on the eastern seaboard of Australia.

The company's expansion was made possible by my department working with the company and Carathool shire to facilitate infrastructure upgrade. The State Government will support Carathool shire to seal the last seven kilometres of the Lachlan River roads to Hillston. The road upgrade will benefit agricultural companies, including the developing cotton industry, based in and around Hillston and the transport sector. The road upgrade may also encourage other businesses to invest in the area, thus increasing employment in the region. The proprietor of Rennie Produce, Paul Rennie, said:

It's a wonderful thing for Hillston and it's great for everyone involved in cherry production to see this road finally being sealed.

The Government is pleased to be working together with Rennie Produce and the shire. The cherry industry in New South Wales has great potential for expansion into new domestic and overseas markets. Currently, New South Wales produces nearly half of the cherries produced in Australia. The industry is developing innovative new growing methods, allowing cherries to grow in warm, dry areas such as Hillston. I also advise the House that JD's Jams at Young, in the heart of the cherry growing country, is working with the Government to expand its factory and canning facilities.

The company's jam factory is a major tourist attraction in Young. Hundreds of thousands of people visited the facility this year, compared with about 9,000 visitors 10 years ago. I have visited the factory on a couple of occasions; I had a cup of tea and some cherry jam. I assure honourable members that the products are terrific. JD's Jams sells its jams on site and through the Woolworths supermarket chain. The company processes 125 tonnes of local fruit in jams of different flavours. It hopes to retain 30 seasonal staff, in addition to the 10 staff currently employed in the cafe.

Honourable members will recall that I advised the House about the success of the New South Wales Regional Flavours stand at the Fine Foods Australia Exhibition. JD's Jams was one of 18 regional producers to exhibit as part of this stand, supported by the New South Wales Government. I have tasted JD's Jams at that exhibition, both in Young and in Sydney. I highly recommend the jams, and I am sure the honourable member for Lachlan will agree. Those are just two examples of regional companies working with the Government to produce economic growth and prosperity, and the jobs that go with it. The Government is pleased to support regional business in generating these new jobs and generating new investment in country New South Wales. As the Premier has outlined previously, we are also moving government jobs into regional New South Wales.

PRIMARY PRODUCERS STORM DAMAGE

Mr WEST: My question without notice is to the Minister for Agriculture. What is the latest information on the impact of storm damage on primary producers in the Sydney Basin and in the State's north-west?

Mr AMERY: The honourable member for Campbelltown has shown a keen interest in the damage caused by the storms that recently ravaged not only his electorate and the suburbs of Sydney but also various rural regions in the State. As we have all seen from the media reports, the storms caused considerable damage. The media coverage also reported the tragic loss of life and injury. I advise the House that agricultural producers in western Sydney and the north-western areas of the State also suffered considerable losses. Three recent storm events caused significant damage to agricultural enterprises in the areas I have referred to, and in the north-west, particularly in Tamworth and Gunnedah. The storms hit on 18 November, on the weekend of 24 November and 25 November, and on 3 December.

Many Sydneysiders would not be aware of the value of the agricultural industry in the Sydney Basin. It is valued at a staggering \$1 billion a year at the farm gate, or one-eighth of the State's gross value of agricultural production. The honourable member for Campbelltown, though an urban member of Parliament, has often spoken about the number of agricultural producers in his constituency. That also applies to members representing electorates in the greater western suburbs of Sydney. I note that the honourable member for Baulkham Hills nods his head in agreement.

The storms of Sunday 18 November caused considerable damage to greenhouse enterprises growing cucumbers and tomatoes. Conservative estimates value the greenhouse cucumber industry at about \$38.5 million per annum, and the tomato industry at about \$53 million per annum. The main areas affected by the storms of 18 November were The Hills, the Schofield-Riverstone area and the Windsor-Richmond area. Feedback from the cut-flower and nursery industries suggests that damage was not as widespread as in the greenhouse cucumber and tomato industries, but it is apparent that some individuals sustained significant losses.

The damage that occurred during the storm was caused by wind ripping off the plastic coverings from greenhouses, or even crushing or collapsing greenhouse structures. On one property at Rossmore, near Liverpool, a 50-metre long greenhouse was uprooted and deposited on top of another greenhouse nearby. New South Wales Agriculture estimates that about 50 greenhouse vegetable growers in the Sydney Basin were affected by the 18 November storms, and that the total loss sustained was about \$2.6 million. The overall total loss sustained, including estimates of damage to the nursery and cut-flower industries, is about \$4.5 million.

A further significant storm hit parts of the Sydney Basin on 3 December, particularly the Hawkesbury, Campbelltown-Liverpool and Hornsby-Ku-ring-gai areas. In addition, New South Wales Agriculture has received reports of scattered damage to the cut-flower industry on the Central Coast. Estimates of damage to agriculture from last Monday's storm are still sketchy, but it could amount to several million dollars. On the same day that the Sydney Basin was being battered by storms, the Gunnedah and Tamworth areas also suffered. It is extremely fortunate that at that time harvesting to the north of Gunnedah was close to completion. However, harvesting to the south still has some way to go. Some farmers will have escaped with most or all of their crops harvested; others are still assessing the damage.

New South Wales Agriculture has received reports of crop damage at Quirindi, on the Liverpool Plains. I can also report that significant damage was caused to New South Wales Agriculture's Tamworth Centre for Crop Improvement: a third of the roof was blown off the pasture building and some sheds were damaged. At Dungowan, east of Tamworth, a dairy farmer reported the death of one of his milking cows. A little earlier, on the weekend of 24 and 25 November, the north-west of the State had experienced another fierce storm. This could be the fourth year in a row that some farmers in the north-west of the State are unable to harvest their crops. Scattered thunderstorms, accompanied by heavy rain, severe wind storms and, in some cases, hail caused crop damage and general damage across a wide area of the north-west.

Crop damage has been reported from the Liverpool Plains to Moree and Narrabri. The crops affected are wheat, faba beans and chickpeas. Further south, some ripe wheat crops around Bellata have been ruined. Crop damage is expected to be greatest in the Liverpool Plains area, where harvesting had only just started. Losses of between 30 and 50 per cent are expected. Honourable members would be aware that the Premier has declared these to be natural disaster areas. Low-interest loans of up to \$130,000 at the concessional interest rate of 4 per cent are available for eligible land-holders. Those loans can be used for carry-on finance or replacement of stock and plant equipment. Affected growers are advised to contact the Rural Assistance Authority on 1800 678 593 to seek financial help. I thank the honourable member for Campbelltown for his interest in the damage caused to the State's agricultural producers. I look forward to hearing reports from various members about damage caused by the storms to farms in their electorates.

Mr Fraser: Potato farmers at Dorrigo.

Mr AMERY: You've ruled out another challenge, have you? It's Christmas, you know. The National Party gets very edgy around Christmas time

WILLIAM McGARRITY PSYCHIATRIC ASSESSMENT

Mr HAZZARD: My question is directed to the Attorney General. Why was Dr Rod Milton's psychiatric assessment of William McGarrity, which effectively assessed McGarrity as evil and not mentally ill, not provided to the court by the Director of Public Prosecutions during McGarrity's trial for the horrific murder of four-year-old Jessica Gallacher? Why was the assessment not made available to the Mental Health Review Tribunal or the Minister for Health, in assessing McGarrity's suitability for supervised day leave from Morriset Hospital?

Mr DEBUS: The honourable member for Wakehurst does not provide enough information to enable me to comment on the matter. It is not clear whether it was necessary for that report to be given to the authorities he has referred to. However, I will investigate the matter and advise the House of the true situation.

Mr HAZZARD: I ask the Attorney General a supplementary question. If the Attorney's investigations confirm that the forensic psychiatrist's report was not given to the Minister for Health before he directed that McGarrity be transferred from maximum security at Long Bay gaol to Morriset Hospital, what steps will the Attorney take to ensure that the community is not endangered by this vile killer staying at Morisset?

Mr DEBUS: When I know the true circumstances of this matter, I will then decide how to respond.

WATER MANAGEMENT ACT 2000

Mr PRICE: My question without notice is to the Minister for Land and Water Conservation. What has been the response to the Water Management Act 2000?

Mr SPEAKER: Order! I remind the honourable member for Murrumbidgee that he is on three calls to order.

Mr AQUILINA: Water is arguably our most precious natural resource. Twelve months ago the Government acknowledged that when it passed the landmark Water Management Act. The new Act completely overhauled about 26 pieces of legislation, much of which dated back to the early 1900s. I pay tribute to my predecessor, the Minister for Agriculture, for his work in getting this legislation up and running. New South Wales now leads the country in the management of water and in meeting its national requirements for water management as set out by the Council of Australian Governments.

Mr SPEAKER: Order! The honourable member for Swansea will remain silent. I call the honourable member for Lake Macquarie to order.

Mr AQUILINA: For the first time, New South Wales now has a single and comprehensive piece of legislation guiding our water management activities, from the catchments to the sea. Debate on the bill was the second longest in the Parliament's history. It showed just how important our water is to agriculture, industry, households and the environment. The Water Management Act was the result of three years consultation on how water in New South Wales should be managed. Striking a balance on how water should be shared and used has brought together for the first time many competing and conflicting interests.

Today I want to thank all those who have contributed to this crucial consultation during the past 12 months. Discussion has been rigorous, sometimes heated, but important outcomes have already been achieved. Key interest groups who have had a say in the development of the legislation include the New South Wales Irrigators Council, New South Wales Farmers, the Local Government and Shires Associations, the Nature Conservation Council and the New South Wales Aboriginal Land Council. Much of the discussion was co-ordinated through the Water Advisory Council.

The importance of these plans to those on the land was borne out in a meeting I had this morning with members of the New South Wales Irrigators Council. The chairman of the council, Col Thomson, and the executive director, Brad Williams, told me these plans offered irrigators 10 years of security. The irrigators are keen to resolve concerns they have with individual plans, but emphasised also that they are keen to see the plans signed off. I will be looking to consult with all parties to the various plans during the next few months. At stake are greater economic benefits for individuals and communities, improved environmental health, and shared government and community responsibility.

Let us look at the achievements. The strength of the new legislation is the community and government partnership that has been developed to deliver locally driven solutions. Thirty water management committees have been established across New South Wales to prepare 38 draft water sharing plans for the State's 50 priority water sources. That covers some 80 per cent of the water use in New South Wales. The committees comprise representatives of water user groups, environmental interests, local government, Aboriginal interests and government agencies. They have the responsibility for developing draft water sharing plans for the State's priority catchments and groundwater systems. The committees have consulted widely with the river communities and they have been actively engaging the wider community. They have been holding public forums, updating local communities on progress to date, and actively approaching people to find out their concerns and how the community wants to contribute to the process.

Next week marks an important deadline for water management. The committees have been asked to submit their water sharing draft plans by 15 December. Even if they have not completed their plans I would still urge them to forward them to the Department of Land and Water Conservation by that date. I would ask them to detail any areas of disagreement with the plans. The community will be given further opportunity to comment on the draft plans, which will go on public exhibition during February/March 2002. The aim is to have water sharing plans finalised by June next year and I am confident that everybody wants that result.

Questions without notice concluded.

ASSENT TO BILLS

Assent to the following bill reported:

Crimes Amendment (Child Protection—Physical Mistreatment) Bill

PARLIAMENTARY CONTRIBUTORY SUPERANNUATION FUND

Appointment of Trustee

Motion, by leave, by Dr Refshauge agreed to:

That Richard Sanderson Amery be appointed to serve as a trustee of the Parliamentary Contribution Superannuation Fund in place of Paul Francis Patrick Whelan.

STANDING COMMITTEE ON PUBLIC WORKS

Membership

Motion, by leave, by Dr Refshauge agreed to:

That Thomas George be appointed to serve on the Standing Committee on Public Works in place of Andrew Humpherson.

PRINTING OF PAPERS

Motion by Dr Refshauge agreed to:

That the following reports be printed:

Albury-Wodonga (New South Wales) Corporation for the year ended 30 June 2001
Anti-Discrimination Board of New South Wales for the year ended 30 June 2001
Art Gallery of New South Wales for the year ended 30 June 2001

Ministry for the Arts for the year ended 30 June 2001
 Attorney General's Department of New South Wales for the year ended 30 June 2001
 Australian Museum Trust for the year ended 30 June 2001
 Bicentennial Park Trust for the year ended 30 June 2001
 Cabinet Office for the year ended 30 June 2001
 Cancer Council for the year ended 30 June 2001
 Review of the New South Wales Cancer Council Act 1995
 Casino Community Benefit Fund Trustees for the year ended 30 June 2001
 Casino Control Authority for the year ended 30 June 2001
 Centennial Park and Moore Park Trust for the year ended 30 June 2001
 Central Coast Waste Planning and Management Board for the year ended 30 June 2001
 Review of the Children (Protection and Parental Responsibility) Act 1997, by the Attorney General's Department, accompanied by Appendix A in three volumes: Part 2—Parental Responsibility; Part 3—Welfare of Children in Public Places; Part 4—Final Report
 Coal Compensation Board for the year ended 30 June 2001
 Community Relations Commission for the year ended 30 June 2001
 Community Services Commission for the year ended 30 June 2001
 Community Visitors for the year ended 30 June 2001
 Department of Corrective Services for the year ended 30 June 2001
 Review of the Conveyancers Licensing Act 1995, pursuant to section 95 of the Act
 New South Wales Crime Commission for the year ended 30 June 2001
 New South Wales Dairy Industry Conference for the year ended 30 June 2001
 Election Funding Authority for the year ended 30 June 2001
 Ministry of Energy and Utilities for the year ended 30 June 2001
 Environment Protection Authority for the year ended 30 June 2001
 Environmental Trust for the year ended 30 June 2001
 Department of Fair Trading, Volumes 1 and 2, for the year ended 30 June 2001
 Fair Trading Tribunal for the year ended 30 June 2001
 New South Wales Film and Television Office for the year ended 30 June 2001
 New South Wales Fire Brigades for the year ended 30 June 2001
 New South Wales Fisheries for the year ended 30 June 2001
 Department of Gaming and Racing for the year ended 30 June 2001
 Guardianship Tribunal for the year ended 30 June 2001
 Harness Racing New South Wales for the year ended 30 June 2001
 Health Care Complaints Commission for the year ended 30 June 2001
 New South Wales Health for the year ended 30 June 2001
 Health Foundation for the year ended 30 June 2001
 Historic Houses Trust for the year ended 30 June 2001
 Review under Section 30A of the Independent Pricing and Regulatory Tribunal Act 1992 entitled "Review of Aspects of the IPART Act"
 Independent Pricing and Regulatory Tribunal for the year ended 30 June 2001
 Industrial Relations Commission for 2000
 Department of Information Technology and Management for the year ended 30 June 2001
 Inner Sydney Waste Board for the year ended 30 June 2001
 Institute of Psychiatry for the year ended 30 June 2001
 Institute of Sport for the year ended 30 June 2001
 "Review of the Institute of Sport Act 1995"
 Jenolan Caves Reserve Trust for the year ended 30 June 2001
 Judicial Commission of New South Wales for the year ended 30 June 2001
 Department of Juvenile Justice for the year ended 30 June 2001
 Department of Land and Water Conservation for the year ended 30 June 2001
 Legal Aid Commission for the year ended 30 June 2001
 Library Council for the year ended 30 June 2001
 Department of Local Government for the year ended 30 June 2001
 Lord Howe Island Board for the year ended 30 June 2001
 Macarthur Waste Board for the year ended 30 June 2001
 Mental Health Review Tribunal for 2000
 Mine Subsidence Board for the year ended 30 June 2001
 Department of Mineral Resources for the year ended 30 June 2001
 Mines Rescue Board for the year ended 30 June 2001
 Motor Vehicle Repair Industry Council for the year ended 30 June 2001
 Trustees of the Museum of Applied Arts and Sciences for the year ended 30 June 2001
 National Environment Protection Council entitled "Report of the Review of the National Environment Protection Council Acts (Commonwealth, State and Territory)"
 National Parks and Wildlife Service for the year ended 30 June 2001
 Northern Sydney Waste Board for the year ended 30 June 2001
 Pacific Power (Volumes 1 and 2) for the year ended 30 June 2001
 Parliamentary Counsel's Office for the year ended 30 June 2001
 Annual Report and Determination of Additional Entitlements for Members of the Parliament of New South Wales by the Parliamentary Remuneration Tribunal pursuant to the Parliamentary Remuneration Act 1989, dated 15 August 2001
 Ministry for Police for the year ended 30 June 2001
 Premier's Department for the year ended 30 June 2001
 Office of the Protective Commissioner for the year ended 30 June 2001
 Office of the Director of Public Prosecutions New South Wales for the year ended 30 June 2001
 Public Trustee for the year ended 30 June 2001

Royal Botanic Gardens and Domain Trust for the year ended 30 June 2001
 New South Wales Rural Fire Service for the year ended 30 June 2001
 Safe Food Production NSW for the year ended 30 June 2001
 South East Waste Board for the year ended 30 June 2001
 Department of Sport and Recreation for the year ended 30 June 2001
 State Electoral Office for the year ended 30 June 2001
 State Emergency Service for the year ended 30 June 2001
 State Rail Authority for the year ended 30 June 2001
 State Records Authority for the year ended 30 June 2001
 State Sports Centre Trust for the year ended 30 June 2001
 State Transit for the year ended 30 June 2001
 Report and Determination under section 13 of the Statutory and Other Offices Remuneration Act 1975 entitled "Public Office Holders Group", dated 29 August 2001
 Report and Determination under section 13 of the Statutory and Other Offices Remuneration Act 1975 entitled "Judges, Magistrates and Related Group", dated 29 August 2001
 Report and Determination under section 24C of the Statutory and Other Offices Remuneration Act 1975 entitled "Chief Executive and Senior Executive Services", dated 29 August 2001
 Board of Studies and the Office of the Board of Studies for the year ended 30 June 2001
 Sustainable Energy Development Authority for the year ended 30 June 2001
 Sydney Aquatic and Athletic Centres for the year ended 30 June 2001
 Sydney Catchment Authority for the year ended 30 June 2001
 Sydney Opera House Trust for the year ended 30 June 2001
 Teacher Housing Authority of New South Wales for the year ended 30 June 2001
 Tourism New South Wales for the year ended 30 June 2001
 "Unclaimed Money Act 1995 Report to Parliament"
 Review of the Uncollected Goods Act 1995 by the Attorney General's Department, dated November 2001
 Victims Compensation Tribunal for the year ended 30 June 2001
 New South Wales Board of Vocational Education and Training for the year ended 30 June 2001
 Vocational Education and Training Accreditation Board for the year ended 30 June 2001
 Western Sydney Waste Board for the year ended 30 June 2001
 Department for Women for the year ended 30 June 2001
 Zoological Parks Board for the year ended 30 June 2001

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (SKI RESORT AREAS) BILL

Second Reading

Debate resumed from an earlier hour.

Mr WEBB (Monaro) [3.25 p.m.]: I thank honourable members for the further opportunity to speak to the Environmental Planning and Assessment Amendment (Ski Resort Areas) Bill, which deals with an important issue that the Government is attempting to resolve. Unfortunately, in doing so the Government has hastily drafted a bill that lacks detail. It is difficult to interpret the implications and content of the Minister's second reading speech when read in conjunction with the bill, and referring to both the Local Government Act and the Environmental Planning and Assessment Act, which this bill seeks to amend. Broad areas of the community have concerns about this bill, particularly in connection with the continued ability to expedite the insertion of a head lease within the Perisher Valley/Smiggin Holes and Guthega areas, which may be facilitated by Planning New South Wales and the role of that agency to continue the Government's planning, development and management of those areas on an ongoing basis.

I referred earlier to the lack of a definition of "ski resort areas" in the bill, which may be defined by regulation or by the National Parks and Wildlife Act 1974. Members of the public own that land and it is difficult to act in their best interests so as to ensure the best investments, job outcomes and recreational opportunities for them to enjoy in the ski fields that have been set aside for that purpose. There should have been much more consideration of this bill and more time for consultation. If this bill had sat on the table for five clear days or had been put out for more consultation, I and others could have perhaps examined the amendments it makes to the Local Government and National Parks Act and, particularly, new section 32D, which deals with chapter 7 of the Local Government Act 1993, which in more detail refers to the definition of "regulatory functions" of councils.

Overlaying what was previously the domain of the National Parks and Wildlife Service will not necessarily make clear the types of approvals, the approval process, the appeals process, the determination of applications, the changeover from leases to deemed approvals, approvals for filming and other activities, some of which may be controlled by the National Parks and Wildlife Regulation 2001, which is currently before the people of New South Wales.

Chapter 7 of the Local Government Act relates to orders, procedures for the making of orders, orders generally, the adoption of local policies, compliance with orders, and the appeals process. Though I do not claim

to be able to fully interpret those provisions, I feel that a number of amendments to the bill that could have been drafted and debated in this Chamber would have given local government more control—as has been sought by many people—and would have enhanced the ability of Planning New South Wales and the Government to manage, develop and operate snowfield areas in consultation with the lessees. In the Perisher area alone there are about \$100 million worth of leases, quite apart from the Perisher people.

If the Government had adopted a local government approach to the management of this land, that would have given more people with a vested interest a role to play in regard to accountability and in the development, planning and management of those areas of New South Wales. That would have enabled more transparency and accountability in rate collection, administrative functions and other operations in that area. A number of people have held those concerns about the National Parks and Wildlife Service. They questioned its ability to manage the urban environment in built-up snowfield areas. The Minister said in his second reading speech that the bill will free up the National Parks and Wildlife Service to do what it does best, which is to manage and conserve the significant natural and cultural environments of one of Australia's most significant national parks.

The Kosciuszko National Park undoubtedly is Australia's premier national park. It covers a large area extending into the Alpine National Park in Victoria. That area is the subject of considerable promotion as a prominent recreation and conservation area in New South Wales, Australia, and indeed the world. It needs the attention that the National Parks and Wildlife Service can give it, provided it has the right direction and proper funding in place. The bill seeks to remove urban and ski resort areas from the control of the National Parks and Wildlife Service, although the service will retain some measure of interest in those areas. That is in line with some of the recommendations of the Walker report.

I feel that the legislation needs to be further refined. I understand that the Government, through the introduction of a State environmental planning policy, is moving to introduce further legislation to overcome the problems of the past by setting up a planning, development and management authority capable of properly performing those functions. However, there is a lack of direct accountability, as well as circumvention of democratic processes, by placing control and management in the hands of bureaucrats in a Sydney-based government department who come and go from time to time. It would be better to place control and management under local government and enable those with a local interest to serve on various committees of Planning New South Wales and regional organisations. That could be done using the jurisdiction of the Department of Land and Water Conservation, the National Parks and Wildlife Service and the Environment Protection Authority as consent authorities for various works. That is the case with local government bodies throughout the rest of the State. To my mind, that would be a much better system.

Many people who currently take part in recreational activities in the ski fields, in both winter sporting activities and summer tourism, are concerned about this transfer of control from the National Parks and Wildlife Service, which at least has upheld the conservation and primary aims of the area in its management of the park in the past. However, in saying that, I acknowledge some of its shortcomings and failings. Those people have expressed to me their concern that the move to transfer control to Planning New South Wales will facilitate the involvement of other lessees in the whole regime, perhaps on an inequitable basis. They are concerned also about lack of accountability and direct consultation with interested parties. Regrettably, Planning New South Wales and the Government have been found wanting when it comes to consulting people in regional forest assessment and wilderness areas.

The recent extension of the deadline for submissions on the National Parks and Wildlife regulation from 7 December to February next year is welcomed. That quite complicated system of regulation is part of the review process, but by the same token it places restrictions on the recreational use and enjoyment of the area. The ability of people to submit concerns to that review process until February is important, but the process is indicative of the Government's knee-jerk reaction to planning reforms right across the State. Insufficient time is given to fully analyse those initiatives and the reforms proposed by the bill. The bill just does not have enough detail, and time constraints deny the Opposition the opportunity to seek more input from local government and other interested persons in the community on these measures. Notwithstanding that, the Coalition will not oppose the bill. However, we will keep an eye on developments with a view to working through these measures next year.

Mr ROZZOLI (Hawkesbury) [3.36 p.m.]: I have a number of concerns about the bill, its structure and the process that the Government is pursuing with it. The first matter of concern, certainly to the uninitiated, is that it is difficult to find any real nexus between the provisions of the bill and the Minister's second reading

speech. The bill provides the mechanism to put in place what the Minister said will happen, but it is extremely strange that an amending bill has such paucity of detail that it is impossible to know the Government's real intention.

In that regard, I draw a parallel between this bill and the Sydney Catchment Authority Management Act, which in many respects followed much the same path as that followed by this bill, except that that Act contained a legislative framework that was a very important guide to those who will come after and have to implement it in accordance with its objectives. But even with that Act, which gave that legislative direction, it has been extremely difficult to pursue in any meaningful fashion the goal that the Government identified.

The second parallel between the two pieces of legislation and their objectives is that both have arisen as a result of references to senior counsel. I question the benefit of following that path in matters that address questions of administrative structure. I have the highest regard for Peter McClellan and Bret Walker as senior counsel, but I do not know that their training and practice as senior counsel equip them any better than anyone else to address these matters.

Mr Amery: Do you know more than them?

Mr ROZZOLI: I suggest that I have far more experience with matters pertaining to the structure of organisations than probably either of those gentlemen. Of course, numerous other people have that level of expertise. As a member of the regional advisory committee that is working on the Sydney drinking water catchment regional environmental plan [REP] and looking at what people have been asked to deliver, I am of the view that the McLellan model leaves in the air a number of issues that have subsequently proved difficult to resolve. I suspect that the same thing will happen in this case. Whilst I have great respect for senior counsel, I am not certain whether the Government should continue to address complex matters of structure, which have major competing interests, in an attempt to achieve a difficult balance between urban development and natural resource development. There is a strong competing interest between the two and they are hard to reconcile.

The other parallel that occurs relates to these two pieces of legislation. It occurred in relation to the Sydney Catchment Authority Management Act, or to the recommendations of senior counsel from which this legislation flows. There is a decision to establish a regional environmental plan, which I think is good. The State environmental planning policy [SEPP], which is also being developed, will be the interim planning mechanism prior to the implementation of the regional environmental plan, which has some merit. SEPP 58, which relates to the Sydney Catchment Authority, has had a number of problems and has had to be amended as we have gone along. In a sense, it pre-empts some of the community attitudes about what is likely to come from the regional environmental plan.

On that basis, this formula must be questioned to some degree. The Minister indicated in his second reading speech that it will probably take a couple of years to develop the regional environmental plan. Having had a considerable amount of experience in the development of complex, regional environmental plans, I am quite certain that it will take all of two years to develop a plan if a proper process of consultation and development consideration is to take place. I again refer to the process for the Sydney Catchment Authority. In the initial stages of the REP the Department of Urban Affairs and Planning—it is now called Planning New South Wales—walked away from the community consultation process for quite a period, despite advice that was given to it by a number of people, including me, that it was a dangerous formula to use.

The consequent eruption within the community has now meant that the Department of Urban Affairs and Planning had to undertake a much more complex, time-consuming and difficult process to regain ground and community confidence. The Department of Urban Affairs and Planning subsequently worked hard, conscientiously and honourably to try to repair the damage that that caused. Officers in that department would be the first to acknowledge that they made a mistake. It takes a big person to acknowledge that a mistake has been made and to attempt to remedy the situation. Full credit goes to the department for the process that it is now going through. A salutary lesson can be learned from the development of that REP.

I hope that the Minister will take that issue on board and ensure that, in the process of the development of a REP for Kosciuszko, those lessons are heeded. The community consultation element of the development of the regional environmental plan must be undertaken early and consistently throughout that process, with constant referrals back to the community. The whole question of the ultimate structuring of the REP and the process of management of this complex and special area must be undertaken by those who have a lot of expertise in that area. There are people who are experts, but they are not heavy on the ground. So that will present something of a challenge.

I do not think that the Government's decision to place this planning and management role in the hands of the Department of Urban Affairs and Planning, or Planning New South Wales, is a good idea. I understand that a number of organisations suggested that we should go down the path of the local government model. I know that some of the submissions that were placed before Mr Walker, Senior Counsel, indicated at the very least, beside any other consideration, that that might be an expensive option. I take the point that was made by a number of critics of that path. Just to place the administration in the hands of an adjacent or the nearest relevant local government authority would mean that the normal representative base accorded to ratepayers and residents within a local government area would not be applicable in Kosciuszko, where the majority of interests are not necessarily represented by ratepayers or voters within that area.

So I think there is a problem in that regard. The suggestion that I put forward to the Minister for consideration is that the local government model, if it is taken in the broadest sense of the word, may be applied, but not in the sense that it is passed over to an existing local government authority. An authority must be established that would take on board the role that I am sure is envisaged for the department but that would normally be taken on by a local government consent authority. Instead of representatives on that authority being drawn from the resident community in the local government area, they should be drawn by plebiscite, although they could be appointed from the representative interests within the national park, which include the tourist industry, the National Parks and Wildlife Service, Planning New South Wales, small commercial lodge interests, large commercial interests and various other elements, the New South Wales Ski Association—as that obviously is the prime tourist attraction in the area—and any other people or agencies that are identified as major stakeholders.

It could well be that, in the delivery of what might be called local government services, those services could be contracted out to the neighbouring local government authority because it will have a pool of expertise and capability that would not necessarily be available to a new authority. It may well be a tedious and cumbersome process to vest such an authority with all those powers when they are so readily available. The secret in the administration of these areas lies very much in the question of equitable representation of interest. I have taken an interest in the Kosciuszko issue for many years because a number of my constituents are involved. *[Extension of time agreed to.]*

I have a considerable interest in the administrative side of the Kosciuszko ski resorts. It seems to me, from my years of experience in dealing with these people, that there has always been a considerable clash of interests amongst various parties involved in Kosciuszko. Part of the success of an administrative process is to create a greater degree of harmony amongst various players, to argue through the differences and the lines of common thinking to ensure that plans of management and other processes are compatible with competing interests, and to serve those interests appropriately.

In the long run, everyone may not agree with everything that is done. Nonetheless, there must be solid logic behind the agreed process. If we work through those processes properly we will find among competing interests a basis of agreement that can be accepted and that will lead to a good and constructive result. The honourable member for Monaro said that Kosciuszko is a special area. It is a special area with a significance beyond just the people of New South Wales. It is a major national park icon within Australia. Across the seasons it draws people with a variety of interests. It is an area of enormous environmental significance and, like some of our other major national park areas, its environment is enormously fragile.

The responsibility we as legislators have towards this area is great. However, the Minister has rushed the process. I am advised that Mr Walker was given only five weeks in which to deliver his report—a relatively short amount of time—and that due to an administrative error a number of the bodies that were to be consulted and that made submissions were given less time, approximately three weeks, to make their submissions. We are considering an issue that is extraordinarily complex within a short amount of time. A wide range of commercial interests have made enormous monetary investments in this park, which is not the case with the more natural national parks. Alarm bells should be ringing.

The bill does not spell out any of the structure mentioned in the Minister's second reading speech. We have to take what the Minister said at face value because no legislative base verifies what he said. I am happy to accept that what the Minister said in his second reading speech is what he wants to happen. However, the bill is weak because the structure has not been spelt out. One can only presume that the Government thought it would take longer to prepare the bill if it were done properly, accountably and transparently. The bill gives sweeping powers to the department and to the Minister, which is always a worry. We will need to look very carefully at the outcome of this legislation.

I seek an assurance from the Minister that Parliament will be informed of the progress of this legislation, as the matters mentioned in the second reading speech are worked through, so that the process of developing the regional environmental plan is transparent. I seek an assurance that all stakeholders will be represented in the preparation of that regional environmental plan, that an advisory council will be established and meet regularly, and that there will be constant feedback to the community and to the stakeholder groups that represent interests across Kosciuszko. The community should feel that it owns the regional environmental plan; it should be comfortable with it. The plan should guarantee ready, equitable, economical and practical access to the widest range of people in the community for generations to come.

Although skiing is a relatively expensive pastime, the way it is currently structured at Kosciuszko allows people to go to the resorts and have a ski holiday at a relatively low cost. There is always a danger that that affordability will be eroded, that the resorts will bring in higher paying people and cream off a greater monetary return. However, access to the ski fields is a right. The ski fields are within a national park. National parks are parks of the people. In this case, principal access to the national park is well and truly imbedded not only in previous legislation but also in the tradition of the Kosciuszko National Park. It is a park for the people; it is for people to use. That must be retained at all costs. That is an obligation on the Government and on the legislation. I seek those assurances from the Minister.

Dr REFSHAUGE (Marrickville—Deputy Premier, Minister for Planning, Minister for Aboriginal Affairs, and Minister for Housing) [3.55 p.m.], in reply: I thank honourable members for their contributions to this debate. The bill will deliver great improvements to the way we plan and manage ski resorts in Kosciuszko National Park. It implements the report by Brett Walker, SC, following the Thredbo landslide. It ensures that the planning framework is in place to implement the Government's reforms. The bill is enabling legislation. The issues of detail raised by members of the Opposition— apparently the Greens will raise similar issues—such as defining "ski resorts" are most appropriately dealt with in the State environmental planning policy [SEPP] and the regional environmental plan [REP].

The package of reforms contained in the bill, its accompanying regulations and the SEPP will mean that professional planning staff within Planning New South Wales will be responsible for making recommendations to the Minister for Planning concerning developments proposed within the ski resorts. The reforms will free up the National Parks and Wildlife Service to devote itself to the management of the park. It will mean a clearer delineation of roles for both agencies and will ensure that the right people are responsible for the right areas. Introduction of these measures will mean that planning and development decisions relating to ski resorts within the Kosciuszko National Park will be governed by the provisions of part 4 of the Environmental Planning and Assessment Act and accompanying regulations, in the same way as they are elsewhere in New South Wales.

The planning regime that we are putting in place for ski resorts will be rigorous and transparent. The bill will allow us to get on with the job of putting in place an interim State environmental planning policy and a regional environmental plan. These plans will balance and conserve the exceptional natural environment of the Kosciuszko National Park, with a significant tourist industry that is located in the ski resorts. The Government recognises the State and regional importance of the ski resort industry to the State's economy. We also firmly acknowledge the highly sensitive and fragile alpine environment within which the resorts are located. Planning New South Wales will work closely with the National Parks and Wildlife Service to uphold the Government's longstanding commitment to the protection of the natural environment and to ensure development is carried out in an ecologically sustainable manner. The bill will allow us to get on with the job of putting in place a proper planning framework for ski resorts.

An office of the department will be established in Jindabyne—this work will not be carried out from head office in Sydney. Therefore, we will be able to maintain that level of localism that has been so important. The suggestions by the honourable member for Hawkesbury that we should do it differently to what was suggested by Bret Walker, SC, are taken on board. The reality is that the Government has made a decision and will follow the recommendations of Brett Walker. We believe that is the right way to go. I also take up the offer of the honourable member for Hawkesbury to make further inquiries, and I will pass that on to the Government if it sees fit to employ his services. I am delighted that he believes that the REP is a good idea and that the SEPP has some merit.

There will be community consultation. If the honourable member for Hawkesbury or anyone else— particularly the local member—has any ideas on how that consultation can be better carried out I will take them

on board. We will ensure that the community's interests are looked after. We will consider the issues raised by the honourable member for Hawkesbury. An advisory committee will comprise stakeholders with the interests mentioned by the honourable member for Hawkesbury. We want them to be involved. We want them to be part of the decision-making process and to provide the best information to the Government. We want to work with the community in this regard. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

FISHERIES MANAGEMENT AMENDMENT BILL

In Committee

Consideration of the Legislative Council's amendments.

Schedule of amendments referred to in the message of 6 December

No. 1 Page 5, Schedule 1 [8], lines 21-29. Omit all the words on those lines.

No. 2 Page 14, Schedule 1 [29], proposed section 221IA. Insert after line 26:

- (4) Before making an order, the Minister must provide:
 - (a) the Fisheries Scientific Committee, and
 - (b) any advisory council established under section 229 that, in the opinion of the Minister, has an interest in the proposed order,

with a copy of the proposed order, and must invite the Committee and any such council to provide advice, within such period as the Minister may specify (being a period of not less than 30 days), on the proposed order.

No. 3 Page 15, Schedule 1 [29], proposed section 221ID. Insert after line 16:

- (2) For the purposes of that public consultation procedure, a copy of the species impact statement and a copy of any advice received by the Minister under section 221IA is to be exhibited with the proposed order as provided by section 284.

No. 4 Page 15, Schedule 1 [29], proposed section 221IE. Insert after line 21:

- (b) any advice of the Fisheries Scientific Committee, and any advice of any advisory council established under section 229 that, in the opinion of the Minister, has an interest in the proposed order, received under section 221IA,

No. 5 Page 17, Schedule 1 [29]. Insert after line 10:

221IK Transitional limitation on making orders relating to salt water fish

- (1) Despite any other provision of this Act, the Minister may not make an order or interim order under this Division in respect of an activity that may result in harm to a salt water fish species, or damage to the habitat of such a species, unless the order is expressly permitted by a regulation made for the purposes of this section.
- (2) This section ceases to have effect on 1 January 2003.

Legislative Council's amendments agreed to on motion by Dr Refshauge.

Resolution reported from Committee and report adopted.

Message sent to the Legislative Council advising it of the resolution.

BILLS RETURNED

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

Road Transport Legislation Amendment (Heavy Vehicle Registration Charges and Motor Vehicle Tax) Bill

SEASONAL FELICITATIONS

Mr WHELAN (Strathfield) [4.02 p.m.], by leave: I move:

That this House take note of Christmas felicitations.

As Leader of the House, I have the pleasant task of extending felicitations to the members and staff who have worked so hard in this place throughout the year. Christmas is a well-earned chance to relax with family and friends, to take stock of the past and to prepare for the future, and, as many honourable members are doing, to attend school annual days and other functions. Although our long hours and late nights have kept us from our families and home duties, they have enabled us to deliver some remarkable achievements for the people of this State. The introduction of new anti-gang and drug house laws will give police additional powers to make our communities safer, and new gang-rape laws have increased the maximum sentence for this crime from 20 years to life imprisonment.

The Police Service (Complaints) Act is streamlining the complaints system to deter vexatious complainants. New legislation for drug detection dogs will ensure that appropriate protocols are in place for the use of sniffer dogs to detect drug couriers and dealers. The WorkCover legislation will give injured workers an additional \$90 million in benefits. Under the State's landmark DNA laws introduced last year, more than 7,000 serious offender prisoners have now been DNA tested, and police have already had remarkable results matching some of those samples to DNA found at unsolved crime scenes. This illustrates perfectly the value of DNA laws in solving crime and freeing those wrongly accused or suspected of committing an offence. It is a great step forward for community safety in New South Wales and a great step forward by police dealing with recidivist offenders.

In my final year as Minister for Police I extend my heartfelt congratulations to the officers of the New South Wales Police Service, who have worked hard and professionally throughout 2001. Policing is a tough profession and is made even tougher when allegations of corruption and criminality by fellow colleagues, albeit a small percentage, are aired in public forums such as the Police Integrity Commission's current Florida hearings. To the majority of hardworking police I say: Keep up the good work. You should be extremely proud of the job you do. You should be equally proud that your fellow officers have had the guts and determination to expose corruption in all forms, no matter how painful or tough the consequences. The success of the three-year Police Service investigation which led to these hearings is proof positive that the Police Service has long moved on from the corruption-ridden days of the past.

Policing remains a challenging and dangerous job. In January this year Senior Constable James Affleck was tragically killed while on duty. I offer my sincere condolences to his family, particularly his wife, Patricia. On National Police Remembrance Day we again paid tribute to all police officers Australia-wide who lost their lives protecting communities across the nation. This year we also paid special tribute to the hundreds of police and emergency workers who died in New York and Washington in the aftermath of the world-shattering terrorist attacks on 11 September. Those events changed the world as we knew it. We are still recovering and still have a long way to go. Along with all other Australians, I grieved for those who lost their loved ones. Inevitably, tragedies bring out the best in human nature—and such was the case in America, where we witnessed an extraordinary display of selfless bravery by thousands of professionals and volunteers who pitched in and did their bit to clean up in the dreadful dangerous aftermath, and who continue to do so.

Closer to home, I especially thank Commissioner Peter Ryan for another outstanding year of leadership of the New South Wales Police Service. I have enjoyed immensely my time as Minister working with him to reform the Police Service. I thank him and his family, and I wish him continued success. As I retire as Minister I congratulate my successor and wish him well. I put on the record my great estimation of others who have worked hard for reform: Philip Bradley of the New South Wales Crime Commission; Jim Sage and Judge Urquhart of the Police Integrity Commission, and Terry Griffith, the newly appointed Police Integrity Commissioner; Les Tree of the New South Wales Police Ministry; Andrew Scipione of Internal Affairs; Deputy Commissioners Ken Moroney and Peter Walsh; Assistant Commissioners Clive Small; Chris Evans; Dick Adams—to whom I wish a speedy recovery—local area commanders Frank Hansen, Peter Parsons, Dave Madden, Dan Dillon, Bruce Crouch, Rod Harvey, now retired; Warren Fletcher, Terry Andrews and Allan Wilson; and those in the Endeavour and Ashfield areas who looked after my constituents in Strathfield. I congratulate superintendents Bob Inkster and Nick Kaldas for what has been a momentous year for the Police Service.

Sadly, there have been several passings this year in the House, including former members the Hon. William Crabtree, Tony Johnson and Barry Morris. Sybil Sinclair, who served in the Parliamentary Library for

23 years, recently lost her battle with cancer. I express my condolences to their families. Our prayers and thoughts are with their families during the holiday season. As Leader of the House I have a great many people to thank on behalf of honourable members. Mr Speaker, you have presided with a firm hand and kept the House focused on its proper business. Thank you once again, and I wish you and Maureen and your staff a merry Christmas. Thanks must be extended to the Deputy-Speaker, the honourable member for Maitland, and the Chairman of Committees, the honourable member for Wallsend.

I am sure honourable members will join me in thanking the Parliamentary Secretaries—the honourable members representing the electorates of Newcastle, Cabramatta, Canterbury, Wyong, Wollongong, Heathcote and Bankstown—for their dedicated assistance. This House runs efficiently thanks to the work of the Whips, both Government and Opposition, and I extend to them the thanks of the House and compliments of the season. The Government Whips, the honourable member for Rockdale and the honourable member for Londonderry, deserve our gratitude for their hard work during the year. The House runs very efficiently thanks to the work of Jan Clifford in the Whips' office, and I extend my appreciation to her.

The Opposition Whips, the honourable member for Bega and the honourable member for Coffs Harbour, have worked long hours courteously and co-operatively during the year, and I wish them a restful holiday. Felicitations also to the manager of Opposition business, the honourable member for Gosford, who I know from experience has a very tough job—and I know it only too well! I take this opportunity to thank the many public servants who have made our jobs easier during the past year, including the Ministry for Police. I extend my appreciation to the Parliamentary Counsel, Don Colagiuri, and his staff for another year of valuable service. He and his staff deserve our thanks for their dedication and adherence to deadlines, no matter how daunting. I also thank Denis Murphy the former Parliamentary Counsel, for all his assistance, and I wish him well in his retirement.

I extend my thanks to the Editor of Debates, Judith Somogyi, the Deputy Editor, Mark Faulkner, and the Hansard staff. They worked long hours and again managed to turn ordinary commentary into great speeches. I thank them for their accurate recording of the deliberations of this House, and for their commitment and dedication to working long hours. This year the House sat on Melbourne Cup Day. Whilst we could not enjoy the day as much as we would have liked, a record should be made of the Hansard hat parade. Members of Hansard made a personal choice of hats, we conducted a ballot, and I thought the purple hat won.

I also owe thanks to the staff of the Parliamentary Library, who, without fear or favour, prepare advice for members of all political persuasions. Rob Brian and his team provide high-level research for members on topics as wide-ranging as the deliberations of the House. I know I speak for all honourable members in saying that the New South Wales Parliament has a first-class library system, and that is because of the professionalism and dedication of the Library staff.

Gratitude must be extended to Robert Walker and the staff of Building Services, and Nigel Mulvey and Security Services, who have provided a safe environment for members, staff and visitors. Ali Shariat and the information technology team have also continually supplied prompt and efficient service for all staff in the Parliament. I gratefully acknowledge the efforts of David Draper and his staff in Food and Beverage Services for providing a high standard of sustenance to members, staff and guests. Management of the Parliament's finances is a vital and challenging role, and that task is ably managed by the Financial Controller, Greg McGill, and his staff. Thanks also go to Merv Sheather, the Serjeant-at-Arms, and the Deputy Serjeant-at-Arms, Greg Kelly, and their staff.

We have had another year of excellent service from the Clerk of the Legislative Assembly, Russell Grove, for which he deserves congratulations. On behalf of all members I extend congratulations and thanks to Ronda Miller, Leslie Gönye and Mark Swinson. Thanks to the Clerk for his professionalism in providing advice to members of this Chamber without fear or favour. I take this opportunity to extend special thanks to Patricia Broderick, and to the staff in the Legislative Assembly Procedure Office: Jeff Page, Jennifer Lamont, Gary O'Rourke, Cheryl Samuels, John Hatfield, Rebecca Cartwright, Cathy Nunn and Kylie Rudd. All the staff in the Bills and Papers Office have done a fantastic job. Thank you for the courteous way in which you have looked after members and dealt with their many difficult requests. Your unfailing commitment to your job is a great credit to each of you. The staff of the Legislative Assembly are an unfailingly professional and helpful group.

I acknowledge the work of the Cabinet Office under the direction of Roger Wilkins. Our thanks also go to the staff of the Cabinet Secretariat. I extend special thanks to all my ministerial staff, who once again put in a hard year's work for me as Minister. Elise Gale deserves special mention for her dedicated assistance to me in my duties as Leader of the House. I note the acknowledgment of the honourable member for Bega. Elise

provided a great deal of assistance to all members of this House, and I wish her well in her new role in the office of the Minister for Health. Elise left me to work for the Minister for Health on the Friday prior to my resignation as Minister for Police. On the following Monday she rang me. She was crying and I told her not to worry, that she would soon be back in her former role, because Craig Knowles was going to become Leader of the House. She was not impressed at all.

I could not have wished for a better team of workers, and as I retire I offer profound thanks to them all and wish them well as they further their careers. Special thanks go to Cathy, my personal assistant, and Davina, who has succeeded Elise. I know all members join me in paying tribute to those two young ladies who work for me in my office. I am pleased to have retained their services to assist me as I continue in my role as Leader of the House. To those who have departed—Jeanette, Sandra, Cassandra, Holly, Kellie-Jane, Dominique, Rosemary, Jocelyn, Lyn, Eamonn, Rod, Therese, and Bob Pullar—I wish you a fabulous Christmas and all the best for 2002. I extend thanks and season's felicitations to my hardworking electorate staff, Bereneice Kelly and Seija Wolk.

It has been a momentous year. The success of all our efforts is a credit to the dedication of the hardworking public servants and spirited community of New South Wales. I take this opportunity to wish everyone in Parliament the blessings of the season and a well-deserved rest. Finally, to every member of my staff, both current and former, who has worked so hard during the past seven and a half years, I say: You have made a difference. Be proud of what you have achieved. I take this opportunity to wish all members of Parliament a very happy and holy Christmas. It has been an interesting year. I assure the House that I will be here next year. Please God, you will all be here to join me.

Mrs CHIKAROVSKI (Lane Cove—Leader of the Opposition) [4.14 p.m.]: In speaking to this motion I want to acknowledge and thank the many members of staff whom the Leader of the House has thanked. I do not propose to go through the list of names, but I want to make a few comments. First, as the Leader of the House said, this has been an interesting year. However, in some ways it has been a very sad year. The events of 11 September are still in all our minds. It is one of those years when we will look back and ask, "Where were we at that particular moment in time?" Many will remember the year with great sadness, having lost friends or loved ones in that terrible tragedy. A photograph in today's newspaper of a little two-year-old girl in New York being presented with the medal for her mother, a police officer who was killed in that terrible tragedy in New York, makes one realise that the tragedy will affect many people for many years to come.

It has been an interesting year for the Parliament of New South Wales. This was the year that cowboys and Indians came to this Parliament. Members may ask me what I mean by that. We certainly had a gun and an Indian, so I figured that was as close as we could possibly get to cowboys and Indians. This was the year that John Aquilina made his famous statement in this House about that poor young man involved in the Cecil Hills High School incident. Then someone went downstairs—this is where the Indian part comes in—and made the allegation about a gun. That is the reason we no longer have John Aquilina as the Minister for Education and Training. He has been shifted down the ranks.

Mr Maguire: He's gone to water.

Mrs CHIKAROVSKI: Absolutely. As the honourable member for Wagga Wagga said, John Aquilina has gone to water. We also saw the demise of the Leader of the House as Minister for Police. The resignation of Mr Whelan came as no surprise to members on this side of the House. I suppose the only thing we were a little surprised about was the elevation of Mr Costa. While it might have been a surprise to us, it was something else to the members of the Labor Party, particularly those who sit on the back bench. According to the Premier, the reason Mr Costa got the job was that there was no-one with any talent on the back bench. I am sure that might have come as a surprise to a few ambitious people on the other side of the House. We will watch with interest what happens with Mr Costa during the next few months—and, indeed, what happens to some others. Next year when we offer felicitations, we might have to say farewell to a few other Ministers. Perhaps the Minister for Community Services might not be here next year as a Minister.

Mrs Lo Po': You wish!

Mrs CHIKAROVSKI: We will see. We are making these comments in good cheer. This year there was also the Auburn by-election. That was an outstanding result for the Liberal Party and the Coalition. We wanted it to be a wake-up call to the Premier, but I am still a little anxious that he is not paying attention to the people of New South Wales. He is doing a lot of talk, but he is not delivering a lot, particularly on the key issue

of law and order. In a political sense, the highlight of the year for us on this side of the House was the re-election of the Howard Government. It was an absolutely outstanding election result for this country. Every member on this side of the House worked hard to ensure that result, and we are very proud of it. We look forward to achieving another great by-election result this weekend. We have our fingers crossed that we can win the seat of Tamworth, because it is time that Tamworth was in National Party hands again. We wish our colleague the Leader of the National Party good luck in that election.

We need to thank a number of people. Mr Speaker, I thank you as the Speaker of the Legislative Assembly. I have thought long and hard about what I would say in relation to this. I was going to seek some advice from my deputy leader, but since you threw him out yesterday that has not been possible. Then I thought I might ask some of my colleagues who have been known to attract your attention. I thought I might ask the honourable member for Wakehurst, who has certainly attracted your attention this year. I thought I might ask the honourable member for Baulkham Hills, who, through no fault of his own, apparently also attracted a lot of your attention this year. However, I decided that I should stick to what I really thought. Mr Speaker, I acknowledge you as the Speaker of the House, and I thank you for the work you have done in ensuring that our electorate offices are well looked after.

I also thank the Clerk of the Legislative Assembly, Russell Grove, who does a great job for all of us. We know that when we need to speak to you, you give us advice that is clearly thought through. It is most appreciated. Your advice is also impartial and I thank you very much for your help. My thanks go also to the other Clerks who assist you. I should also thank the Leader of the House, Mr Whelan. The Leader of the House is now his only role and he still relishes it. He still manages to run the House the way he has always run it. That is why the House, rather than rising last week, is still sitting this week. It is typical of this place that it will keep going on and on.

I give particular thanks to the manager of Opposition business. The honourable member for Gosford gets an honourable mention for the tolerance he shows in performing his tasks and for the patience he displays, especially in dealing with the Leader of the House. I congratulate him. I express the thanks of the members of the Opposition to the Whips on both sides of the Chamber. The Opposition Whips are well known for their rigour in applying the rules of the House to their colleagues and for making sure they turn up on time. My colleagues are reaching the stage where, if they get one more reminder about pagers, they will scream. Having said that, I acknowledge that that is the role of the Whips. The Opposition is grateful to the honourable member for Bega, Russell Smith, and to the honourable member for Coffs Harbour, Andrew Fraser, for all the work they do. They have a difficult job. No-one likes to be the bullyboy, but they perform their tasks very well. Well done! On behalf of the Opposition I thank the parliamentary staff. Hansard deserves a special mention because, in the uproar that happens in this place, they do a spectacular job of trying to work out what we have said.

Mr Hazzard: And they make it sound sensible.

Mrs CHIKAROVSKI: And they make it sound sensible. I thank Hansard very much. We do appreciate the fact that it is often difficult in this Chamber to know what is going on. The fact that you get it down and get it so right is very gratifying to us. Thank you very much. I thank also David Draper and the catering staff. Many people come into the Parliament. Country members in particular spend a great deal of time here. We are grateful to David Draper for providing a varied menu, looking after our needs, and being available to provide for all the functions that are held here. The parliamentary attendants are unfailingly courteous, positive and helpful to us. I can say with absolutely no hesitation that they always know who I am. I appreciate that. They do a good job in looking after all of us.

I thank also the staff of the Legislative Assembly Procedure Office for all the hard work they do and for the care they provide to us. The Opposition probably uses the Parliamentary Library in many more ways than the Government. We have fewer resources than the Government and we rely on the Parliamentary Library. I offer our thanks to the library staff. The security staff have had a tough year. Security in this place is obviously a matter of concern to all honourable members, and this year security has been beefed up. We know it is a tough job, and thank all the members of the security staff.

I thank all my colleagues in the Opposition. We have had a big year in Parliament. A great deal of time has been spent tackling issues and taking the Government to task. I am very grateful to all members of the Liberal and National parties for the work that they have done. I am sure they will thank their own individual staff members personally. I am particularly grateful for the dedication of the young members of our staff who attend Parliament every day. We do not pay them a lot of money—not anywhere near what they are worth—but

we do appreciate the work that they do for us. Without them, we would not look as good as we do and we would not be able to do the job we do.

I wish to direct some comments to people I particularly want to thank, but I must do so very briefly. First I thank Sue Sinclair, who works in my office. She carries an enormous burden because of the number of times she is in the office on her own. I thank her and all the volunteers who come into my office to help her. I thank also my administrative staff—Bridget, Penny and Robyn. I also thank Jim, who heads up research and who works so well with Kevin. I also thank Luis, my chief of staff. In the absence of the Deputy Leader of the Opposition I thank Dorothy, who is the secretary to the Deputy Leader of the Opposition. I thank also the media staff—Andrew, Caroline, Sandy and Jenny, who is working with all of us.

Today I want to extend a particular vote of thanks. While everyone who works with the Opposition works well, my particular thanks go to Nicola Feltis, who has worked with me on and off for the past 10 years. Nicola heads the media unit in my office. She is a person who has had to go downstairs, day in and day out, to deal with our friends in the gallery—and they are our friends. She has been with me for a long, long time and has worked with me in difficult circumstances—in Government, in Opposition, when I was a backbencher, when I was a shadow Minister and while I have been the Leader of the Opposition. She is taking maternity leave and she will be away for 12 months.

Mr Hazzard: What?

Mrs CHIKAROVSKI: I know it is a terrible, but she is having twins and is taking some time off. That is not a bad idea. She thinks she has had a tough job being the head of the media unit for the Leader of the Opposition. Having twins will be a whole new experience. I am taking the names of all the people who are volunteering to babysit. They have all told me they will be happy to do so. They are all well experienced. The honourable member for Wakehurst has an exceptional relationship with children, and the honourable member for North Shore has just said that she will babysit. We are all going to do our best to look after her. Nicola, from the bottom of my heart, I thank you for all the work you have done for me over so many years. I wish Nicola the most wonderful time with the twins. I know that she and Hugh will absolutely adore them and will make fantastic parents. Those two babies will be cherished and much loved. We will do all we can to help out. I say to Nicola: Have a wonderful time, I hope the births are quick and easy and I hope that you enjoy new life as a mum, which begins now.

To all other people in Parliament House, to all my colleagues and all the staff, I send my personal best wishes for a wonderful Christmas and blessed Christmas, and a safe New Year and prosperous New Year. Most important, from my point of view, as I have said previously to my colleagues, they should make sure they come back renewed and refreshed because from next year onwards we have an enormously busy time ahead of us. In two years time, when we are offering felicitations, we will be on the other side of the Chamber.

Mr SOURIS (Upper Hunter—Leader of the National Party) [4.26 p.m.]: I take pleasure, on behalf of the National Party, in extending Christmas wishes to all members of Parliament and to all staff, parliamentary and political. This is the time of year when we reflect on our progress and take stock of our achievements. It is also the time when we look forward to being with our family and friends during the festive period. In many respects the past year has been eventful, not least because of the terrible events in New York and Washington on 11 September, when we suddenly realised that the world we thought we knew had changed forever. Those events succeeded in bringing into sharper focus the meaning of Christmas: the celebration of the birth of Christ in the spirit of peace and good will. This is also a time when we pray for the safe return of our service men and women who are now in dangerous parts of the world as part of the massive alliance which is waging a war against terrorism. Our thoughts also extend to those Australians who are part of the peacekeeping contingent in Timor and who will spend Christmas apart from their families.

Mr Speaker, I extend to you our very best wishes and our compliments on your efforts to maintain order in this robust Chamber. To my National Party members, their spouses, their families and their staff, I extend my very best personal wishes. I extend my appreciation to my Deputy Leader, John Turner, and to my party Whip, Andrew Fraser, for their support and assistance. I extend that same appreciation to each of my shadow Ministers, the Hon. Jennifer Gardiner; the Deputy Leader of the Opposition in the upper House, the Hon. Duncan Gay; the honourable member for Lachlan, Ian Armstrong; the honourable member for Ballina, Don Page; the honourable member for Port Macquarie, Rob Oakeshott; and the honourable member for Barwon, Ian Slack-Smith for the valuable part they have played and will play in the Coalition's campaign to win government in 2003.

I extend my party's best wishes to the Leader of the Opposition, Kerry Chikarovski, to members of the Liberal Party's parliamentary team and to their staff members. I acknowledge the Coalition's unity, discipline and sense of purpose, which has prevailed since the most recent State election and which continues to prevail. Those traits continue to provide us with a strength of purpose that the Coalition is known for, and by which it is characterised. I extend our best wishes to the Speaker's staff, to the Leader of the House, to members of the Government and to the New South Wales public service.

I extend the National Party's gratitude to the entire parliamentary staff, including the Hansard staff, the library staff, the Clerks—Russell Grove, who is celebrating his 30 years in this Parliament—to the other Clerks, the catering staff, the cleaning staff, the administrative staff and the accounts staff. I congratulate all of them on their abilities and on the fact that they make this system work. The press gallery deserves its own special mention. Politicians and media operators are partners in the daily routine of State politics as Government and Opposition teams go about the business of getting their message across. That the message comes out the other end with many differing interpretations is something politicians philosophically accept as being the product of an unknown higher order.

I extend my very best wishes and appreciation to my personal staff: Susan Foy, who will retire next year, Regina McCulla, Tanya Cleary, Kate Gisborne, Bryce Osmond, Scott McFarlane, Jared Doyle and to our Parliamentary stenographer, Theodora Margetis. To my electorate staff—Pam, Suzanne and Jackie—I extend my personal best wishes and my appreciation for their dedication and the valuable role they perform as vital links with the people of the Upper Hunter electorate. As Leader of the National Party I am proud to extend my party's best wishes to all people in rural and regional New South Wales to whom the National Party is wholly dedicated to ensuring a fair share of resources, improved health care, education, law and order and a productive future. I particularly urge people who are preparing for a carefree and happy Christmas celebration to pause and think of those less fortunate who may be lonely and without family support. Merry Christmas to all and I look forward to seeing everybody renewed in their vigour here again next year.

Mr HAZZARD (Wakehurst) [4.30 p.m.]: I want to reflect briefly on the contribution of the many people who run this Parliament. I particularly thank the Clerks, who provide such balanced advice. I am looking forward to the one day when the Clerk will leap up and stop the Speaker, who will then be thrown out. That has not yet happened. I thank the staff in dining room—David, Maureen and all the others who assist night after night, day after day—for making sure that members who spend long hours here and their guests are given excellent service. I thank the Hansard staff, who do an excellent job, as I said to the Leader of the Opposition when she made her speech, of making sense of some of the rather odd comments that are sometimes made in this Chamber. They always make them appear sensible when read in print, and that shows their excellent standard.

Mrs Lo Po': It surprises you, doesn't it?

Mr HAZZARD: It does surprise me. I thank the Hansard staff for making a big difference, because sometimes it is hard to put thoughts together when speaking under pressure in this Chamber. Sometimes we are repetitive but the Hansard staff always do an excellent and professional job of making sure that what we say looks good in print. I particularly thank the staff of my electorate office and my policy assistant in Parliament House. It never ceases to amaze me that people who visit me as shadow Minister for Community Services assume that I have a staff of 10 or 20 to match the enormous number of staff that the Minister for Community Services has at her disposal. It is unfair and, I believe, a breach of the Legislature's obligation to provide a safe working place to have two electorate staff doing all the work of a shadow Minister. Everybody knows that shadow Ministers need to have one of their staff working in Parliament House, and that effectively means that one staff member is left in the electorate office at all times.

I want to give an example of that. My long-suffering electorate secretary, who had the pleasure of having her photograph taken with Mr Speaker only last week for her 10-year anniversary, came back to the office yesterday after having had two weeks off to have a medical procedure for which she had been waiting for quite a while. She fell over in the office and twisted her ankle. With no back-up staff to assist her she had to stay in the office with those injuries. Indeed, she is in the office again today. I am sure there is an earnest desire by whoever is in government to keep Opposition staff to an absolute minimum so that the Government cannot be properly tested. Whilst that may be an irrepressible urge of whichever party is in government, we now live in an age when we have to meet occupational health and safety requirements. To have only one, and sometimes two, electorate office staff can be dangerous. On occasions people who are upset about their dealings with government departments come to see the electorate office staff, and having only one officer there is unsatisfactory.

Christmas is a good time for the Government to reflect upon that matter, although I do not expect any major changes. The Legislature has an obligation to make sure that electorate office staff work in a safe environment for the whole year. I encourage the Government, the Parliament and Treasury particularly—I expect Treasury is the biggest problem—to provide a second position for electorate offices. To be an effective opposition a shadow Minister needs to have at least one staff member helping at Parliament House, and there should be at least two people in the electorate office. I thank Noelene Barrell to whom I have just referred, who has been working with me in my electorate office for more than 10 years. Some would say that is a longer period than anyone should have to suffer my presence—I presume Mr Speaker would agree—but the fact is that she has been a fantastic electorate officer. Many people in the northern beaches owe Noelene a great deal of thanks because she never says "No" to anybody who comes into the office and needs help.

The Wakehurst electorate has one of the largest numbers of public housing units of any Liberal-held electorate in the State. The tenants of that public housing and their relationship with the Department of Housing are the subject of constant concerns. People who are in terrible situations and in urgent need of housing are constantly coming into the electorate office. Noelene always helps. She spends hours making sure their applications are completed correctly because many of them do not have the experience or training to meet bureaucratic requirements. I also thank Katherine McFarlane, who joined me only four months ago, having previously worked for the crossbenchers. She has an excellent knowledge of corrective services and community services issues. I am sure the Minister for Community Services is aware of the excellent work of my new staff member.

Mrs Lo Po': I think you should keep her. We like having her.

Mr HAZZARD: The Minister thinks she should stay here, and I agree. I thank the Minister for acknowledging that Miss McFarlane is doing a good job.

Mrs Lo Po': She is doing a good job for us.

Mr HAZZARD: The Minister's interjection reminds me that Miss McFarlane asked me to remind the Minister during Christmas felicitations that the Child Death Review Team report, about which the Minister is never keen to talk, recommended that the Minister should take serious account of the fact that more staff are needed in offices of the Department of Community Services during Christmas. As a Christmas present to the children of New South Wales, I ask the Minister to accept that recommendation. The Leader of the House has returned to the Chamber and is keen to have the debate concluded. I thank the various other members of Parliament with whom I have worked on both sides of the House in the past 12 months, particularly my shadow Cabinet colleagues and also my backbench colleagues, who do an excellent job focussing on the Government's shortcomings. They will be a significant team and they will ensure that in March 2003 the Coalition, not the Labor Party, is sitting on the Treasury benches. I also wish Mr Speaker and his staff a very happy Christmas.

Mr SPEAKER: I take this opportunity to extend my warmest wishes to the Premier, the Leader of the Opposition, members of the Government and members of the Opposition—and by that I mean Independent members because under the standing orders they are counted in the Opposition. I acknowledge the efforts of the Leader of the House and the manager of Opposition business, the Whips and those who have made my job in this Chamber ever so much easier. We have had seven years together, during which time we have built up a fairly close relationship that has certainly facilitated the smooth running of this House, except in question time when I receive no help from anyone. Earlier this week in the Speaker's Dining Room I discussed with a number of members some of the difficulties experienced in the late hours. It is those sorts of relationships that one builds up over time that stay with us forever. That is why I always take the opportunity at this time to thank those people.

I join with the Leader of the House and the honourable member for Gosford in commending the staff, who have done outstanding work over the past 12 months. Those staff members have been well documented. However, as Speaker, I commend the staff of the Parliament for the way in which they have carried out what were often very difficult tasks during the past 12 months. In particular I mention Hansard, who are still working, the front of House staff and the Chamber staff. Lately during this sitting period we have sat through many lunch and dinner breaks. In those periods members could go out and have something to eat, but Hansard and other staff have had to continue working. I commend them and I wish them the very best. They have done it with alacrity and there has never been a complaint.

I extend my warmest thanks to my personal staff: my former chief of staff, Christian, my current chief of staff, Craig, Biserka, Joanne, Dianne, Joseph, Camille, Carol, Jenny and Jason. I wish them and their families a merry Christmas and a happy new year. Finally, I thank Russell Grove, Mark Swinson, Les Gönye and Ronda Miller, who have not only kept the House ticking over but kept me on my mettle.

More importantly, on behalf of all the staff I wish all members a very merry Christmas and all the best for the new year. We shall return next year refreshed. Hopefully, we will be able to enjoy the same relationships that have developed in this Chamber over the past 12 months. It is a tough Chamber, but I note that when members leave it they always conduct themselves in a gentlemanly or ladylike manner. I appreciate the respect they have shown outside the Chamber. Once again, I wish everyone a merry Christmas and a happy new year.

Motion agreed to.

BUSINESS OF THE HOUSE

Routine of Business: Suspension of Standing and Sessional Orders

Motion by Mr Whelan agreed to:

That standing and sessional orders be suspended to provide for the consideration of private members' statements forthwith, followed by the introduction and progress up to and including the Minister's second reading speech of the Property, Stock and Business Agents Bill.

PRIVATE MEMBERS' STATEMENTS

COROWA HEAD OF STATE CONFERENCE

Mr GLACHAN (Albury) [4.43 p.m.]: Mr Speaker, I noted your thanks to those who have made your job easier. I take those remarks as personal thanks from you because I have always endeavoured to behave with a quiet dignity.

Mr SPEAKER: And you have.

Mr GLACHAN: So I have made your job easier?

Mr SPEAKER: Yes. However, as I recall, I had to name you on one occasion.

Mr GLACHAN: That was by accident. Honourable members, I am sure, would realise that late in the nineteenth century there were moves towards Federation of the States of Australia, but by 1893 the movement seemed to have lost some of its momentum. At that time a conference was held at Corowa—which is now within my electorate of Albury. It was attended by 72 delegates and they carried a motion moved by Dr John Quick, a member of the Victorian Parliament. That resolution got Federation back on track, and history now records that Federation took place in 1901.

Mindful of arguments revolving around the position of Australia's head of State, a former Governor of Victoria, the Hon. Richard McGarvie, and his friend Mr Jack Hammond approached the Corowa Council to seek assistance for the staging of a people's conference in Corowa to discuss the head of State for Australia. Last Saturday and Sunday 420 people from all over Australia gathered at the RSL club in Corowa to revisit that conference. Some very distinguished people were present. The patron of the conference was the former Governor General and distinguished Australian, Sir Zelman Cowen, who delivered a wonderful opening address.

The conference was chaired by Mr Barry Jones in a spirit of great humour. I was most impressed with his chairmanship. As well as the Hon. Richard McGarvie, the Hon. Sir Gordon Samuels, a former Governor of New South Wales, was present. A number of Commonwealth, State and Territory members of Parliament attended the conference. Also present were representatives of monarchist organisations, but most of those present were avowed republicans who were there to make their views known in very strong terms.

Some of the things a number of people had to say were right off the track. They dealt with a number of issues that have nothing at all to do with the head of State, republicanism, or anything else for that matter. However, they had something they wanted to say, and they took the opportunity to say it. They were frequently directed by the chairman and assistant chairman to get back on track. Some, I am sorry to say, ignored those directions.

Some 19 proposals were to be considered, and before the conference began a postal vote was taken to determine which of them would be discussed. Five were selected. On Saturday night the proponents of three of

those five proposals got together and the following day they presented what they called the "Royal Hotel proposals"—because they had been discussed at the Royal Hotel. A vote, supervised by an officer of the Victorian State Electoral Office, was taken. The three proposals were considered: one by the Hon. Richard McGarvie, which I personally thought was very well thought out, one by Professor Craven of Western Australia, and the "Royal Hotel proposal", which was an amalgam of three proposals. The latter proposal was accepted, and a group of eminent Australians was appointed to ensure that it proceeds.

The aim of the Hon. Richard McGarvie, who proposed the conference, was that if at some future time the people decide that Australia should become a republic—and he was not saying that that decision would or should be made—he believed that a well-thought-out method of achieving that goal should be put forward. Some people thought that the sole purpose of the conference was to bring about a republic. That was not the case. I was there, and I enjoyed the conference. I think a very good solution has been found.

KEMBLAWARRA PRIMARY SCHOOL

Mr MARKHAM (Wollongong—Parliamentary Secretary) [4.48 p.m.]: On 13 November I had the pleasure of attending Kemblawarra Primary School for the launch of a CD entitled "Kemblawarra Kids". The CD consists of 11 songs about the environment in and around the school, and one track, *Over at the Mish*, was co-written by five young Aboriginal students. Kemblawarra school is one of the smallest schools in the Wollongong district, with approximately 120 students. It is situated across the road from the Commaditchie Aboriginal Mission and Reserve, near Port Kembla. Approximately 30 per cent of its students are Aboriginal children, and it has a high proportion of children from non-English speaking backgrounds, particularly Macedonian children.

The school, the teachers and the community are heavily committed to Aboriginal issues, environmental education, art, music and dance, as well as providing quality education for all children. Earlier this year the principal, Mrs Heather Argerakis, and a teacher, Mr David Lamb, thought it would be a good idea to develop an environmental plan for the school that looked at waste management, beautifying gardens and generally making Kemblawarra school a nice place to go to whilst also providing educational opportunities for children.

David Lamb decided that if students were going to work on gardens and look at local native plant life, there was no-one better qualified to talk to them than people from the Coomaditchie Co-operative. Lorraine Brown from the co-operative, who has been a fountain of knowledge to David and to students, provided a wealth of information on the Coomaditchie environment. As a result of the meeting with Lorraine, David received some great ideas on simple and effective things that could be done at Kemblawarra school, but the kids had to start to understand what was in their local community, and that meant exploring and visiting Coomaditchie reserve.

The school received assistance from Mr Stuart DeLandre of the Mount Kembla Field Studies Centre, who, together with David and other teachers at the school, conducted excursions in and around the lagoon, in which they identified native species and feral animals and generally got a feel for the work that has been done by Landcare, BHP and the Coomaditchie Co-operative. Back at the school, kids from kindergarten to year 6 were having great fun learning about their environment. It was not until BHP contacted the school that the music side of things started to gain momentum. School students were requested to sing at the Revive Our Wetlands project, which I launched at Coomaditchie Lagoon on Sunday 3 June this year.

That project is a unique landmark business and community environmental partnership between BHP Flat Products and Conservation Volunteers Australia. It will see our wetlands preserved for future generations. Lorraine Brown from Coomaditchie Co-operative and Narelle Thomas produced a significant work of art that was unveiled to commemorate the event. Landcare, Rotary and local businesses were also involved in this environmental initiative. The schoolchildren were more than pleased to join in this wonderful community event by singing a few songs. After their performance at the wetlands launch, David Lamb and the Kemblawarra Kids were invited by Mr Ed Lee of Studio Arts Productions in Wollongong to record their original songs.

The idea to use music to reinforce what was being taught, and the hands-on skills being learned in the garden, proved to be quite motivational for everyone at the school. There was about a two-month wait before studio time became available, and in that time David Lamb wrote *Ferals*, a song about the feral plant and animal problem in Australia; *Earth in Danger*, which is about environmental concern and reconciliation; and *Mr Carp*, which relates to a carp problem in Coomaditchie reserve. Mr Lamb also worked with five local Koori kids to write a song that highlighted the fun times and positive side of living in an Aboriginal mission—something that belonged to the kids and made the statement that they were proud of where they lived.

The song *Over at the Mish* was produced and written by local Aboriginal children in conjunction with David Lamb. The Kemblawarra Kids had enough material to produce their own CD over two nerve-racking days. The kids have performed at several functions during the year, including the annual New South Wales Aboriginal council meeting. They are always well received. When it came time to collect the CD, Pat Maloney, an engineer from Studio Arts Productions, suggested that the song *Over at the Mish* be entered in the nationwide songwriters contest—the Musoz Challenge. To everyone's surprise, the song made it to the finals in the indigenous category. Mr Lamb and the five Aboriginal authors attended the awards ceremony and they were overwhelmed when they received the runner-up prize. It was truly a special day for these kids—a day they will never forget.

David Lamb is a dedicated teacher in the public education system. I have known David for a long time and I have had a lot to do with him. He went to school with my oldest son, who is now 38 years of age. David is dedicated in everything that he does. He is an extraordinarily outstanding schoolteacher in the public primary school system. Kemblawarra school should be proud of the songs he helped to write, which were subsequently made into a CD. More importantly, the Kemblawarra community should be proud of that school's achievements.

NEONATAL BABIES HEARING TESTS

Mr J. H. TURNER (Myall Lakes—Deputy Leader of the National Party) [4.53 p.m.]: I refer tonight to matters that were referred to me by Dawn Coleman, Secretary of the Quota International of Taree Inc., which does fine work in testing babies for deafness. That club drew to my attention the need to test or screen Australian babies for deafness and other hearing impairments at the time of their birth. Babies that fall into the high-risk category for hearing impairment are tested at birth but, unfortunately, half of the babies that are born with hearing impairments are not screened. Despite the availability of equipment that enables babies to have their hearing checked before their discharge from hospital, that service is not routinely offered.

The Quota club is keen to see a reversal of that situation. It wants to ensure that there is routine checking of children with a hearing impairment. If this hearing impairment process is commenced before babies are six months old, it will enable them to develop normal range language skills. At present, the average age for identification of hearing impairment in Australia is 2½ years. The long-term consequences of late identification include negative impacts on communication skills, education and employment potential. Universal newborn hearing screening is vital. Deafness is an invisible problem that frequently goes undetected throughout infancy.

The screening of newborn babies is not to be embarked upon lightly. Criteria already exists that defines the feasibility of such screening. Universal hearing testing meets that criteria. Two babies in every 1,000 babies in Australia have a bilateral hearing loss. That figure is significantly higher than the combined total of all other conditions for which babies are routinely and selectively screened. As such, this is obviously a problem that has been identified in the community. If we undertake universal screening we might establish that this problem is worse than it is believed to be. As I said earlier, the first six months of life are crucial in the language development of a child.

Late identification and treatment results in permanent loss of language skills, and cognition is likely to suffer associated impairment. That could have potentially devastating implications for the educational, social and future vocational prospects of our children, with subsequent associated whole-of-life costs. Early diagnosis will enable the early fitting of appropriate amplification and the enrolment of the child and family in an early intervention program of their choice. Intervention before six months of age can improve normal range language skills for most of these children. The cost of screening has been estimated at \$24 to \$43 per baby, which is reasonable in the scheme of things.

It has been pointed out to me that, if we look more realistically at the cost to treat a baby who has been diagnosed, it may well be \$1,200 to \$22,000. A small cost of \$24 to \$43 will enable such intervention, which, in turn, will save a substantial amount in financial, emotional and health terms. Universal hearing screening is evolving in many countries as a standard of care. While the social, emotional and educational rewards in providing such a program cannot be understated, the additional benefit of long-term cost savings must be considered by governments.

American data shows a cumulative cost benefit when the need for intensive intervention and specialised education is avoided. Programs not only pay for themselves over time; they actually demonstrate significant cost savings to the community over as few as 10 years. I congratulate Quota International of Taree and the club movement on this initiative. I hope it will promote this program and that eventually it will become a universal program. Quota International of Taree has been proactive in relation to its charter of caring for deaf people within our society. This is yet another chapter for that club, for which it is to be commended.

CAMPBELLTOWN ELECTORATE STORM DAMAGE

Mr WEST (Campbelltown) [4.58 p.m.]: Monday started like any other summer day. It was a hot day. We were told on the radio that the temperature would be 37 degrees celsius and that humidity would be low. I said to my wife that I expected my Rural Fire Service pager to go off, which would mean I would have to attend a fire. However, I did not expect to be called out for storms. Severe winds hit the Campbelltown area, much of Sydney and other parts of the State. In response to these winds volunteers in Campbelltown and in the State Emergency Service [SES] swung into action. The fire brigade, the SES, the Rural Fire Service and council members were helping residents who experienced problems as a result of these storms. In all, over 600 incidents were reported to the SES—139 needing specialised tree loppers, Integral Energy, or other services, while the remaining 480 were left to volunteers.

That afternoon I received a call to declare Campbelltown a natural disaster area. It was the first such declaration I have been involved in as a local member. What was surprising was that I took the call while I was with the Rural Fire Service responding to a lightning strike. We had just taken a break at the fire ground when I got the call. Although I was unable to tour the electorate and look at many of the sites, we could hear over the radio that trees and power lines were down, that a woman and her baby were trapped in a car, and that houses and other buildings were without roofs. Through all this came the regular call of the State Emergency Service [SES] volunteers and the Rural Fire Service volunteers saying, "Job has been completed," and getting on to the next problem.

I record a special thanks to all the volunteers, especially those from the Illawarra and the South Coast, and the extra crews from the New South Wales Fire Brigades, who came up to Campbelltown to lend a hand. These crews and the local crews worked up to 3.00 a.m. over the past few days, often with only a four-hour break at the most. Many took time off work. When I was speaking with John Goshn, the SES controller for Campbelltown, he was awaiting a signed letter from the director of the SES to give to these volunteers so they could go to their employers and get some remuneration. Even with this letter, many will not be paid, especially those who are self-employed and do this simply to help the community, and I thank them for their efforts.

Recently, Campbelltown got a new radio station, C91.3. While it did the usual radio thing of announcing all the problems, telling people about natural disaster assistance and what telephone numbers to call, it went one step further and cemented its place in the Campbelltown community. It has five utilities for the C91.3 road crews. It rang the SES, offering the five vehicles and the road crews and asking what it could do to assist. Its cars were then in the field at the beck and call of the SES. John tells me that the utilities were used to move essential equipment to units, to move personnel around as they became available or needed a break, and to provide welfare, that is, to take food and drink to the volunteers in the field. They also provided reconnaissance: they enabled senior SES personnel to go out and assess jobs.

I thank Dave Beacham, De Curtis, John Spicer, Emily Smith and Daniella Mileska for their efforts and their enthusiasm in helping the SES clean up after these storms. Their efforts were appreciated, and it is great to see them becoming part of the community. This time Campbelltown was lucky. There were no fatalities and most people are back in their homes. There is always the risk with storms such as these that things can get dangerous. Into these situations we send our SES volunteers with the skills and on-the-job training they have. I thank them for being available to assist Campbelltown and for the efforts they give unhesitatingly every time they are called upon.

MERIGAL DINGO SANCTUARY

Ms SEATON (Southern Highlands) [5.03 p.m.]: Today I want to tell members of this House a little about the Merigal Dingo Sanctuary in Bargo and encourage anyone who has not yet visited it to come along, and also to spread the word to people that the dingo sanctuary is in need of financial support and welcomes any potential volunteers who would like to learn more about dingoes, Australia's native dog. The opportunity is there also to volunteer, which includes everything from looking after these wonderful animals to practical things like building and maintaining runs and taking part in educational programs and tourism programs at the dingo sanctuary.

The sanctuary has been operating for 25 years. It was founded by a wonderful woman called Bereneice Walters, who understood that dingoes were one of the least understood of our native animals. She wanted to make sure she could give refuge to as many dingoes as possible that represented as much as possible the diversity of the gene pool of the species. This really has been her life's work. She has given over the property

she owns and she also acquired the expertise of Dr David Steward from Sydney university, who became a sort of resident, live-in researcher and manager of the place. They have developed an extraordinary collection of dingoes. They rescued some from difficult situations. More than that, it is a place where people can come to see dingoes, to interact with them and to learn about them.

Unfortunately, things are not as certain at the moment as they might be. Mrs Walters is not particularly well, and the volunteers and the society that runs the volunteer aspect of the sanctuary are trying to find a way to make the lease more permanent. The lease expired on 30 November, and at the moment a lot of effort is going into trying to extend it. I congratulate Roma Dix, the chairman of volunteers, and also Janice Eymann for the extraordinary efforts they have made to try to ensure that the dingo sanctuary has a long-term future. I would also like to recognise Margaret Fulton, who is of course well known as one of Australia's greatest cooks and who has made cooking and writing books her life's work. She is also a great enthusiast of the dingo species and she has been a very active patron for a long time.

Every year the volunteers hold something called Dingofest, which I was pleased to be part of. I am honoured now to be one of the patrons of the society. I pay tribute to all volunteers, who do such a great job. In these times when the volunteers are trying to establish a long-term future for the sanctuary, I acknowledge that the Wollondilly tourism group, including Lyn Davey and a lot of other volunteers and people involved in tourism, got together the other day to try to identify the strengths and weaknesses of the sanctuary and its long-term opportunities. They put together a very professional document that I know will provide a very good foundation on which to build and to make sure that the Merigal Dingo Sanctuary has a great future. It is an extraordinary resource that is relatively close to Sydney and very easy to get to from the M5. Schools and groups who want to come from Sydney on a bus trip or perhaps for the weekend can look at our Australian native dog in very accessible and delightful surroundings.

The sanctuary is in a lovely bushland setting. It is possible that the volunteers might seek to purchase other land if current negotiations are not successful, but we have great hopes that they will be. Roma Dix has great hopes of coming up with an idea similar to her idea to secure the future of the Mittagong Playhouse. She basically divided the place up into grids and everybody bought a grid. I will certainly buy one of the \$300 grids to play my part to ensure the sanctuary's long-term future. The volunteers are the backbone of this movement. They feed the animals and walk them. They look after the runs, do maintenance on the runs, and look after visitors who come on the weekends. I hope the Merigal Dingo Sanctuary has a very long and successful future, and I know honourable members join me in that hope.

CESSNOCK CENTRAL BUSINESS DISTRICT

Mr HICKEY (Cessnock) [5.08 p.m.]: Honourable members will be aware that over a period of many years the central business districts [CBDs] of many regional and rural towns deteriorate to the extent that the only way to ensure their future viability is to improve the streetscape and the traffic conditions. The Cessnock CBD is in dire need of development and improvement. Some 20 per cent of the shops in Vincent Street are in a poor state of repair and are currently vacant. Poor shopfront maintenance is compounded by absent landlords who purchase investment properties in the area and allow them to deteriorate to the point where they are no longer viable for lease.

I suspect that this is the product of asset stripping to allow for tax write-offs by unscrupulous investors who have no sense of responsibility to the town or its residents. During my period on Cessnock City Council the condition of Vincent Street and adjoining areas was a constant source of consternation. Council was not in a position to provide funds to improve the streetscape, and the CBD degenerated. In recent times Cessnock business houses have attracted increasing levels of consumer support. That can be attributed to the growth of tourism in the area and an increasing population base.

People have discovered that Cessnock is a great place to live. Along with the increase in confidence in the local economy came interest from large retailers, which have chosen to set up outlets in Cessnock. Cessnock now boasts a diverse variety of supermarkets, department stores and specialty shops. However, the new developments that lie on the western side of Vincent Street placed increasing pressure on the existing shopping strip of Vincent Street. The time came when a push had to be made to develop and improve traffic conditions in Vincent Street, or let it deteriorate further and die an ugly death, just like the traditional shopping strips in many other country towns. As the situation was being debated at the local and State levels it became apparent that the historical route for heavy vehicles on Main Road 220, which includes the main shopping strip of Vincent Street, was presenting major problems and obstructing development of the central business district [CBD].

The resultant noise and traffic management problems make social and business interactions in the area almost impossible. This situation is longstanding. Honourable members will be aware of the importance of the F3 link road to the Cessnock electorate to remove heavy vehicles off Main Road 220. I have mentioned that many times in this House. The people and business houses of Cessnock joined with council to call on the Federal Government to provide funds to enable the State Government to build the F3 link road to remove the trucks from Vincent Street. To date, this request has fallen on deaf ears. The current Federal Government has not made a single statement supporting funding of this important piece of road infrastructure.

During my term as the local member for Cessnock I have made many representations to the Minister for Roads to look at ways of improving the current road infrastructure to accommodate the social and economic needs of a growing and expanding community and economy. The upgrade of the town centre has to make allowances for heavy vehicles using Main Road 220 until the Federal Government provides the funds required to complete the F3 link road. It was heartening for me to discuss the issues with the Minister for Roads, who was very well briefed on the local situation in Cessnock. The Minister agreed that the situation in the Cessnock CBD had become untenable, and the Cessnock electorate had his full support in attempting to devise strategies at a local level to reduce traffic problems and improve the streetscape through Cessnock.

This support came not only in words but also in dollars, in the form of a \$10 million package announced as part of the 2001 budget. Some \$3 million of that funding has been allocated for this year. This funding will be directed through a task force that has been meeting to develop strategies to make the local roads safer and to improve local traffic flow while making the Vincent Street precinct amenable to future development. The task force is made up of representatives from Cessnock City Council and the Roads and Traffic Authority. Its brief is to determine priorities for improvements along the Main Road 220 route through Vincent Street.

The options currently under consideration include intersection upgrades, road safety traffic management improvements and landscaping to improve the visual and social amenity of the area. The upgrade of the CBD will include new pavement for footpaths, which will be in character for future developments; underground power lines, with improvements and upgrades to overhead lighting in Vincent Street; landscaping works in Vincent Street that improve the local community; upgrade of the Aberdare Road Bridge, realignment of the Aberdare Road, Snape Street and Vincent Street intersection to allow a smooth flow of traffic; and realignment of the intersection of Vincent Street, Wollombi Road and Allandale Road to improve traffic flow and increase safety at this major intersection.

I thank the Minister for Roads for his proactive approach to ensuring that the impact on Cessnock is minimised as a result of the Federal Government's refusal to provide the funds to build the F3 link road, which would remove the majority of heavy vehicles from the business precinct of Cessnock. The decision to allocate these funds to my electorate by the Minister for Roads again provides proof that the State Government is not prepared to shirk its responsibilities in regional New South Wales, while the Federal Coalition sits back and allows regional and rural centres to deteriorate to the point of no return.

BATEAU BAY BOWLING CLUB

ST JOHN FISHER CATHOLIC SCHOOL

Mr McBRIDE (The Entrance) [5.13 p.m.]: On Tuesday 16 October the Bateau Bay Bowling Club, now known as The Bay, opened its new \$7.4 million club premises on the site of the existing club at 5 Bias Ave, Bateau Bay. This was the beginning of a week-long celebration which put the new club firmly in place as one of the most successful clubs on the Central Coast. The club was formally opened on Friday 16 November by the President of the Royal New South Wales Bowling Association, Mr Terry Murphy, in the company of the club president, Mr Ken Long, and former club presidents, members of the executive and other bowling club representatives from the region.

The \$7.4 million facility was built by Premier Club Constructions on time and within budget. The level of construction quality and finish is a credit to the management of Premier Club Constructions, the board of Bateau Bay Bowling Club—including President Ken Long, Senior Vice-President Alan Jack, Vice-President Richard Martin, Treasurer Michael Dietrich, directors Don Trigg, Frank Tattam, Noel Post, Peter Salter and Kenneth Baker, and Secretary Stephen Higginbotham—and all the tradespeople, materials suppliers, engineers, designers and other good people who worked on the project.

Bateau Bay Bowling Club is the largest bowling club in Australia, with more than 900 bowlers. Without evidence to the contrary, it has the largest number of bowlers of any club in Australia, and possibly in

the Southern Hemisphere. The club's three greens are recognised as the best on the Central Coast. A fourth green will be developed on the site of the old club, and will be ready for use by mid next year. The lighting of two greens for night bowls has been approved, and installation of the lights is expected to be completed by the end of January 2002. In the opening address, club president Ken Long outlined the extent of the detail and effort put into planning in the three years prior to construction.

Accordingly, the community has been awarded with a purpose-built clubhouse with first-rate food services at affordable prices, a large brasserie, coffee shop, lounge, TAB lounge, bowlers' lounge, modern locker rooms, function rooms, an outdoor terrace overlooking the greens and car parking for more than 200 vehicles. The main entry provides an undercover drop-off area for people attending the club. I had the opportunity to inspect the clubhouse both during construction and subsequent to the opening, and the project is impressive by any standards. Since the opening of the club the staff has increased from 26 to 40, an increase of 54 per cent. This represents more jobs for local people. Membership has increased from 4,300 to 6,200, an increase of 44 per cent. Turnover has increased by a whopping 71 per cent, and more than 40,000 meals were served in the first week of trading.

The Bay is clearly an example of a club providing a specialist service—namely, bowling—to an appreciative and participating local community. I thank the Minister for Gaming and Racing, who has just entered the Chamber, for his involvement with respect to the poker machine freeze. I made representations to the Minister on behalf of the club. Subsequent to the imposition of the freeze, the project would have stalled, if not fallen over, except the licensing authority decided to allow the club to increase the number of poker machines. As I said, The Bay is clearly an example of providing a first-class facility for the local community. The Bay is what clubs should be about—a local facility providing relevant services to the local community for the benefit of the wider community. I congratulate Ken Long and all those who contributed to this great new community facility.

On 7 October I had the honour of attending a moving Remembrance Day ceremony in the school courtyard of St John Fisher Catholic School at Tumbi Umbi. The ceremony included the dedication of a remembrance garden and a memorial to deceased servicemen and servicewomen. I congratulate Caroline O'Shannassy, the religious education co-ordinator, on her involvement in the development of the remembrance program as part of the school curriculum. Other people who participated in the ceremony were the assistant principal, Mr Mark Fowler; the school principal, Mrs Carmel Healey; the president of the RSL sub-branch, Mr Tom Picot; and the parish priest, Father Brian Maloney. The excellent Remembrance Day program started back in 1995, when Paul Keating introduced the I Remember program throughout Australia. Tom Picot is the local co-ordinator, and five schools in the local area now have remembrance memorials in their school grounds and hold Remembrance Day ceremonies annually. I congratulate Tom Picot and St John Fisher Catholic School for participating in the program.

Mr FACE (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [4.18 p.m.]: I congratulate the honourable member for The Entrance on his contribution about the formal opening of Bateau Bay Bowling Club on 16 November by the President of the Royal New South Wales Bowling Association, Mr Terry Murphy. At the recent State bowling awards Terry told me that he was pleased to be formally opening the club. I told him about the club's dilemma as a consequence of the Government's freeze on poker machines in clubs generally throughout New South Wales. Unfortunately, Bateau Bay Bowling Club was affected by the freeze. The club submitted a substantial submission which was not loaded in any way, as were many other submissions.

Many of the matters raised in the submission resulted from the sound advice and guidance provided by the honourable member for The Entrance. The club succeeded in its request, and it has now been able to develop a bowling club that will be able to serve the community well for years to come. Over recent years many clubs, particularly bowling clubs, have moved away from providing their core business for members and bona fide guests. Bateau Bay Bowling Club has not attempted to do that: over the past 25 years it has catered for the needs of an expanding community. It is beyond belief that the club has grown to the extent that it has, with the infrastructure that is needed to service its community. I congratulate the President of the Club, Ken Long, as well as all former presidents and members of the executive, on bringing the project to fruition. I also congratulate the honourable member for The Entrance on the role he has played.

SYLVANIA CHILDREN'S RESPITE SERVICE

BOTANY BAY MARINE FARM

Mr KERR (Cronulla) [5.20 p.m.]: I bring to the attention of the House a reduction in facilities in the Sutherland shire. I recently received a letter from a constituent regarding the imminent closure of the Sylvania

Children's Respite Service, which provides respite services for disabled children under 18 years of age. My constituent wrote:

My daughter ... has autism and after being on a very long waiting list has only within the last four months started to receive a service from the Sylvania Children's Respite. The respite service, which is funded through the Ageing and Disability Department and running by DOCS, is being moved out of the Sutherland Shire.

The respite service is being relocated to Henderson Road, Bexley. I have no objection to this service being established for families in the St George region, however there is a huge need for respite and the Sylvania Children's Respite should also stay in operation for this age group, to relieve the demand for respite for families in both areas.

I have been informed that no funding is available to operate two services for children with disabilities in the St George and Sutherland area. My constituent continued:

It appears though that in the past some families have been so desperate they have not collected their children from respite, which invariably leads to "blocked" beds. When this occurs families that were receiving some respite then lose it and the waiting lists grow longer. I have been told that in one case, that I am aware of, the department has set up a child in a house with carers and a car organised. How is that feasible? If the money can be found for one child, why can't it be found for a larger group of children? I have been told that the case that I know of is not isolated. If the government had a bit of foresight, spending more in establishing group respite homes would alleviate the stress on families and in turn would at times be enough to help families to continue to care for their disabled children in the long term. Families who care for their disabled children should be supported ...

My daughter is obsessed with water and is an escape artist "extraordinaire" ... [The daughter] is not aware of dangerous situations, has a profound language disability and has challenging behaviours. When we are at home I have to check on her every 5 minutes. She has climbed fences to get into a neighbourhood swimming pool. The Sylvania Children's Respite Service at Formosa St has a swimming pool, which is an excellent facility for [her] and many of the other children who find swimming an extremely calming activity.

I call upon all members representing electorates in the Sutherland shire to support the retention of the Sylvania Children's Respite Service. Another facility that is in danger of closure is a marine farm at Kurnell, in Botany Bay. The marine farm comprises a four-hectare site off Silver Beach, a land base at Woollooware Bay, and a boat shed at Kurnell. Discussions have been held with New South Wales Fisheries about the possible closure of the operation. The department stated it would provide an unlimited number of fingerlings and larvae to a company known as Pisces Marine Aquaculture, and that any surplus to Pisces' requirements would be put to public tender.

Recently a meeting was held with the Minister for Fisheries, at which the proprietor expressed his concerns regarding the past and present preferential treatment given to Pisces Marine Aquaculture. The Minister requested a percentage of the upcoming crop. It was explained to the Minister that if the company did not receive the fingerlings it would be forced to close. However, the company's pleas have so far fallen on deaf ears. I ask the Minister for Fisheries to reconsider the matter, and to ensure that this shire business is not forced to close.

ORGANICS FOR RURAL AUSTRALIA

Mr BLACK (Murray-Darling) [5.25 p.m.]: I draw to the attention of the House a company known as Organics for Rural Australia and an exciting meeting I attended on Wednesday 21 November at Tilpa, a small village between Wilcannia and Louth on the Darling River. This story is about a very remarkable lady, Janie McClure, who established Organics for Rural Australia. The concept of the company is to produce, in western New South Wales, a marketing tag that would be instantly recognisable across Australia, if not internationally, to show the types of organic material that western New South Wales can produce and manage. The product would be used principally for mutton, but it has been suggested that it could also be used for wool.

Through the initiative of Janie McClure, western New South Wales has the power, with significant cost savings to recipients, to market material that is guaranteed never to have been touched by fertilisers or pesticides. The meeting I attended was of sufficient importance to be opened by the Right Hon. Ian Sinclair, AC, in his capacity as Chairman of the Foundation for Rural and Regional Renewal. West 2000 Plus was also a major sponsor. Speakers who addressed the meeting included John Roydhouse, the Managing Director of Rural Information Technology and Web Pty Limited, and Dr Ron Hacker, the Director of the Trangie Agricultural Research Centre. Ron Hacker has written a book entitled *The Glovebox Guide to Tactical Grazing Management for the semi-arid woodlands*, which refers to grazing for the purpose of organic production. Mr David Russell, the Managing Director of Westfarmers Landmark of Cobar, also addressed the meeting. Mr Eric Hubble, the Manager of Tatiara Meats, certified organic abattoirs in lamb, of Bordertown, delivered a most interesting address. Eric Hubble is a noted exporter, a migrant who came to Australia to work as a butcher. He is one of the great examples of a migrant's innovation in Australia.

The concept of Organics for Rural Australia is to produce sustainable organic farming systems. Given their significance, those systems must have extremely tight certification. Organic certification is proving to be the major issue of the moment. If in the foreseeable future we are to secure, through firms such as Coles Australia, a mark up of 30 per cent for organic mutton—which I believe is feasible—we must be able to provide a guarantee that it is organic and that it has never been in contact with fertilisers or pesticides.

Wool was addressed in principle at the conference. We understand that there is a niche market for organic wool overseas. Therefore, sheep must be raised in an organic environment and be pesticide and fertilizer free, and the wool has to be treated with clean water—that is, with no detergent. That would be difficult with the treatment of lanolin. In conclusion, I commend the work of Janie McClure to this House. I am confident that in the foreseeable future these organic products will be marketed throughout New South Wales.

Mr GAUDRY (Newcastle—Parliamentary Secretary) [5.30 p.m.]: I commend the honourable member for Murray-Darling for bringing this matter before the House. He has once again shown the enterprise of farmers in the Western Division of New South Wales and he has promoted his area by ensuring that these matters are brought before the House and the people of New South Wales.

H. E. SILOS BUSINESS CLASSIFICATION

Mr ARMSTRONG (Lachlan) [5.30 p.m.]: I refer to a workers compensation insurance matter involving Mr Ivan Morrison—one of the oldest and most experienced manufacturers of agricultural silos in New South Wales—of Forbes. The fully manufactured silos are transportable and are carried on the back of a purpose-built trailer to farms, where the trailer is tipped up and the silo is stood on its feet. The silos weigh approximately one tonne each. However, if Mr Morrison has a special order—for example, for a corn silo—the silo will need heavier reinforcement and it may be slightly heavier. Mr Morrison is concerned that CGU workers insurance changed the classification of his business without consultation. H. E. Silos has had its business classified as "914 Engineering (B) Light" for the past 32 years, but CGU has changed that classification to "760 Engineering (A) Heavy". The company has subsequently advised that 99 per cent of its work is in the area of transportable silos that weigh one tonne, although perhaps once every three years it could receive an order for an onsite silo that would weigh, on average, about four tonnes.

I note that the classification of engineering light covers enterprises such as railway and tramway carriages, and coach and motor body building. I have been advised that a coal carriage would weigh 20 tonnes and a passenger carriage 42 tonnes. The CGU has shifted the classification of these light-weight farm silos into the same classification as a passenger-carrying rail carriage. I have been told by engineers who build the carriages that the average weight of a carriage is about 42 tonnes. The carriages use gas, electricity and water, and in many cases a number of chemicals are used in their various structural components. A tin silo made out of pipe comes under the same classification. It seems absurd that silos are now classified in the same category as 42-tonne railway carriages. I wrote to the Minister for Industrial Relations and received a response from the Hon. Ian Macdonald, Parliamentary Secretary. He said:

Section 170 of the Workers Compensation Act 1987 provides that an employer may apply to WorkCover for a review of an insurers determination in certain circumstances. I understand Mr Morrison has lodged such an application. WorkCover is currently considering the application and will advise Mr Morrison of the outcome as soon as possible.

In the meantime, if Mr Morrison would like to discuss this matter further, please advise him to contact Mr John Murray of WorkCover's Insurer Performance Evaluation ...

I understand that Mr Morrison's application has been declined. Many manufacturers of light silos throughout country areas in New South Wales now have to pay another 30-odd per cent with respect to workers compensation premiums simply because of this change in classification and, in Mr Morrison's case, after 30 years. The wrong advice has been given to the insurance company. I ask the Minister to review why light-weight tin silos—which have no electricity, gas or water components, and are essentially made out of corrugated iron and pipe—fall into the same category of risk as large carriages. The only other component a silo may have is some plastic around the chute, whereas a railway carriage is of quite a complex construction with a considerable higher risk as far as workers compensation is concerned. I note that the honourable member for Newcastle, the Parliamentary Secretary, is nodding his head in sympathy with Mr Morrison. I ask him to take this matter to the Minister and to obtain a sensible review of the matter.

Mr GAUDRY (Newcastle—Parliamentary Secretary) [5.35 p.m.]: I admit to being verballled by the honourable member for Lachlan. I was nodding because the honourable member made a compelling case on behalf of his constituent in relation to the difference in size of silos and heavy rail carriages. I will ensure that this matter is referred to the Minister, who will look carefully at this issue.

GEORGES RIVER COMMUNITY AWARDS

Mr GREENE (Georges River) [5.35 p.m.]: On Wednesday 31 October I had the pleasure of hosting the inaugural Georges River Community Awards night which I instigated, with the support of a number of local community groups, to recognise not only individuals who receive awards but particularly individual community groups that do such a magnificent job ministering to the needs of individuals and groups within our local community. In excess of 100 people attended the function in the dining room of the Illawarra Catholic Club, Hurstville. I thank the club for its support on the evening. On the night a plaque was given to individuals, who were nominated by each organisation, for their contribution to the wide community and that organisation. It was a great celebration, and I appreciated everybody's positive attitude and enthusiasm at the function.

I shall inform the House of the winners for the inaugural year 2001. The Hope for the Children Foundation, St George Family Network—which does a magnificent job supporting families, particularly mothers who have just had their first child—nominated Margaret Glanville. Lugarno Progress Association nominated Mr Graham Whitelaw, who was recognised for his contributions to the Georges River environment in recent years. The Lions Club of Oatley recognised Mr Bryan Pirie—only a few weeks ago I mentioned that he was a former president of that club and organised the twenty-fifth annual Oatley festival.

The Rotary Club of Georges River, Riverwood, recommended Mr Peter Shea, who was a popular recipient of the award. I thank them for their participation in the event this year. Learning Links, the charitable organisation that looks after children with learning difficulties, nominated one of its volunteers, Cherrie Thompson, who assists with its programs. Learning Links is a diverse organisation to which I have referred in this Chamber. The Lions Club of Lugarno nominated Mr Jim Watson. The club was represented by approximately 30 people on the evening—no doubt, because of its desire to congratulate Jim Watson on his work.

Georges River Community Services this year celebrates its thirtieth year. It was only a couple of weeks ago that I commended that organisation on its receipt of a Premier's award. Its representative was Mrs Leonie Peake, a former treasurer of that organisation. Hurstville Rotary nominated Mr Mike Newman from the Canine Dog Rescue Service. The honourable member for Miranda, Mr Collier, previously has recognised the contribution of that organisation. St George Lions Club nominated Wendy Cornish, who, I might add, could have been nominated by numerous organisations that were represented that night because Wendy is well known in the Georges River district for the enormous support that she gives volunteer organisations, particularly with fundraising.

The Pole Depot—the Penshurst Neighbourhood Centre—nominated Mr Raymond Ang, who has been a long-term executive member with that organisation. The Oatley Flora and Fauna Society nominated its secretary, Mrs Robin Dickson, who does an amazing amount of work for that group. Organisations not represented on the evening but which will receive awards are the St George Legacy Jacaranda Day Care Club, which nominated Dorothy Riley, and the Kingsgrove Community Aid Centre, which nominated Mr Max Brown. An apology was received on the evening from the St George Central Rotary representative Cheryl Greenham, who could not be there on the night.

This function was in recognition of the great contributions of the individuals who received awards. I had great pleasure in presenting the plaques to each of those winners. But, most importantly, the function highlighted the enormous amount of work that those organisations do in our community. I look forward next year to again having the opportunity to host such a function. I am sure that many other groups will join in this community awards night. *[Time expired.]*

Mr GAUDRY (Newcastle—Parliamentary Secretary) [5.40 p.m.]: I congratulate the honourable member for Georges River on the work he did with his community to inaugurate these awards. I wish to follow up what he said. Volunteer organisations and their members are the lifeblood of communities. One cannot imagine how communities would run if they did not have such people giving huge amounts of their time and dedicating themselves to a range of activities such as have been mentioned today by the honourable member for Georges River. This is a great start to the new millennium. Congratulations to him. I am sure every member of the House will join me in saying, "Job well done."

CASTLE HILL BROTHELS

Mr RICHARDSON (The Hills) [5.41 p.m.]: I want to speak about some problems associated with the operation of illegal brothels in the electorate of The Hills. I had intended to speak in the debate yesterday on the Government's Disorderly Houses Amendment (Brothels) Bill, but unfortunately I did not get the call. There has been considerable publicity in local newspapers about the operation in recent months of illegal brothels in Castle Hill. For example, there was an article in *The Hills Shire Times* of 9 October regarding a fibro house in Terminus Street, Castle Hill. Terminus Street has on one side a car park and associated shopping centre, and on the other side just office accommodation and restaurants. This must be the only detached residential property in the whole street. But it happens also to be opposite a preschool and medical centre. The building is fairly innocuous when viewed from the outside, but inside it is a different matter. Coincidentally, *The Hills Shire Times* premises is also in that street. The article reports:

When a male *Times* journalist inquired at the premises on Friday he was offered full sex as part of the relaxation therapy.

Showground Road is another preferred site for these sorts of illegal operations. Cited in the article was this advertisement:

Lily, 25, long hair, passionate, will spoil you. Castle Hill area.

The article notes that the advertisement carried a mobile number, and continued:

When the *Times* called the number a young woman said she offered "a full body service".

I have friends who live in Showground Road. A couple of years ago they were unfortunate enough to have an illegal brothel operating next to them. Clients sometimes got the address wrong, and one night the lady of the house was disturbed to find a fellow unzipping his fly at her front door. He asked the obvious question, "Is this the place?" That does not really make you feel that your home is your home. The issue really is: Will the Government's legislation, which has been passed by the House, actually achieve what it is purportedly designed to achieve, that is, to give councils the ability to expeditiously close down illegal brothels? I might add that in the whole of the Baulkham Hills shire there are no legal brothels; a brothel could operate there only illegally.

I have serious concerns that the legislation will not be effective in doing what it purports to be able to do. The great difficulty that I see in it is that it is orientated towards the gathering of evidence. That will make it easier for councils to put together circumstantial evidence, such as newspaper advertisements; the number of people arriving at and departing from premises; if council officers go inside the premises, the kinds of things they see inside; the way in which a building is set up; and the equipment and articles in the premises. Those things will be sufficient for a council to take the owner before the Land and Environment Court in an attempt to close premises down.

My constituents would very much like to have disorderly houses closed down immediately. If you happen to be the lady living next to the brothel and you have a constant stream of people knocking on your door and asking whether they have come to the right place, you would not want that situation to continue. Yet, under the Government's legislation, councils will still have to go out and get the type of evidence to which I have referred. Of course, this legislation will make it easier for councils to obtain that evidence; they will not have to go through the rigmarole of having a private investigator go into premises and ask for sex, or maybe even have sex with prostitutes on the premises, in order to obtain evidence.

Even so, councils must go through the procedure of collecting evidence, going to the Land and Environment Court, waiting for a hearing and then going through the whole process that will lead to a court deciding that the place is a disorderly house. The honourable member for Pittwater brought before this House legislation that would have allowed such brothels to be closed down within 48 hours. That is the bill that really ought to have been supported. I still think that councils, including the Baulkham Hills Shire Council, will have significant problems using this legislation to achieve their desired result. [*Time expired.*]

Mr GAUDRY (Newcastle—Parliamentary Secretary) [5.46 p.m.]: This Parliament has no procedure to retrofit the honourable member's contribution to the debate on the Disorderly Houses Amendment (Brothels) Bill. However, he has raised many points that were dealt with in that debate, particularly the impact on the amenity of private households caused by the illegal operation of brothels, such as the loss of peace and quiet of those private households. As was said in debate yesterday, the propositioning of women in particular by prospective brothel customers who go to the wrong address is one of the matters that should be brought to the attention of the Minister. I am sure the Minister will take note of what has been said by the honourable member for The Hills and sympathise that he did not have the opportunity to participate in yesterday's debate. However,

I must say that the amendment that was carried by this House yesterday, without dissent, will bring another string to the bow of councils to deal expeditiously with illegal brothels operating within communities. That is a matter that I strongly support.

TENTERFIELD COMMUNITY

Mr TORBAY (Northern Tablelands) [5.48 p.m.]: I congratulate the enthusiastic and energetic community of Tenterfield. It has been a great year for Tenterfield. This is the town, on the border of New South Wales and Queensland, where Sir Henry Parkes made his famous call for Federation of the colonies on 24 October 1989. The Centenary of Federation commemoration has been a bonanza for the town, with tourists flocking in to visit the refurbished School of Arts, where Sir Henry Parkes made his landmark speech. I was pleased to be present at the reopening of the refurbished facility. Tourists joined the Tenterfield community in many celebrations and associated events throughout the year. This year has been a year of ongoing celebrations in Tenterfield. I was also pleased to be able to attend the highly successful opening of the gateway project, which received \$375,000 in State Government funding. That project was officially opened by the Minister for Tourism, the Hon. Sandra Nori.

The manager of that tourist operation, Patti Ainsworth, and her team of volunteers at Tenterfield Visitors Information Centre do a great job not only for Tenterfield and district but for the whole regional community. It could be said that Tenterfield is not just the gateway to New England, it is also the gateway to New South Wales. Those significant events were virtually eclipsed on Saturday 1 September when the A-grade rugby league team, the Tenterfield Tigers, won the border league grand final for the first time in 30 years. That team has been undefeated all year. On the day of the finals a crowd of 800 spectators, some perched on car and truck bonnets, surged into the town's rugby league park to barrack them to a 26 to 12 victory over the Warwick Brumbies. To cap it off, the Tenterfield reserve grade team also won its premiership game.

Tenterfield might be on the map as a town of heritage significance, but people in that area will tell those who visit Tenterfield that it takes pride in the fact that it is a strong rugby league town, a town which has had an historic loyalty to the sport since the first games were played in 1921. Since that time, Tenterfield has missed only two years of regional competition, once in the 1950s and 12 years ago in a transition year when it changed over to the current border league competition. Over the past eight years a vast amount of memorabilia in the form of football jerseys, trophies and photographs have been collected.

The club's secretary-treasurer, Kevin Condrick, has written the history of league in Tenterfield with illustrations of some of the memorabilia. He is concerned about that valuable collection being properly displayed and maintained. Currently, Tenterfield does not have a clubhouse where this important historic material can be stored with safety. Six years ago Tenterfield rugby league took out a \$6,000 loan to build stage one of a new clubhouse to replace the weatherboard building which had been moved to Rugby League Park when the butter factory closed 20 years ago. It was always regarded as a temporary facility. However, the funds for stage one, along with voluntary labour, provided only a shell and a roof, with one side still open to the weather.

Since then league supporters have raised \$9,000 in cash, \$5,000 worth of project management support from Tenterfield Shire Council and \$49,000 worth of voluntary labour to complete stage two. The club has applied for a grant of \$56,770 under the State Government's Regional Sports Facility Program. I am delighted that the Minister for Sport and Recreation is in the House this evening. I have visited the site and spoken with committee members and I am impressed with the local commitment to this project. One of the most important developments has been the surge of interest in junior rugby league, which started in the town three years ago and which now has 130 young players, aged between five and 16, participating in that sport—and six of them are girls.

This craze for football amongst the young has had some good results, with parents, schools and the community reporting that young players are better behaved, that they are more involved in practice during the week and that they have a purpose in life. The opening of the meatworks at Wallangarra has been a boost for the A grade and reserve teams, with more young people staying in the area to live, work and play competitive sport. This year's win will undoubtedly attract more young players to the game. Completion of stage two of the clubhouse will be of great benefit to them and it will help other sportspeople who play at Tenterfield Rugby League Park. This community project has been backed by council, local tradespeople, sporting groups, organisations, league players and supporters. I commend this matter to the Minister for Sport and Recreation for his consideration. An announcement at some stage that this grant has been approved would cap off a fantastic and successful year for the Tenterfield and district community.

Mr IEMMA (Lakemba—Minister for Public Works and Services, Minister for Sport and Recreation, and Minister Assisting the Premier on Citizenship) [5.53 p.m.]: I commend the honourable member for Northern Tablelands for the strength of his advocacy on behalf of his local community and the Tenterfield Tigers. He wasted no time in raising this matter with me when I became Minister for Sport and Recreation. About 180 applications have been received statewide for funding under the Regional Sports Facilities Program. Earlier the honourable member alluded to the fact that this worthwhile program provides badly needed funding—albeit a small allocation—to communities across the State to improve their sport and recreation facilities.

This application and the other applications will receive serious consideration. I assure the honourable member for Northern Tablelands that I will peruse the application by the Tenterfield Tigers to determine what assistance can be provided. The honourable member for Newcastle has asked me to mention that he started his distinguished teaching career in Tenterfield, where he played for the Border Rovers. I look forward to visiting the electorate of the honourable member for Northern Tablelands and discussing the issues that he has raised with me. I assure him that those issues will receive serious consideration.

DEATH OF Mr MICHAEL BRIGGS

Mr PRICE (Maitland) [5.55 p.m.]: Tonight I refer again to the death of Michael Shane Briggs. I have already spoken to the Attorney General about this matter. Michael was shot on 8 September 1998 at Stockton. The coroner made an open finding. The gun was eventually found three blocks away, hidden in a bush near Stockton swimming baths. It was shown to the police by Brian Henessey, one of the persons named in the statements. Henessey's de facto apparently said that they had wiped off the fingerprints. Mrs Briggs, who is making this inquiry through me, asks who wiped off the prints. Mrs Briggs says that Mr Henessey was told by an ambulance officer that the gunman had left. She wants to know what that means.

A neighbour who had heard loud noises and people arguing was never questioned or called to attend the inquest. Detective Sergeant McBride told Mrs Briggs that there would be a hearing on 16 January 1999 to determine whether an inquest should proceed and that there was no reason for her to attend as it was only a formality. A couple of weeks after that hearing Mrs Briggs received a letter stating that there was no need for an inquest. She made an appointment with a chamber magistrate in February 1999 and the magistrate said that she was entitled to attend the hearing. He also gave her all the reports, including several pages that were missing when the detective handed over various documents.

Mrs Briggs believes that under sections 13A (1) (a) and (c) of the Coroner's Act, which refer to the procedures to be followed after a violent death, an inquest should be held. I imagine that anyone who had been shot in the chest would have suffered a fairly violent death. Mrs Briggs has asked a series of questions. What worries me is that this incident occurred three years ago. After two hearings and one inquest we still have an open finding. I believe that a number of questions must be asked. It is alleged that the ambulance was called for at 7.02. Why did authorities state that Mr Briggs died at 6 o'clock when other evidence indicates that he was alive at 6.30? The gun was removed.

A number of strange events are associated with this case. I have written to the Minister on several occasions and I have referred to the case in this House. I agree with Mrs Briggs that something is wrong somewhere. Important evidence has not been considered, but we still have an open finding, which indicates to me that authorities are not certain how Michael died. One of people named, Mr Henessey, said he saw Michael outside at 6.30, yet he was supposed to be inside and, according to the coroner's statement, dead. Tina Leslie went to Michael's at 6.55 to call Chamberlain home for tea. Griffiths heard a shot between 6.30 and 6.45.

There are a number of gaps between the statements and the information Mrs Briggs is getting. If Michael was supposed to have shot himself—and that was the opinion of the police—why has the coroner ruled that out? Why is no other evidence being put forward by the police and what is the Director of Public Prosecutions' opinion of the whole issue? It seems to me there is some sort of a cover-up here, and it concerns me that this family still cannot put the matter to rest while these questions are outstanding. I support Mrs Briggs in her concerns. I hope that the matter can be looked at again, and I look forward to further advice from the Attorney General. [*Time expired.*]

Mr BILL EDMUNDS FENCE REPLACEMENT

Mr STONER (Oxley) [6.00 p.m.]: I raise a matter relating to my constituent Mr Bill Edmunds of Pappinbarra to the west of Wauchope. Mr Edmunds wrote to me on 26 November concerning an incident that

was reported in the press, a car accident near Pappinbarra in which, tragically, an elderly woman was killed and her husband was trapped in the car. I will read the correspondence sent to me by Mr Edmunds, which is a copy of a letter sent to the Minister for Emergency Services. It reads:

Dear Bob

I am concerned with the lack of a response I am ... getting from the emergency services group. The story is that on Tuesday 13 November 2001 the emergency services group attended a motor vehicle accident in the rural location of Pappinbarra (50 kms west of Port Macquarie). The exercise was to free a trapped man from a motor vehicle that had gone down a steep embankment and recover the body of his wife that had been thrown free of the vehicle. Both people had been missing since the previous Sunday.

In attending to the needs of the injured man it was necessary for the Rural Bush Fire guys (I have often helped the Holisdale group) to make a clearing for the helicopter to land on the road to pick him up. Part of the clearing process was to demolish a fence that I had around a construction site on my property.

In the past week I have spoken to the police officer in charge of the scene and several members of the Rural Bush Fire Service to try and have my fence replaced; to no avail.

The fence that was demolished was a safety measure to deter people from entering the construction site and thereby preventing injury. The construction site is not a commercial enterprise but a hobby I am working on. The lack of a fence sees me in the unenviable position of being subjected to legal action if someone wanders onto the site and injures themselves. I personally was at the site last Saturday and tripped over a post that was laying in the grass, jarring my back.

This exercise has highlighted several administrative problems.

The first is that no-one was prepared to do anything without being told to do so by the police officer who attended the scene. The second is that although I have spoken to the group responsible for the demolition, the RFS HQ at Wauchope, nothing has happened.

It would appear to me the Rural Bush Fire Service should have the responsibility to make good the damage that they caused without waiting for the "approval" of the police attending the scene. I am sure that the young constable has more important things to do with his time. According to a report in the local press RFS Group Captain Peter Greaves and his team demolished the fence. The RFS are aware of this so why haven't they replaced it—it will have to be replaced as the 6ft steel poles were pulled out of the ground concrete footings and all.

I would appreciate it if you could look into this matter and advise me of when I may expect my fence to be replaced.

Have a nice day

Bill

I responded to this correspondence from Mr Edmunds, stating:

Thank you for copying your email to Bob Debus concerning your fence and other issues regarding the recent rescue at Pappinbarra. Should you not receive a satisfactory reply in a reasonable time frame, please let me know and I will pursue it with the Minister.

I have the highest admiration for the Rural Fire Service and the other emergency workers who attended not only this incident but other incidents in my electorate. The issue appears to be one of responsibility and accountability and making decisions about compensation at the appropriate level. Following my reply to Mr Edmunds I received further correspondence on 2 December in the following terms:

Hi Andrew

Thanks for your email. All I have received from the Hon Debus is an acknowledgement from one of his staffers. The fence is still down, my liability is still exposed and I am getting a bit agitated about the whole deal.

I would appreciate it if you could move things along a bit as the incident occurred on Tuesday 13 November.

regards
Bill

I am raising this issue in the House today to ask the Minister to expedite a decision. Obviously Mr Edmunds is deeply concerned about his liability and about the replacement of his property. All that is required is a decision. We fully support the entry of the rescue workers on to the property, but somebody with the appropriate authority needs to make a decision to have the fence replaced.

GOVERNMENT AUTHORITIES USER-PAYS CHARGES

Ms MOORE (Bligh) [6.05 p.m.]: The indiscriminate application of user-pays principles is threatening to destroy festivals and street fairs that are invaluable for strong local communities. It has been estimated that

recent Roads and Traffic Authority [RTA] guidelines will add more than \$30,000 to the budgets of community festivals that seek the temporary use of public streets for public events. Roads and Traffic Authority guidelines now require advertising in major metropolitan newspapers and use of licensed RTA traffic marshals. I am concerned that this impost will destroy valuable inner city community festivals such as the Surry Hills, Kings Cross and Woolloomooloo festivals. Those events provide important opportunities for people to get together and build their communities. They enable communities to support local arts, culture and business by promoting the area.

In February this year it was exciting to have Crown Street closed for the Surry Hills Festival for the first time. The closure was an important sign of the local community reclaiming its local streets from traffic following the opening of the airport tollway. It was also an important sign of the festival's growth and was vital for its success. If the Surry Hills Festival had not reclaimed the road, it would have faced cancellation. The space was needed for more stalls to generate additional income to cover the event's costs. The entire budget for the 2001 Surry Hills Festival was \$30,000, of which about \$5,000 was devoted to meeting the RTA's requirements. Enforcement of the RTA's changed guidelines will escalate the costs and make future festivals unviable. It is particularly disturbing that small community events with limited impacts may be cancelled while commercial operations at the Moore Park sporting stadia are not forced to pay the full cost of frequent and serious region-wide traffic congestion and ongoing damage to public parklands through on-grass car parking.

I am also concerned that user-pays policies are threatening the Gay and Lesbian Mardi Gras. While the 11 September terrorist attack has dramatically impacted on attendance for the 2002 festival, demands from government authorities will more than double the cost of the parade. The total amount requested by various government authorities, including the RTA, police, ambulance and fire brigade, is approximately \$322,000, including fees of \$122,000 for the RTA and \$155,000 for police. The mardi gras festival is a major annual event that attracts people from around Sydney, Australia, and the world. An economic impact statement prepared in 1998 estimated that the festival provides an economic benefit to New South Wales of in excess of \$41 million. I am advised that it has now reached \$100 million, outstripping other arts festivals and sporting events. In recent years, the parade has attracted 500,000 spectators and 7,800 participants, making it the largest night-time parade in the world. It is broadcast around the country and webcast throughout the world.

While the Gay and Lesbian Mardi Gras festival makes a very real contribution to the New South Wales economy, its real enduring importance is its recognition of social diversity and promotion of tolerance and equality. The Gay and Lesbian Mardi Gras started in 1978 as a civil rights demonstration. While there has been significant progress in the past 23 years, it continues to play a vital role in the ongoing battle for equal rights, and in the celebration of gay and lesbian culture, lives and pride. Community involvement is central to the Gay and Lesbian Mardi Gras parade.

The Sydney Gay and Lesbian Mardi Gras is a not-for-profit volunteer organisation that holds two major fundraising events each year to pay for the parade and festival. It cannot sustain additional costs of the magnitude demanded in user-pays fees by government authorities. The Mardi Gras parade will no longer be feasible if these fees are levied. I urge the Premier to waive all user-pays fees and ensure essential public services are provided to make the parade safe and successful. Government support does not go to the Mardi Gras organisation, but goes to enhancing the State's economy, promoting Sydney and building stronger communities.

I also ask the Premier to reinstate the use of College Street as the Mardi Gras parade marshalling area next year. After this year's parade the Roads and Traffic Authority [RTA] suggested that College Street would be better logistically than Elizabeth Street. College Street has been used in the past and allows for greater overflow into Hyde Park, requires fewer major intersections to be closed, and permits Museum station to remain open. Based on advice that College Street would be used as a marshalling area for the 2002 parade, a draft management plan was prepared and consultation occurred over five months. The plan provides for continued access to St Mary's Cathedral for three weddings and a mass.

The Sydney Gay and Lesbian Mardi Gras is now legitimately feeling discriminated against as its plans have been jettisoned at the last moment after recent correspondence from St Mary's Cathedral opposing the use of College Street. While the RTA now states that the closure of William Street is the problem, this year's Federation Day parade also closed William Street. Mardi Gras is a vital part of Sydney's life. It is an important event, and it is important that the Government support it and ensure that it is able to continue into its twenty-fourth, twenty-fifth, and future years.

BANKSTOWN AIRPORT EXPANSION

Mr LYNCH (Liverpool) [6.10 p.m.]: I draw the attention of honourable members to the ongoing concerns in my electorate and, indeed, in south-west Sydney generally about plans for Bankstown Airport. The Federal Government has put forward proposals to substantially expand the current operations at Bankstown Airport. That is a matter of considerable concern and disquiet to many people who live in my electorate. In particular, Lansvale would be adversely affected by many proposals that have been made. Certainly the concerns are not restricted to Lansvale; they are felt generally throughout my electorate, particularly in Warwick Farm and parts of central Liverpool.

The concerns about the proposed expansion are fairly obvious. One concern relates to increased noise, both in frequency and level. Indeed, some sections of the community are concerned about the current level of noise from airport operations. Increased usage of the airport would increase those concerns, although I hasten to add that there is a general acceptance and, indeed, recognition of the airport's important role in the community as it currently operates. That regard does not extend to support for a significant expansion of the airport, particularly the widespread use of the airport by regional airlines or passenger jets. In this context it is important to note that on 4 June this year the Minister for Planning wrote to Senator Robert Hill, the then Federal Minister for the Environment and Heritage, as follows:

As you are aware, the Commonwealth Environment Protection and Biodiversity Act 1989 includes a section on strategic environmental assessment that could be applied to the airport strategy for the Sydney region. Section 146 of the Act provides that the Minister for the Environment may "agree in writing with the person responsible for the adoption or implementation of a policy, plan or program that an assessment be made of the relevant impacts of actions under the policy, plan or program that are controlled actions".

"Controlled actions" include an action on Commonwealth land that has, will have, or is likely to have a significant impact on the environment. Both Sydney and Bankstown Airports are Commonwealth land and the comments from the Second Sydney Airport EIS clearly indicate that the increased use of either airport will cause significant environmental impacts.

The letter further stated:

If a proper strategic assessment of the Commonwealth Government's airport strategy is not undertaken, the thousands of people who live around Sydney and Bankstown Airports will have to wait at least two years to be informed of the environmental impacts of the upgrading of those airports.

On the other hand, if you agree to initiate a strategic environmental assessment of the Commonwealth's airport strategy, these communities will have an opportunity to be informed about and comment on the likely environmental impacts before any potential airport operators have made financial commitments which result in pressures for inappropriate development.

Senator Hill responded but, in terms of the substance of the issues I have just raised, referred the letter to the Hon. John Anderson. The Hon. John Anderson's reply was dated 5 October and the relevant sentence states:

With regard to the proposed upgrading of Bankstown Airport, I do not believe a strategic assessment under section 146 of the EPBC Act is necessary or appropriate.

The end result is that a matter is causing immense concern in south-western Sydney, and, in response, John Anderson is refusing to have a strategic assessment carried out. On any view of it, that is utterly appalling. It demonstrates complete contempt for the residents of south-western Sydney. Residents in my area are concerned. It would seem that the least they are entitled to is the benefit of a strategic assessment of the consequences of the proposed expansion. It is simply intolerable that the Federal Government is treating south-western Sydney with such monumental contempt and arrogance. It seems to have no regard for those who live in the area I represent. It is treating us as people who are not entitled to know what will happen. On any view of it, the situation is totally reprehensible. The Federal Government and John Anderson should be condemned. They should hang their heads in shame for the contemptuous way they are treating the people I represent.

Private members' statements noted.

DEPARTMENT OF THE LEGISLATIVE ASSEMBLY

Annual Report

Mr ACTING-SPEAKER (Mr Mills): I lay upon the table of the House an erratum to the annual report of the Legislative Assembly for the year ended 30 June 2001. I direct that the amendment be incorporated in the report.

ASSENT TO BILLS

Assent to the following bills reported:

Public Finance and Audit Amendment (Auditor-General) Bill
Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Bill
National Parks and Wildlife Amendment (Transfer of Special Areas) Bill
Local Government and Environmental Planning and Assessment Amendment (Transfer of Functions) Bill
Workers Compensation Legislation Further Amendment Bill

PROPERTY, STOCK AND BUSINESS AGENTS BILL

Bill introduced and read a first time.

Second Reading

Mr AQUILINA (Riverstone—Minister for Land and Water Conservation, and Minister for Fair Trading) [6.16 p.m.]: I move:

That this bill be now read a second time.

I am privileged to introduce this important piece of consumer protection legislation. The bill represents the first major overhaul of the property services industry in this State since 1941. The reforms it contains will take the regulation of property services in New South Wales over the threshold of the twenty-first century. Home sellers and buyers alike will benefit from its far-reaching and innovative proposals, which raise consumer protection to a level that recognises the importance of property transactions in people's lives. Buying a home is, for many people, the most expensive and complex purchasing decision they will make in their lifetime. The last thing home buyers need is for the actions of agents to make this process more confusing and costly.

When it comes time to realise a return on their hard-earned investment, home sellers similarly deserve an honest and fair service from the agent to whom they have entrusted the sale of their largest asset. The reforms contained in this bill will make the buying and selling process more transparent by eradicating dummy bidders from auctions and prohibiting misleading statements by agents about the estimated selling prices of properties. The bill breaks new ground by introducing a requirement that agents register bidders at auctions. As a result, New South Wales will be the first State in Australia in which it will be illegal for auctioneers to take bids from trees and passing cats, dogs and birds.

Agents too will benefit from the proposals contained in the bill, which will simplify the licence application process and improve industry standards. The bill contains a number of other reforms aimed at lightening the regulatory burden for licensees. Agents who do the right thing will gain from these reforms, which will make the industry a fairer place for honest agents to operate. Industry players who do not wish to act with the standard of honesty and integrity expected by consumers and indeed their own industry associations will find themselves on the receiving end of a ruthlessly efficient new disciplinary process.

The bill is the culmination of several years of hard work that has gone into carrying out a fundamental review of the Property, Stock and Business Agents Act. Its provisions combine outcomes from that review and matters that have subsequently been raised. The bill will repeal the current Act and replace it with completely rewritten and updated legislation. The repeal of the current Act will also repeal the regulations made under it. A new regulation will need to be developed, and this will require the preparation of a regulatory impact statement that meets the requirements of the Subordinate Legislation Act. The process of making the new regulation will involve extensive consultation with industry and consumers.

Before I go on to outline in more detail the reforms contained in the bill, I would like to thank some of the many people and organisations who have participated in bringing about these reforms. First I must recognise the groundwork of my predecessor, the Hon. John Watkins, and his staff in bringing the reforms to this point. I also acknowledge the constructive input received from the following organisations that have met with Minister Watkins and the department: the Real Estate Institute, the Property Industry Council, the Estate Agents Co-operative, the Stock and Station Agents Association, the Institute of Strata Title Management, the Property Council of Australia, the Real Estate Buyers Association, and consumer advocates. I also thank the members of the Property Services Advisory Council who have actively and enthusiastically participated in the discussions that have helped shape this bill.

In addition to face-to-face discussions, a total of 66 written submissions have been received in response to a consultation paper my predecessor released on 19 September 2001. Around 360 interested persons provided valuable feedback at a series of public forums held by the department in Sydney, Dubbo, Wagga Wagga, Penrith, Coffs Harbour and Newcastle. Industry representatives have also had the opportunity to consider and comment on the draft bill prior to its introduction today. My thanks go out to all the people and organisations who took the time and effort to make a contribution to the development of this important legislation.

Whilst most of those submissions have supported the general thrust of the proposed reforms, I do not claim that the organisations I have referred to will endorse every clause of the bill. There will certainly be aspects of the bill that some agents will regard as too tough or difficult. However, I cannot stress enough that the object of the bill is to protect consumers and their investments in their homes. I want to make it clear at the outset that the introduction of this bill is not, in my mind, the end of the consultation and improvement process. I am more than willing to adopt any sensible suggestions that may further improve the bill, as it passes through this Parliament next year.

As I have said, the Act has been the subject of a fundamental and rigorous review conducted over the past few years. The review found that, while the basic components of the regulatory framework—namely licensing, dispute resolution, discipline, and the operation of the Compensation Fund—are still regarded as essential and have widespread support, it has become patently clear that the system needs to operate more fairly and effectively for consumers. The proposals in this bill fall into three broad categories: licensing and registration requirements, general conduct of licence and certificate holders, and discipline and enforcement.

I will now take the opportunity to outline in more detail the main provisions in each of these categories. The current Property, Stock and Business Agents Act specifies who may practise as agents, salespersons and trainee managers. It does so through licensing requirements for agents and certificate requirements for agency employees. It provides for separate licences for different agency activities, with specific experience and education requirements for real estate agents, stock and station agents, business agents, strata-managing and community-managing agents, and on-site residential property managers. The Act also provides for corporation licences. The Bill continues to provide for these licence categories, and recognises that there are a range of different competencies relevant to the various industry sectors. Salespersons and trainee managing agents will continue to be required to be registered in order to be employed in the industry. They will be required to be employed and supervised by a licensee.

In recent years the conduct of residential property auctions in this State has been an area of increasing concern to consumers, the industry and the Government. Particular issues of concern are the lack of competency and breaches of ethical standards by persons conducting property auctions. In response, the Government has included in the bill the power to limit the conduct of auctions to agents who have undertaken additional, specialised training in the practical and ethical issues involved in auction selling. This measure will address the decline in auctioneer competency by setting entry requirements that recognise the specialist skills and ethical standards needed to be held by persons wishing to perform this crucial role. Clause 20 of the draft bill accordingly allows for a real estate or stock and station agent's licence to be annotated, to indicate to consumers that the holder is licensed to conduct auctions of land or livestock.

The bill also provides, for the first time, for recognition of the activities of buyers' agents, a relatively new area of agent activity. Buyers' agents act exclusively for purchasers in finding a suitable property and negotiating a sale on the best possible terms for the purchaser. Buyers' agents will continue to be required to hold a real estate agent's licence. However, if they wish to act only as a buyer's agent, they can apply for a conditional real estate licence that restricts them to carrying out those functions. Their licence will be annotated with this condition, which will reassure their clients that conflicts of interest between the roles of sellers and buyers' agent will not arise.

The bill expands the category of on-site residential property manager to include caretaker-managers, who will also be required to be licensed. This amendment recognises the recent emergence of this category of property management, which includes managers of large residential complexes. While the role of caretaker-managers includes responsibility for general building maintenance and services, it often also includes leasing of properties on behalf of owners in the development, and dealing with rental moneys. It is therefore appropriate that caretaker-managers be regulated in a similar manner to other on-site managers. It will be a condition of an on-site residential property manager's licence that they may act only in respect of the premises at which they reside and in which they have an interest. Should an on-site residential property manager wish to act in respect of other buildings, they will need to hold a real estate agent's licence.

The bill makes a number of improvements to the current licensing approvals system. An application for a licence or certificate of registration will be made to the Director-General of the Department of Fair Trading. An application will have to be accompanied by a prescribed fee and, in the case of an application for a licence, the required contribution to the Compensation Fund. Applications will also need to include evidence that the applicant has met the criteria for the issue of a licence or certificate.

The bill also benefits corporate licence holders by removing a number of unnecessary administrative burdens. The current requirement that at least 50 per cent of directors be licensed will be removed. Instead, a corporate licence will be contingent on at least one director holding a relevant licence or licences. Similarly, only one partner in a licensed partnership will need to hold an individual licence. Company directors and partners who do not hold a licence will continue to be vetted to ensure they are fit and proper persons and are not disqualified.

Disqualified persons or corporations will be excluded from the grant or reissue of a licence. Applicants will be disqualified if they have been convicted of an offence of dishonesty in the previous 10 years; are an undischarged bankrupt or have been involved in the management of a corporation placed into liquidation; are mentally incapacitated; are disqualified or suspended from holding a licence or certificate under the Act or a corresponding law; or if they have failed to pay a penalty or contribution to the Compensation Fund or have committed a serious offence under the Act. This aspect of the bill reflects recent reforms to home building legislation aimed at reducing the incidence of unfit persons who continue to operate in the industry or, if they are disqualified, reappear with a new licence as another entity.

The grant of a licence or certificate will be based on entry-level competency and good character. In this regard the bill provides an opportunity to keep pace with developments in the competency-based approach to education and training by allowing for competency standards to be adopted as a pre-entry requirement for the licensing of the real estate industry. To enter the industry in the past, an applicant for a licence was required to complete certain educational courses as well as undertaking training. The proposed provisions take the more flexible competency-based approach, which is based directly on the skills and abilities required to do a particular job. The introduction of competency standards as a requirement for licensing and registration recognises that competency may be achieved by different pathways. For example, an applicant may attain competence by undertaking a course of study or learning on the job and being assessed by a registered assessor.

I understand that real estate agents and stock and station agents have already developed competency standards, and that business agents and strata managing agents are working hard at developing standards for their industries. The Department of Fair Trading will soon commence consultation about the selection of competency standards. This process will be completed in time for the new qualification requirements to commence with the proposed legislation. Transitional arrangements will be made for those currently undertaking educational courses and for those sectors that may not have finalised their competency standards. In addition to meeting competency requirements, applicants for licences will be required to hold an approved policy of professional indemnity insurance.

As with the other major proposals in this bill, there will be extensive consultation with industry and insurers to determine the kinds of professional indemnity insurance policies that will be approved under the scheme. The Government is committed to ensuring that the insurance requirements are not too onerous, bearing in mind current market conditions. At the same time, it is anticipated that the introduction of a mandatory insurance scheme will make the market more attractive to insurers. It is considered that the introduction of mandatory professional indemnity insurance requirements will raise industry standards and enhance consumer redress in relation to quality of service issues.

It will be a condition of a licence renewal that a licensee undertake continuing professional development each year. Licensees, like many others in business, require a wide range of skills to competently perform their functions. Continuing professional development recognises the changing nature of the marketplace and provides flexibility to educate agents in the special competencies needed in relation to the licence categories under the Act. Continuing professional development could cover topics such as law and technology changes, ethics, dispute resolution and business management.

During the consultation program leading up to the introduction of this bill, a number of suggestions were made as to how the new continuing professional development requirements could operate more effectively. I am pleased that the industry has given its wholehearted support to this important aspect of the proposals. Consultation with industry and consumers will be carried out next year to set the requirements for continuing

professional development. It is envisaged that there will be a variety of ways in which a person will be able to satisfy the requirements. For example, they might attend courses and seminars or learn through multimedia channels such as video or the Internet.

The Government is conscious that people, especially those in remote areas, need to participate in continuing professional development without impinging on their business activities. Before moving on to the topic of agent conduct, I should point out that decisions of the director-general with respect to the issue, renewal or restoration of licences or certificates, or the imposition of conditions, are reviewable by way of appeal to the Administrative Decisions Tribunal.

As I indicated earlier in this speech, the reforms include a number of new requirements relating to the way agents conduct their business. The practice of licence lending has been an ongoing problem for the Department of Fair Trading. When a consumer deals with a person who appears to be a licensed property agent but in fact has no genuine connection with the place of business, the effect can be devastating. Consumers who deal with unlicensed persons forgo the expertise and experience of a licensee as well as the consumer protections available under the legislation. The practice of licence lending has been difficult for the Department of Fair Trading to establish, because licensees approached about this issue are commonly evasive. Unfortunately, it is usually only when a trust account deficiency is exposed that it becomes apparent that there is no effective involvement of the licensee with a business.

This bill provides new measures to stamp out the devious practice of licence lending. Firstly, it allows for the introduction of photo licences, and that should deter all but the most dishonest and desperate individuals from this vile ploy. Consumers will be encouraged to ascertain the credentials of anyone in the property market with whom they intend to deal. They will be urged to cross-check the licence details with the information held by the Department of Fair Trading on the Register of Licences. These measures will make the practice of licence lending readily identifiable, and the maximum penalty for licence lending will be the ultimate deterrent—100 penalty units, currently \$11,000—so it will not be worth the risk. The question of appropriate supervision of employees has also vexed the department for some time. Poor supervision leaves the door wide open for some employees to adopt poor practices in their dealings with consumers, and can even lead to negligence, misleading conduct and fraudulent use of trust money.

To address these serious problems, the bill tightens the supervision and control of employees and clarifies the responsibilities of licensees-in-charge. Licensees-in-charge will be responsible for the actions of their employees and they will be prohibited from employing people who are disqualified from holding a licence or certificate of registration or are otherwise considered not fit and proper. The bill specifically sheets home to a licensee the responsibility for anything done, or not done, by an employee that falls within the scope of the employee's duty. This is appropriate and seeks to eliminate the cavalier antics of a minority of employees in the real estate sector. It rightly puts the onus on licensees and reinforces the new requirements for the supervision and control of employees by licensees-in-charge.

Each place of business will need to be in the charge of a licensee. This requirement reflects the view that qualified supervision is paramount in the handling of large sums, such as those that are placed in trust during property transactions. The requirement also acknowledges the particular need in this market for guidance in procedural matters and ethical conduct. The bill also enables the director-general to grant an exemption from the requirement that each separate agency office be under the charge of a licensee. This initiative will be welcomed by sectors of the property market that have found this requirement onerous or unnecessary—in particular, stock and station agencies in remote rural areas. Exemptions will be considered where a central trust account operates and proper supervision of employees exists. Quite reasonably, the grant of an exemption will be subject to demonstrated need and branch office accountability to a nominated licensee-in-charge.

The bill adds further to the responsibilities of licensees by requiring that a licensee notify the director-general as soon as a failure to account is identified. Defalcation can lead to the wholesale loss of lifetime savings and a litany of social ills that attach to that. The magnitude of its potential for consumer detriment is duly reflected in a hefty penalty for failure to notify or failure to account. Correspondingly, franchisors must notify the director-general in writing within seven days of becoming aware of any failure to account by a licensee. This bill provides a mechanism for licensees to seek recovery of unpaid commission or reimbursement for their expenses. Fairly, it provides recourse for principals who dispute such claims—they may apply to the tribunal for determination of the entitlement and/or reasonableness of the claim.

This measure has been carried over from the current Act because it is viewed as a very important mechanism for consumer protection. It meets the consumer demand for transparency and accountability, and

similar devices can be found in other contemporary schemes. An example is that which applies to the members of the legal profession, whose individual fees are subject to assessment and review. The bill allows for rules of conduct to be prescribed to govern the conduct of agency business. The purpose of these rules is to provide a clear guide to minimum industry standards in respect of certain business procedures and associated ethical behaviour. Contravention of the rules can result in disciplinary action. Consultation will be undertaken with the industry to ensure the development of appropriate rules of conduct.

Calls for full disclosure of any conflict between an agent's duty to a client and any beneficial interest held by the agent have been taken seriously. Clearly, consumers expect the agent they contract with to undertake his or her duties fairly and openly to achieve the best result for them. Generally, the bill prohibits real estate agents and their sales employees from obtaining or being connected to the obtaining of a beneficial interest in the sale of a property.

The bill specifies that certain information about a licensee be published in all advertising relating to the licensee's business. This information—the licence number and the licensee's name—assists consumers in identifying the individual or business they are dealing with in order to check whether they are a licensee under the Act. The bill further assists consumer interests by requiring a licensee to disclose any interest in a property advertised for sale. The bill contains measures designed to ensure that both purchasers and vendors are better able to make informed decisions. In particular, it introduces new rules to address difficulties that home owners encounter in understanding their rights and obligations under agency agreements.

Under the current Act, agents are not entitled to payment of commission or expenses for the sale of property unless a copy of the agency agreement has been served on the vendor within 48 hours of being signed. The bill continues this provision and makes service of an agreement easier by allowing for service by facsimile. However, notwithstanding this, the bill also allows for a court or tribunal to order payment of commission or expenses despite a licensee's failure to serve the agency agreement within the required 48 hours. Such an order could be made only if the court or tribunal was satisfied that failure to serve was due to inadvertence or circumstances beyond the licensee's control, commission or expenses recoverable under the order are fair and reasonable, and failure to make the order would be unjust. This provision reflects a recent Supreme Court case that upheld the decision of the Local Court that a failure to serve the agreement within 48 hours was fatal to the agent's claim for commission.

The department is aware that consumer confusion sometimes arises because of the range of different forms of agency agreement in use in the industry. To dispel this confusion and to make agreements fairer, the bill allows the regulations to provide for certain matters that have to be included in or excluded from agency agreements. The bill requires that agents provide vendors of residential property with a guide, approved by the director-general, before they sign the agency agreement. This booklet will assist consumers in understanding their rights and obligations under the agreement. The department will consult with industry and consumers to ensure the development of an appropriate consumer guide. Another aspect of the agency relationship that demands greater transparency is the receipt of rebates and discounts by agents in relation to expenses payable by the client. These benefits from third parties are received without the principal's knowledge and are often not passed on to the consumer, who is required to pay the full cost of the service. These commissions provide real estate agents with a financial advantage over and above their fee entitlement.

To ensure there is full disclosure to consumers, the bill requires that licensees set out in agency agreements the source and estimated amount of all rebates, discounts or commissions that they will receive from third parties in connection with their expenses. The client's agreement will need to be obtained when the agent wishes to retain entitlement to these benefits. A cooling-off period of one business day will apply to all agency agreements for the sale of residential property or rural land. Sensibly, the bill recognises Saturday—a high volume business day in the residential property market—in this provision. This measure operates in tandem with the requirement that agents provide a copy of the consumer guide before the agreement is signed. It will ensure that consumers have time to read and understand the terms of the agreement, seek independent advice if they choose to, and consider whether the services and fees are appropriate for their needs. As is the case under the current legislation, the bill requires that an agent must have a copy of the sale contract before advertising a property for sale. However, the bill makes it clear that buyers' agents do not need to hold a copy of the contract and also facilitates their obtaining a copy of a sale contract from the vendor's agent.

Property auctions have in recent years been a cause of consumer concern. The recent explosion of auction as the selling method of choice in a hot property market has enlivened consumers' unease about the fairness of the auction system. A particularly sore point is the time-worn practice of dummy bidding. Dummy

bidding occurs when an unauthentic bidder is planted in an auction to trigger the bidding or drive it up towards, and beyond, the reserve price. The intention is to create the impression that there is more interest in a property than actually exists. The bill provides a range of measures to eradicate dummy bidding at residential property and rural land auctions. For a start, the bill limits the number of vendor bids able to be made at an auction to just one. The vendor bid cannot be used unless notice of this right is included in the conditions of sale.

People who wish to bid for property at an auction will need to be registered by the agent acting for the vendor. The agent must enter a bidder's name, address and details of their proof of identity in a bidders record. Acceptable proof of identity will be a motor vehicle driver's licence issued in Australia that displays a photograph of the licensed driver, an Australian passport, or any other proof of identity prescribed by regulation. In addition to providing proof of identity, a person bidding on behalf of someone else must also produce a letter of authority to bid on that person's behalf. On registering, bidders will be given an identifying number which they will be required to display when bidding. An auctioneer will not be able to accept a bid from a person who has not registered.

This measure will be a boon to consumers who have been unable to follow the bids at property auctions in the past. The bidders record provides traceable information about bidders at auctions. The bill requires that it be kept by the agent for three years. Consumers may understandably be concerned about the collection, storage and use of their personal information. In keeping with these concerns and existing privacy legislation, access to and use of information from the bidders record is limited. It must not be divulged to any party other than the Department of Fair Trading for investigative purposes or to a vendor during the auction. So far, the response from consumers to this proposal has been positive. Any concerns consumers may have about registering will be addressed in a guide which agents will be required to give to bidders before the auction. The guide will be prepared by the department in consultation with industry and consumers.

An area of great concern for consumers, both vendors and purchasers, has been the particularly detestable practice by some agents of deliberately overquoting or underquoting the estimated selling price of residential property. In the past vendors have often reported selling prices falling well short of the anticipated selling price as quoted by their agents. The bill makes it an offence to quote to a property owner an estimate of the selling price that does not reflect the true estimate. On the other hand, prospective purchasers have complained about the understatement of the estimated selling price. These consumers have been misled into spending money on legal and building reports when the property was never in their price range. When auction bids exceed their limit within the first couple of bids, they are left angry and needlessly out of pocket.

To address this issue, the bill makes it an offence for an agent to publish an advertisement or make a statement in the course of marketing a property that indicates the price at which bidding at an auction will start. In addition, the bill specifically prohibits agents from deliberately underestimating expected selling prices. While the Act currently prohibits false and misleading advertising, the task of gathering sufficient evidence to prosecute has proven difficult, time consuming and costly. The bill provides a solution to this dilemma whereby the director-general will be able to require that an agent justify any estimate made of the selling price of residential property. A statement in the agency agreement of the agent's estimated selling price will be recognised as evidence of the agent's true estimate of the selling price.

These measures will provide a strong deterrent to agents tempted to misrepresent their real estimated selling prices. I will wrap up the area of agent conduct by briefly mentioning the trust accounting, record keeping and auditing requirements set out in the bill. In content, these basically mirror the provisions contained in the current Act, but with extensive modifications to streamline and modernise the requirements. Now I would like to move on to the provisions dealing with discipline and enforcement. Currently the department's capacity to take action for breaches of the legislation is hampered by the need to take matters to court, a costly and sometimes lengthy process. Proceedings may take many months to complete, tying up valuable court resources in the process and enabling unscrupulous agents to use delaying tactics. This disciplinary system has been criticised by consumers and industry alike, and rightly so.

The Government has responded to the community's concerns by including a new disciplinary framework in the bill which will allow fast action to be taken to remove shonks and incompetents from the industry to protect consumers from further risk. The department will be able to initiate disciplinary action through the issue of a notice to a licensee or certificate holder to show cause as to why they should not be subject to disciplinary action. A person to whom a show cause notice has been issued will have at least 14 days to provide evidence or make a submission. The bill sets out a range of grounds for commencing disciplinary proceedings, including the breach of the legislation or rules of conduct, failure to comply with a condition of a licence or certificate of registration, failure to hold professional indemnity insurance, failure by a licensee-in-charge to properly supervise employees and breach of an undertaking given to the director-general.

Proceedings will also be able to be commenced if a person becomes disqualified or ceases to be a fit and proper person to hold a licence or certificate or to participate in the management of an agency business. These provisions will also apply to corporate licence holders as well as unlicensed persons. The bill provides the department with a range of options for disciplinary action, depending on the circumstances. Action taken may include issue of a caution or reprimand; requirement to comply with an enforceable undertaking; cancellation or suspension of a licence or certificate or exclusion from involvement in the management of an agency business; imposition of conditions on a person's practice; and imposition of a monetary penalty of up to \$11,000 for an individual or \$22,000 for a partnership or corporation. The disciplinary scheme is similar to that which applies to motor dealers and travel agents, and the scheme that was recently introduced for builders.

The bill provides a number of options where urgent action is needed to protect consumers from significant loss or harm. The bill enables the director-general to issue a public warning alerting consumers to the risks of dealing with a particular person. Such urgent warnings will be able to be made where, in the opinion of the director-general, there is an immediate risk to the public. The director-general will also have the power to immediately suspend a licence in serious risk situations. This provision mirrors the current licence suspension power available under the Fair Trading Act. In conjunction with the immediate licence suspension powers, the bill enables the director-general to appoint a manager to carry on the business of an agent whose licence has been suspended, so as to ensure that existing clients are not disadvantaged. A manager will be required to hold a licence in the category of agency business to which they are appointed or have other relevant experience or qualifications considered appropriate by the director-general.

The bill additionally allows for the appointment of a manager in other circumstances, such as where there has been a failure to account by a licensee or the licensee has become a disqualified person or has abandoned the business. Provisions are included in the bill to set out the powers of managers, reporting requirements and termination of management, as well as a provision to enable the cost of the appointment to be borne by the licensee. The power to appoint a receiver or investigating accountant available under the current legislation will continue to be provided for in the new scheme. The disciplinary model is based on administrative law principles which preserve consistency and certainty in decision making. The process will be less costly both for licensees and the department. There will be access to the Administrative Decisions Tribunal for review of all disciplinary decisions.

To better protect consumers, it is also proposed to give them more information about licensees so that they can make an informed choice when deciding whether to engage them. Information will be provided by way of a public register maintained by the department. The current Act requires the Department to maintain a register containing details of licences, renewals, restorations, cancellations, refusals of applications and disqualifications. The bill expands on these requirements by allowing for the making of regulations to prescribe details of disciplinary action to be included in the register. The regulations will enable the register to include details of formal cautions and penalty notices issued; outcomes of show cause proceedings, including licence suspension, appointment of a manager, investigating accountant or receiver; and the results of any prosecutions. The aim of the register is to provide as much information as possible to consumers to ensure they use the services of an appropriately licensed and competent person. I must stress again that consultation with industry and consumers will be carried out in developing the regulations under this and other provisions of the proposed Act.

Another important aspect of consumer protection is embodied in the Compensation Fund established under the current Act. The bill continues to provide for the fund, which protects consumers who suffer loss because of an agent's failure to account for money or property received on a consumer's behalf. All licensees will continue to be required to contribute to the Compensation Fund. The bill introduces a very important change to the operation of the Compensation Fund to further improve consumer protection. At present, claims against the fund can be made only if the person responsible for the loss is a licensee or an employee of the licensee. As a result, consumers can, through no fault of their own, find themselves without compensation. This has occurred in the past where a person continues to trade after his licence has lapsed.

The new provisions will extend the right to compensation to cases where a consumer has lost money when dealing with an unlicensed person who he reasonably believed to be licensed at the time. Some members of the industry have raised concerns that these amendments could lead to open slather on the fund by disgruntled consumers. This will not be the case. Claims arising from the activities of an unlicensed person will be allowed only where the consumer had reasonable grounds to believe that the person with whom they were dealing was a licensee or an associate of a licensee, and that the money was entrusted in the course of a licensee's agency business. For example, this might occur where persons falsely represent themselves as being licensed or provide

agency services which would normally require a licence. The department's power to investigate complaints and take legal action for serious offences will also be considerably strengthened by the provisions contained in this bill. I will limit my comments to a few key provisions in this area.

As well as increasing the penalties for unlicensed trading, the bill increases the department's power to prosecute for this offence. Action against unlicensed traders will be facilitated by the introduction of powers to enable a departmental investigator to enter premises to inspect the books and records of a person suspected of unlicensed trading. The provision also allows an investigator to take copies of or remove records for the purposes of obtaining evidence or protecting evidence from destruction. At present, these powers are available only in respect of licence holders. As a result, the department has sometimes had difficulty in obtaining evidence upon which to prosecute an unlicensed person. Another new provision introduced by the bill allows an investigator to apply to an authorised justice for the issue of a search warrant. This will simplify and shorten the process for obtaining evidence when a person, whether licensed or not, refuses to comply with a notice to provide books and records.

The final matter I wish to mention in this area is an amendment to facilitate legal proceedings in relation to trust account deficiencies. The present Act makes it an offence for a licensee to fraudulently convert to his or her own use, any money received on behalf of any person held in trust. In the past, the department has had difficulty prosecuting for general trust account deficiencies where the missing money cannot be identified as belonging to a specific person. The bill addresses this by allowing for a person to be prosecuted if there is proof of a general deficiency and the jury is satisfied that the accused fraudulently converted the deficient money or any part of it. The seriousness with which the Government views this most basic and abhorrent abuse of consumer trust is reflected in the 10-year gaol term provided for in the bill. In all, these reforms to the disciplinary and enforcement regime will provide greater protection to the public by enabling a quicker, more flexible and cost effective response to misconduct on the part of licensees.

To support the enhancements to the disciplinary regime and to crack down on those attempting to operate outside the regulatory system, the bill increases the maximum monetary penalties for all offences. For example, the maximum penalties for unlicensed trading or licence lending will rise from \$2,200 to \$11,000. Penalties for collusive practices at auctions will rise from \$4,400 to \$22,000 for a corporation and from \$2,200 to \$11,000 for an individual. These rises will send a clear message about the seriousness of these breaches. In closing, I would like to express my thanks to the department and those officers who have worked tirelessly in the development of these reforms. I would also like to acknowledge the co-operation given and long hours put in by the Parliamentary Counsel's Office in what has been a difficult and complex drafting process in the preparation of the bill.

I believe that consumers of property agents' services have a right to expect professional, honest behaviour from agents and that is what I intend to bring about by introducing this bill. Finally, I emphasise once again that ongoing consultation will take place until the bill is considered by Parliament next year. I look forward to the continued co-operation of the industry and to meeting people who have contributed to the reform process. I commend the bill to the House.

Debate adjourned on motion by Mr R. H. L. Smith.

TABLING OF PAPERS

Mr Aquilina tabled the report of the Upper Parramatta River Catchment Trust for the year ended 30 June 2001.

Ordered to be printed.

VARIATIONS OF PAYMENTS ESTIMATES 2001-02

Mr Aquilina, by leave, on behalf of the Treasurer, tabled, pursuant to section 26 of the Public Finance and Audit Act 1983, variations of the Consolidated Fund receipts and payments estimates and appropriations for 2001-02.

[Mr Acting- Speaker (Mr Mills) left the chair at 7.01 p.m.]

Friday 14 December 2001

[Continuation of the sitting of Thursday, 6 December.]

[The House resumed at 10.00 a.m.]

ASSENT TO BILLS

Assent to the following bills reported:

Classification (Publications, Films and Computer Games) Enforcement Amendment Bill
State Revenue Legislation Further Amendment (No 2) Bill
Statutory and Other Offices Remuneration Amendment Bill
Superannuation Legislation Amendment (Miscellaneous) Bill
Crimes Amendment (Sexual Servitude) Bill
Justice Legislation Amendment (Non-association and Place Restriction) Bill
Universities Legislation Amendment (Financial and Other Powers) Bill
Higher Education Bill
Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Bill
Fisheries Management Amendment Bill
Parliamentary Remuneration Amendment Bill
Road Transport Legislation Amendment (Heavy Vehicle Registration Charges and Motor Vehicle Tax) Bill

PARLIAMENTARY ETHICS ADVISER

Mr SPEAKER: I report the receipt of the following message from the Legislative Council:

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that having considered the Assembly's Message, dated 5 December 2001, regarding the appointment of the Parliamentary Ethics Adviser, it has this day agreed to the following resolution:

That:

- (1) this House directs the President to join with the Speaker to make arrangements for the appointment of Mr Ian Dickson as Parliamentary Ethics Adviser, on a part-time basis, on such terms and conditions as may be agreed from the period beginning 1 December 2001,
- (2) the function of the Parliamentary Ethics Adviser shall be to advise any member of Parliament, when asked to do so by that member, on ethical issues concerning the exercise of his or her role as a member of Parliament (including the use of entitlements and potential conflicts of interest),
- (3) the Parliamentary Ethics Adviser is to be guided in giving this advice by any Code of Conduct or other guidelines adopted by the House (whether pursuant to the Independent Commission Against Corruption Act or otherwise),
- (4) the Parliamentary Ethics Adviser's role does not include the giving of legal advice,
- (5) the Parliamentary Ethics Adviser shall be required to keep records of advice given and the factual information upon which it is based,
- (6) the Parliamentary Ethics Adviser shall be under a duty to maintain the confidentiality of information provided to him in that role and the advice given, but that the Parliamentary Ethics Adviser may make advice public if the member who requested the advice gives permission for it to be made public,
- (7) this House shall only call for the production of records of the Parliamentary Ethics Adviser if the member to which the records relate has sought to rely on the advice of the Parliamentary Ethics Adviser or has given permission for the records to be produced to the House,
- (8) the Parliamentary Ethics Adviser is to meet with the Standing Ethics Committee of each House annually,
- (9) the Parliamentary Ethics Adviser shall be required to report to the Parliament prior to the end of his annual term on the number of ethical matters raised with him, the number of members who sought his advice, the amount of time spent in the course of his duties and the number of times advice was given,
- (10) the Parliamentary Ethics Adviser may report to the Parliament from time to time on any problems arising from the determinations of the Parliamentary Remuneration Tribunal that have given rise to requests for ethics advice and proposals to address these problems.

Legislative Council
14 December 2001

Tony Kelly
ACTING PRESIDENT

PARLIAMENTARY ETHICS ADVISER**Report**

Mr Speaker tabled the report of Parliamentary Ethics Adviser for the period 1 December 2000 to 30 November 2001.

INDUSTRIAL RELATIONS AMENDMENT (PUBLIC VEHICLES AND CARRIERS) BILL**POLICE SERVICE AMENDMENT (PROMOTIONS AND INTEGRITY) BILL****POLICE POWERS (DRUG DETECTION DOGS) BILL**

Bills received and read a first time.

BILLS RETURNED

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

Parliamentary Remuneration Amendment Bill
Courts Legislation Further Amendment Bill
Coal Industry Bill
Evidence Legislation Amendment Bill
Grain Marketing Amendment Bill
Residential Tenancies Amendment Bill
Statute Law (Miscellaneous Provisions) Bill (No 2)
Crimes Amendment (Self-defence) Bill
Criminal Legislation Amendment Bill
Aboriginal Land Rights Amendment Bill
Crimes (Local Courts Appeal and Review) Bill
Criminal Procedure Amendment (Justices and Local Courts) Bill
Justices Legislation Repeal and Amendment Bill

The following bills were returned from the Legislative Council with amendments:

Gaming Machines Bill
Industrial Relations (Ethical Clothing Trades) Bill
Landcom Corporation Bill
National Parks and Wildlife Amendment Bill
Children (Criminal Proceedings) Amendment (Adult Detainees) Bill
Courts Legislation Amendment (Civil Juries) Bill
Disorderly Houses Amendment (Brothels) Bill
Environmental Planning and Assessment Amendment (Ski Resort Areas) Bill
Transport Administration Amendment (Rail Access) Bill

Consideration of amendments deferred.

AUDITOR-GENERAL'S REPORT

The Clerk announced, pursuant to the Public Finance and Audit Act 1983, the receipt of the report entitled "Auditor-General's Report 2001—Volume 7, Parts 1 and 2", dated December 2001.

SELECT COMMITTEE ON SALINITY**Report**

Mr Anderson, as Acting-Chairman, tabled the report entitled "Report on a Study Tour to India, Copenhagen, Netherlands and Brussels—4 to 22 June 2001", dated November 2001.

BUSINESS OF THE HOUSE**Bills: Suspension of Standing and Sessional Orders****Motion by Mr Whelan agreed to:**

That standing and sessional orders be suspended to allow for the passage through all stages at this sitting of the following bills:

Industrial Relations Amendment (Public Vehicles and Carriers) Bill
Police Service Amendment (Promotions and Integrity) Bill
Police Powers (Drug Detection Dogs) Bill

POLICE SERVICE AMENDMENT (PROMOTIONS AND INTEGRITY) BILL**Second Reading**

Mr STEWART (Bankstown—Parliamentary Secretary), on behalf of Mr Iemma [10.11 a.m.]: I move:

That this bill be now read a second time.

This bill improves the integrity and efficiency of the police promotions process, ensuring promoted officers commence duties in their new positions as quickly as possible in accordance with corruption-resistant selection procedures. Let me now address the provisions of the bill. Schedule 1 amends the Police Service Act 1990. The bill requires all applicants for police promotional positions, from sergeants to the commissioner, to be asked to sign a statutory declaration that they have not engaged in misconduct generally or a specified form of misconduct. Any officer who does not sign is ineligible for promotion. However, because a refusal to sign cannot be treated as an admission of guilt, the bill provides that a refusal to sign cannot be considered for any other purpose. Officers who knowingly and falsely swear that they have not engaged in misconduct commit an offence punishable by up to five years imprisonment. These provisions, which apply to any person eligible for promotion at the time of commencement, are provided for in schedule 1 [3], [5], [18], [22] and [29] of the bill.

I note the amendments to these provisions made in the Legislative Council, which are supported by the Government. The message is clear: only officers with a clean slate need apply for promotion. Those officers who are tainted and seek to conceal this misconduct will be weeded out of the service. Whilst the commissioner routinely asks the Police Integrity Commission and Special Crime and Internal Affairs for integrity reports on preferred applicants, and the Police Integrity Commission and Special Crime and Internal Affairs provide those reports, the Act does not generally require this. The bill makes it clear that the Minister in appointing the commissioner, and the commissioner in appointing any police officer or member of the Police Service Senior Executive Service, must obtain Police Integrity Commission and Special Crime and Internal Affairs reports before an officer is promoted. These arrangements need to be enshrined in legislation to ensure they are continued.

The reforms in this bill are heavily supported by the Government. The honourable member for East Hills and others in the House had strongly advocated for these reforms. To avoid any conflict of interest, a deputy commissioner must provide the commissioner with an integrity report on the preferred applicant for the position of the Commander of Special Crime and Internal Affairs. The integrity report provisions, which apply to any person eligible for appointment at the time of commencement, are at schedule 1 [1], [2], [7] to [9], [12] to [14], and [29] of the bill. New sections 71B and 77B in schedule 1 [20] and [23] to the bill introduce an integrity "cooling off" period to allow the commissioner, having regard to new integrity information, to withdraw a selection up until the time of permanent appointment or the hearing of any promotional appeal by the Government and Related Employees Appeals Tribunal [GREAT].

Currently, the Police Service Act does not allow for such a "deselection" and the commissioner must progress the appointment of an officer who he knows to be of dubious integrity. When a selection is withdrawn, the commissioner may select the officer with the greatest merit from among the remaining applicants. The bill makes it clear that a deselected officer, as well as all other eligible officers, maintains full promotional appeal rights to GREAT. The new provisions apply to officers who are selected or are subject to non-heard appeals at the time of commencement. Items [19] to [20] and [23] of schedule 1 prescribe the circumstances in which an officer may cease to be selected for a position. It is essential that the Police Service is able to quickly deal with officers who are found to have gained their promotions through misconduct. Officers who have rorted their promotions should be stripped of those promotions immediately. Currently, the appeals system in respect of employee management action or removal under section 173 and section 181D of the Act means that officers who have rorted their promotions can remain in their position, and continue to draw their higher salary, whilst Industrial Relations Commission appeal hearings are ongoing.

The time taken to remove officers from positions they have wrongfully gained may paralyse management within parts of the service and have an adverse effect on morale, with junior officers knowing they are serving under officers of questionable integrity. The bill, in schedule 1 [27], introduces a new division 2A of part 9 of the Police Service Act, which allows the commissioner to make a revocation order to revoke the promotion of an officer before any industrial relations commission appeal is heard. That division also allows additional action to be taken under sections 173 or 181D, if appropriate. Otherwise, the new division mirrors the scheme for reviewable management action under section 173 and division 1A of part 9.

The Industrial Relations Commission has appropriate powers to remedy any inappropriate revocation order being made. Schedule 2 of the bill amends section 40 (3) of the Police Integrity Commission Act 1996 to

make it clear that evidence given before the Police Integrity Commission may be considered in making a revocation order and in any subsequent review of that order. Items [25] and [26] of schedule 1 make important reforms to the police promotion appeal process before GREAT. Notwithstanding recent improvements, police use promotion appeals processes more than the rest of the entire public sector combined. In the 18 months between 1 July 1998 to 30 June 2000, there were 927 promotional appeals lodged by members of the Public Service Association. In the year 2000 alone, 1,396 appeals were lodged by police officers. Of those, 46 per cent were subsequently withdrawn.

The bill therefore allows GREAT to dispose of a police appeal it regards as frivolous or vexatious, or when it is satisfied that the appellant is not able to put forward an arguable case in favour of their appointment. Similar powers exist in respect of police promotional appeals under the Northern Territory Police Administration Act. The bill also requires the basis of the appeal to be particularised in writing at the time it is made, with such further written particulars to be provided from time to time as required by GREAT. The level of particularisation required is to be determined by GREAT. This will deter officers from lodging purely opportunistic appeals. The bill provides a major overhaul of the police promotions system, improving its integrity and efficiency. These reforms must be in place by 1 January 2002 so that the current freeze on permanent appointments can be lifted and the integrity of the new selection system can be guaranteed. I commend the bill to the House.

Mr HARTCHER (Gosford) [10.24 a.m.]: The Coalition does not oppose this bill. I am pleased that the amendments sought by the Coalition in the Legislative Council have been adopted by the Government. The amendments relate particularly to the requirement that a statutory declaration be signed by all applicants for police positions stating that they are not guilty of any misconduct. That was a defect in the original bill, which only granted a discretion to the commissioner to seek such a statutory declaration if he thought it appropriate. A statutory declaration will now be a mandatory requirement for all applicants. I congratulate the honourable member for Epping, who has for a long time campaigned, including through the media, for reform of the promotion system to overcome the long delays in police promotions. Previously, most local area commander positions and other senior police positions were filled by acting officers, rather than permanent appointees, and they were acting only because of the long delays occasioned by the promotion system.

That situation would simply have continued were it not for the honourable member for Epping exposing the problems in the promotion system. The honourable member was behind the amendments moved by my colleague the Hon. Michael Gallacher in the Legislative Council to seek provision for statutory declarations for all applicants to be a mandatory requirement. The Coalition believes that streamlining procedures and maintaining a high standard of integrity are important measures to ensure that the police command in this State is under the control of senior police, and that they are not subject to the constant whims of the appeal process, which is what happened in the past. The Coalition now expects the New South Wales Police Service to be able to respond more effectively. The issue before the Government is whether it will ensure that the Police Service can respond effectively to what is an appalling rise in the crime rate.

That was borne out only yesterday with the most recent reports showing that the crime rate in New South Wales continues to rise. And it continues to rise because of the Government's ineffective management of the Police Service. That has been borne out again this morning in a report that only 280 of the 500 expected probationary constables will graduate, and the ongoing deficit resulting from the monthly loss of between 70 and 80 police from the Police Service will not be overcome. The Government is falling behind in terms of maintaining police numbers and delivering on its promise to increase police numbers to some 14,000 by the end of 2003. At long last the Government is addressing the proper management of senior levels of the Police Service, after the problem was exposed, and exposed repeatedly, by the honourable member for Epping and by Alan Jones on radio 2UE. Accordingly, the Coalition does not oppose this bill, but expects the Government to get behind the Police Service and manage it, and bring down crime rates in this State.

Motion agreed to.

Bill read a second time and passed through remaining stages.

INDUSTRIAL RELATIONS AMENDMENT (PUBLIC VEHICLES AND CARRIERS) BILL

Second Reading

Mr STEWART (Bankstown—Parliamentary Secretary), on behalf of Mr Amery [10.20 a.m.]: I move:

That this bill be now read a second time.

The Industrial Relations Amendment (Public Vehicles and Carriers) Bill proposes a relatively minor amendment to the Industrial Relations Act 1996, but it is an amendment without which the protection taken for granted by taxidriver, truck driver and other couriers in this State for more than 20 years may be lost. Chapter 6 of the Industrial Relations Act provides for a modified industrial relations system for drivers of public vehicles and carriers of goods who are engaged under contracts that are not contracts of employment. Chapter 6 recognises that whilst these drivers are not employees in the true sense, nevertheless they share many of the characteristics of employees, and deserve protection from exploitation. Taxidriver, van driver, motorcycle and bicycle couriers, and truck drivers share one characteristic in particular: they lack the bargaining power to achieve reasonable rates of pay and conditions of employment.

Our industrial relations system recognises the right of employees to join together and bargain collectively to achieve reasonable outcomes in pay and conditions, but people who work under arrangements that are not employment contracts are generally excluded from the industrial relations system. They are left to bargain individually. In the transport industry, more often than not, this results in drivers being paid less than is necessary to cover their running costs—petrol, vehicle maintenance and so on—and to make a decent living. In order to survive, drivers might cut corners on maintenance, take on excessive numbers of contracts, and drive at excessively fast speeds, endangering not only themselves but also public safety.

In New South Wales, chapter 6 provides a way of regularising outcomes for drivers and principal contractors. Under chapter 6, the Industrial Relations Commission can make contract determinations, like awards, to determine the rates of pay and conditions under which these drivers are to be engaged. The commission can also approve contract agreements, such as enterprise agreements, between parties in relation to such contracts. In New South Wales there is a long history of seeking to protect these transport industry workers. After the end of the Second World War, excess transport vehicles were sold to the general public, many of them returned servicemen, who then sought to participate in the rebuilding of the Australian economy by transporting goods around the country. The amount of competition resulted in many drivers in the trucking industry quickly going out of business, leaving ex-servicemen and their families struggling to survive.

The first legislative response was to deem these transport industry workers to be employees. But section 88E of the former Industrial Arbitration Act 1940 gave rise to a rash of litigation, as principal contractors sought to prevent the application of the deeming provision to growing numbers and classes of contractors. It became clear that a new approach to dealing with this issue was required. The Industrial Arbitration (Amendment) Act 1979 introduced the regulated contracts provisions into the Industrial Arbitration Act 1940. These provisions were continued in the Industrial Relations Act 1991 and find their modern expression in chapter 6 of the Industrial Relations Act 1996.

As is clear from this timeline, the need for and the appropriateness of providing a system of industrial regulation for transport industry drivers has been supported in this Parliament by governments from both sides of politics. No-one, I would suggest, in this Parliament would or should seriously question the ongoing need for such regulation. And yet this sensible, effective and efficient approach to regularising contracts in the transport industry is under a potential threat. It is this threat that the amendment I propose today is designed to meet. Sections 45 and 45A of the Federal Trade Practices Act 1976 prohibit anticompetitive conduct. Section 51 (2) of the Federal Act exempts from this prohibition conduct engaged in pursuant to employment agreements and arrangements. Essentially, the whole area of industrial relations is exempt.

But section 51, as it is generally understood, does not exempt conduct engaged in with regard to independent contractor agreements and arrangements. It would seem, therefore, that much of chapter 6 contravenes the Trade Practices Act. The Trade Practices Act does contain another means for exempting such conduct. Section 51 (1) (b) of the Trade Practices Act provides that the prohibition against anti-competitive conduct does not apply to anything that is done in a State, if the thing is specified in and authorised by legislation of that State or by regulation under such legislation. Currently, chapter 6 is protected from the prohibition in the Trade Practices Act by a provision in the Competition Policy Reform (New South Wales) Regulation 2001 made under the Competition Policy Reform (New South Wales) Act 1995.

That authorisation is due to expire on 13 January 2002 and cannot be further extended. The amendment I now introduce represents the only way to continue the protection of chapter 6 of the Industrial Relations Act 1996 from the operation of the Trade Practices Act. New section 310A will amend the 1996 Act to specifically authorise things done under chapter 6 for the purposes of the Federal Trade Practices Act and the Competition Code of New South Wales. The bill contains a sunset clause of two years from the date of the commencement. This will enable further consideration of the appropriateness of continuing this exemption from the Trade Practices Act for the form of protection offered by chapter 6. I commend the bill to the House.

Mr HARTCHER (Gosford) [10.36 p.m.]: The Coalition does not oppose this bill. The Coalition's position has been more amply stated than I would be able to do by the shadow Minister for Industrial Relations, the Hon. Michael Gallacher, when this bill was introduced in the Legislative Council. The transport industry, which gives rise to a lot of contract work and piecework, has always been a difficult area for the protection of employees. Whilst it is important to protect employees, it is often difficult to do so, given the nature of payment in and structure of the industry in which they operate. Accordingly, the Legislature has intervened from time to time, most particularly in respect of the old section 88E of the Industrial Arbitration Act, and I think the old section 88F of the Industrial Arbitration Act, if I remember correctly.

Times have changed and now, with the National Competition Policy and the Trade Practices Act, that system needs to be revisited. Accordingly, the Coalition welcomes the fact that this bill contains a two-year sunset clause so that the legislation can be reviewed to ensure that it is working appropriately and fairly. I turn to the ongoing problem that workers have in this State in relation to proper representation by the trade union movement. The fact that legislation is repeatedly necessary in the transport industry to protect workers indicates the failure of the Transport Workers Union [TWU], which claims to be the protector of those workers. The Transport Workers Union leadership seems inclined to want to interfere in the affairs of other trade unions, notably the Australian Workers Union [AWU], so ably represented in the New South Wales Parliament by the Parliamentary Secretary Assisting the Minister for Education and Training.

Mr Stewart: We are all good friends.

Mr HARTCHER: The Parliamentary Secretary interjected to say that they are all good friends. Of course, they are not all good friends. The ferocity of the fights in the AWU is legendary and the ferocity of the intervention of the TWU in the affairs of the AWU is also legendary. The TWU has repeatedly demonstrated its failure to adequately represent workers in the transport industry over a period of years. The TWU is only interested in areas that it can successfully unionise, such as the big companies. It is not interested in the thousands of individual employees and it has tended to leave them to the mercy of the marketplace. When the situation gets too bad, it allows the Legislature to be their guardian rather than the union movement. The Coalition has no quarrel with that. We believe that the Legislature should act to protect workers from exploitation, and we will always so act when there is a demonstrated need. However, it is always interesting to see the trade union movement, in this case the TWU, stand up and claim to be the defender of the workers when in fact it is not; it simply walks away from them and leaves it to others to protect them.

Before the Parliament at the moment is a bill to protect outworkers in the clothing industry. It was brought about by the total failure of the Textile, Clothing and Footwear Union of Australia to do anything for the thousands of women who are exploited as clothing outworkers. It is not without significance that this Parliament in its dying days should be seeking to address once again the total failure of the TWU or the textile and clothing employees union to actually do anything for people in their industry. It is a demonstrated failure. It is no wonder that people do not join trade unions unless they are virtually forced to, which is the case with the TWU. Very few truck drivers one talks to want to join the TWU; they just do not get value for money. No wonder, when the leadership pursues its own political and industrial ambitions and simply uses the trade union membership as a base.

I note that the bill we are considering is largely brought about by the necessity of complying with Federal competition policy. That is all to the good. New South Wales should accept that it cannot stand alone; it has to comply with the dictates of the national economy. It is ironic that a couple of years ago we used to hear about fortress New South Wales on industrial relations, how New South Wales was somehow going to stand alone. Of course, New South Wales cannot stand alone and the various bills being introduced indicate that, whether we like it or not, New South Wales, while it is a major State, is part of the national economy. Decisions are made on a national basis. Fortress New South Wales has been exposed as the hollow rhetoric that it always was. The Coalition does not oppose the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

POLICE POWERS (DRUG DETECTION DOGS) BILL

Second Reading

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [10.42 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Police Powers (Drug Detection Dogs) Bill. Police use dogs to assist them in the course of law enforcement to locate missing persons, locate bodies and detect explosives, and in any other area where the highly developed skills of dogs can be used to assist police work. The Government acknowledges and supports the expertise of police dog handlers in all aspects of their work. This legislation will allow the use of drug detection dogs, known widely as "sniffer dogs", in New South Wales in ways that are certain and appropriate. The Government has carefully weighed the competing balance of personal freedom on the one hand and the need to protect society from prohibited drugs on the other. This legislation recognises the need for police to use drug detection dogs to assist in identifying persons carrying prohibited drugs in certain areas.

Prohibited drugs are the scourge of modern society, and the New South Wales Government has led the way in treatment of persons who are using these harmful substances on the one hand, whilst cracking down hard on the detection of the use and supply of them on the other. No justification is necessary for the police concentration on stopping the use of prohibited drugs where they can, and a range of options are available to police, once they have identified that a person is carrying a prohibited drug, to divert persons into treatment in New South Wales. These include the cannabis cautioning scheme, the Magistrate's Early Referral Into Treatment or MERIT scheme, and bail conditions by police and courts in relation to treatment. For the more serious offenders there is the Drug Court and the Youth Drug Court. The drug detection dogs in New South Wales will be used under this legislation in two types of situation: firstly, in certain public areas where police will not require a warrant; and secondly, in any specified public area where police are conducting a specific operation, in which case the police must obtain a warrant.

The places where drug detection dogs will be able to be used without a warrant are as follows: licensed premises, such as clubs and hotels; entertainment areas and venues including dance parties, sporting and special events; and specific train lines, determined by police intelligence and clearly set out in the regulations. It excludes areas such as cafes and restaurants, and other public areas, unless police can justify to an authorised justice that the use of the dogs is necessary and reasonable. The use of drug detection dogs is currently subject to strict police protocols, and expert handlers use these animals to identify prohibited drugs. The public interest in these designated areas is in the detection of the prohibited drugs, because the health of the public is at risk. Police will be able to target well-known drug dealing areas and break up the trade in prohibited drugs.

The warrant system will allow the use of drug detection dogs in specific operations in public areas, under the added protection of the warrant being issued by an authorised justice, in circumstances where the supply of prohibited drugs is suspected. The police will identify on application for the warrant that they wish to use the drug detection dogs in a specified place where they have intelligence that indicates prohibited drugs are likely to be found and supplied to users. They will specify whether this will be a covert operation, in plainclothes, or an overt operation, in police uniform. Police will then, in both types of situations, be able to carry out random use of drug detection dogs, which will lead to a search of a person if the dog indicates that the person is carrying prohibited drugs or plants. The power of the drug detection dogs to identify prohibited drugs by smell is a tool used by the police officer to engage their reasonable suspicion. Once police have a reasonable suspicion that a person possesses prohibited drugs, they can legally carry out a search of the person. A search of a person by a police officer is a justified trespass on the person where such reasonable suspicion exists.

One situation that the bill contemplates is where a drug detection dog touches a person whilst searching. This can render a search unlawful, because the trespass on the person is not justified at the time the dog touches the person. The police officer may not yet have formed a reasonable suspicion when the dog touches the person, but does so only after the touching. The touching is potentially an unjustified trespass and therefore unlawful. The bill indicates that all reasonable precautions should be taken by a police officer conducting a general drug search to stop the dog from touching a person. This is in line with police protocols in the use of drug detection dogs and means that if a dog touches a person in a general drug search, despite the best efforts of the police officer handling the dog, then the touching of the dog does not constitute an unlawful search by the police officer. The safety of all persons involved and of the dog is best served if the dog cannot touch the suspect at all.

This ensures that the police dog handler is offered recognition of their expertise and that of their dog, which is on one level a tool, whilst also being a living. However, there is also a continuing need to see training of police to continue their expertise in the use of drug detection dogs with, where possible, no touching of persons in the process of their work, and the maximum dignity being afforded to the individual in every case. There are significant limitations on police powers concerning drug detection dogs under this legislation. The dogs cannot be used except in the circumstances described. They cannot be used in cafes, restaurants or premises primarily concerned with the serving of food. They can enter premises only pursuant to existing powers of entry. They cannot be used in public places that are not described in the bill, unless a warrant is obtained demonstrating why the use of drug detection dogs is justified in the view of an authorised justice.

The New South Wales Ombudsman will review after two years the activities of the police in utilising drug detection dogs, in order to ensure that the appropriate balance of the rights of individuals and the need to protect society from prohibited drugs is achieved. There will also be a review by the Minister after the Ombudsman's report of the activities of the drug detection dogs with a view to ensuring that such a balance is being reached. This shows the wisdom of the Legislature in opening to public and government scrutiny the powers it gives to government agencies in our democracy. I commend the bill to the House.

Mr HARTCHER (Gosford) [10.49 a.m.]: The Coalition does not oppose this bill, which comes about largely as a result of a decision by the Deputy Chief Magistrate who ruled against the use of sniffer dogs. That decision has been the subject of an appeal by the New South Wales Police Service but is yet to be tested by the Supreme Court. As a result of that decision, the Coalition indicated that the powers of the police to use dogs for drug detection should be placed on a sound statutory basis. The Leader of the Opposition, Kerry Chikarovski, introduced into this House a private member's bill to that effect. That private member's bill is on the business paper but has not been dealt with by the House simply because the Government has been reluctant to give the Opposition the recognition it deserves for its initiative in relation to this legislation. The private member's bill to which I refer is the Drug Misuse and Trafficking Amendment (Sniffer Dogs) Bill, notice of which was given on 27 November 2001.

Various safeguards that are laid out by the Minister in his second reading speech and set out in the legislation are acknowledged by the Coalition. It is important that police powers in this regard be defined and that the police act responsibly in exercising those powers. It is also important that the public be protected against unwarranted and intrusive activity by police, however well-meaning that may be. The Coalition is concerned about the ongoing use of drugs. I note the words in the Minister's second reading speech, "prohibited drugs are the scourge of modern society". I acknowledge those words and I adopt them on behalf of the Coalition. Prohibited drugs are the scourge of our society: They destroy the lives of many people, they destroy families, they ruin employment prospects and they ruin people's health. They also merely enrich a small group of cynical and self-seeking people who are trafficking in prohibited drugs for personal gain. These people are the deadly enemies of our society.

The role of government is to use whatever reasonable means are available to detect and apprehend offenders and to prevent the spread of drugs. Dogs have shown themselves to be a very valuable adjunct to the police in carrying out that mission. Indeed, the role that dogs play in our society ought to be acknowledged. When people land at Sydney (Kingsford Smith) Airport, they are first met with beagles which act as quarantine detection dogs. In the community, people meet German shepherds and labradors that assist the blind and hearing-impaired people in our society. At the New South Wales Police Service there are dog-handling teams who use dogs for security purposes and as sniffer dogs to detect explosives and drugs. There is no doubt that dogs are a wonderful asset in our society. They are also great companion animals and a boon to thousands of people. Nearly half of the households in our society proudly have a dog, and it is important that we as human beings recognise the assistance that dogs have given us in our evolution and in the development of our society. This bill is just one more reflection of that assistance.

The Coalition also appreciates the fact that the bill contains a provision for review by the Ombudsman after a period of two years. On a number of occasions in this House I have pointed out that it is important for legislation to be regularly reviewed to determine whether it is effective and serves the purposes for which it was introduced. That is the role of the Legislature—not simply to pass law and leave it to operate in the community in the hope that all will be well. The role of the Legislature is to regularly update and review legislation. Legislation should not simply be left to the whim of government, and that is what the Ombudsman's report will achieve; it will ensure that the legislation is brought back to the Parliament so that the Parliament can gain an understanding of what is happening and seek to remedy any mischief or defects which members of Parliament believe have arisen.

The Coalition has argued for that in respect of a number of bills, one of the most significant of which was the DNA legislation for which the Coalition sought a review process. For the Coalition's pains, it has been grossly misrepresented by the Government as somehow being opposed to DNA testing whereas that is certainly not the case. The Coalition always wanted a proper process of review, just as it wants a proper process of review in relation to the powers provided in the bill before the House. In any society it is important to achieve a balance between the powers granted to police and protection of the civil liberties of individual members of society. The role of the Legislature is not simply to provide police with powers but also to monitor those powers to ensure that they are effective and properly used and achieve the purpose for which they are intended, which in this case is to prevent the spread of drugs.

Accordingly, I indicate that the Coalition looks forward to the operation of this legislation. The Coalition will maintain a watching brief to ensure that it is used effectively and that it works. We indicate to the officers of the New South Wales Police Service that we support them in their mission to help the community to eradicate the scourge of drugs, although we are conscious of the fact that achievement of that goal requires more than the efforts of the police. It needs all members of society and it needs particularly health workers to participate in the eradication of drugs because drug abuse is a health problem for individuals who suffer from addiction, just as it is a criminal problem for those who seek to profit from the drug trade.

There will always be a distinction between those who are suffering and those who simply seek to profit by the drug trade. It is that distinction that members of Parliament need to be conscious of at all stages. It is not that members of the Coalition in any way condone the individual use of drugs: We do not, and we have indicated that very clearly. The Coalition supports measures such as the Drug Court and other measures that have been outlined by the Government which are important in assisting individuals to overcome their problem, while maintaining society's resolve to work determinedly to prevent those who are trafficking in drugs from profiting from the abuse of drugs by people who suffer from the illness of drug addiction. Accordingly, the Coalition does not oppose this legislation looks forward to its operation.

Ms MOORE (Bligh) [10.56 a.m.]: Effective policing is vital for the Bligh electorate, which has specialised needs and very serious crime problems. My electorate includes the known drug hot spots of Kings Cross, Oxford Street and the Eveleigh Street, Redfern, precinct and surrounding areas, which are seriously affected by assaults, malicious damage, drug dealing, injecting, robberies, street violence and antisocial behaviour. Official statistics show that the inner east has Sydney's worst rates of robbery, sexual assault, break and enter offences, motor vehicle theft and cases of stealing from a motor vehicle, and stealing from people. I constantly receive disturbing reports from my constituents that police say they are unable to respond because officers are already dealing with other serious incidents.

The entire city east region is seriously underresourced, with a high number of inexperienced and probationary officers. It is in that context that I oppose the Police Powers (Drug Detection Dogs) Bill because it will not decrease the rates of serious crime and drug-related problems in my electorate. This legislation has been developed in haste and without community consultation. It will seriously risk the worsening impact of crime and drugs on the Bligh electorate. The legislation is tough on police resources. It is not tough on crime. I cite what has been said by Reverend Ray Richmond, who is Pastor of the Wayside Chapel, Kings Cross, and who wrote to me just yesterday:

As a person who works in the Kings Cross community, I am present to many opportunities to observe policing methods and to participate in conversations about policing. As a member of the Kings Cross Drug Action Team and member of the Medically Supervised Injection Centre Community Consultation Committee, I have also participated in conversations about policing strategies being employed here.

I have come to the opinion that the use of large teams of police and sniffer dogs is an inappropriate use of ... policing resources, and ... has led me to form the opinion that the practice is intrusive, offensive and ineffective in prosecuting drug dealers above street-level couriers ...

I am unaware of any compelling evidence for continuing the practice, even though I have sought such evidence from others who are close to the illegal drug scene especially in the courts, amongst lawyers, illegal drug users, researchers and health workers...

I am of the opinion that discussion and consultation with the community in Kings Cross should not be avoided or further delayed before such changes are developed.

I say to the Minister: Those discussions are necessary. Yesterday I attended a Kings Cross community drug action team meeting and was urged by the attendees to inform the House that that discussion should take place before this bill is rushed through the House. In March I raised concerns with police that the use of sniffer dogs was implemented without a policy framework or public debate, simply because resources were available following the Olympics—a leftover resource that needed to be used. This bill may establish a legal framework, but it does not set a policy that is integrated with the outcomes of the groundbreaking 1999 New South Wales Drug Summit, sponsored by this Parliament. On available evidence there is conflict between the widespread use of sniffer dogs in public places and harm minimisation policy that directs users into treatment and health services.

Debate in the Legislative Council last night highlighted the serious issues that remain unresolved in this rushed through legislation. I refer honourable members to the amendments that were moved and to the discussion that took place, discussion that is not occurring in this law-making Chamber. No open and transparent public consultation or debate has occurred. As this legislation impacts upon my electorate I, at this late stage, call for that debate. No clear data is available on the costs or results of sniffer dog use. In Minister

Costa's second reading speech he sought to use harm minimisation language, but the detail of the legislation suggests a hard-line, law and order approach, without evidence to support the claims. The Minister stated:

The legislation is consistent with the Government's approach to harm minimisation for low-level drug users ... [when] offenders appreciate the enhanced capacity police have ... they may seek assistance to stop using drugs, and that is one of the clear benefits of this legislation ... No justification is necessary for police concentration on stopping the use of prohibited drugs where they can.

It is as if the Government recognises the conflicts and is trying to justify widespread sniffer dog use through harm minimisation rhetoric. The use of sniffer dogs in public places means that thousands of dollars in police resources are dedicated to catching recreational drug users, people with addictions and the occasional small-time dealer. The major dealers and traffickers do not go to public places or use public transport when carrying large quantities of concealed drugs. The Government's argument that this legislation is focused on couriers and dealers is not supported by available evidence or reports on the use of sniffer dogs. The targeting of recreational drug users, rather than dealers and traffickers, is contrary to progressive drug policy that channels users into health services and rehabilitation.

I would have thought that after the 1999 breakthrough Drug Summit that is what we were all about. Such targeting increases the risks to drug dealers, who may take larger quantities of drugs before leaving home or may consume everything that they are carrying when confronted with a sniffer dog. It also criminalises drug users, which can have serious consequences throughout the rest of their lives. No information is available on the reliability and accuracy of sniffer dogs in detecting drugs. That is significant in the light of the profound embarrassments faced by persons detained, searched or questioned as a result of incorrect drug detection by a dog. I will refer to a few examples. From 23 to 25 February—the weekend before mardi gras—18 police officers were deployed in a sniffer dog campaign.

On the Friday night 27 people were arrested and on the Saturday night a further 20 people were arrested. People reported being searched in public, patted down or taken back to the station and strip searched. Police reported that only six of the arrests were supply related and that the majority of those arrested were carrying drugs for their personal use. The Surry Hills gay and lesbian liaison officer was not told about the operation until the second day. A number of my constituents and visitors to the area contacted my office at that time and expressed their serious distress with respect to the strip searches. The medically supervised injecting centre has been involved in a sniffer dog operation. A police target action group involved outsiders coming into the complex area that I represent. It is extraordinary that the person who organised that was not aware of the importance of the medically supervised injecting centre in Darlinghurst Road and the role it plays in Government policy to rehabilitate young drug users and to get them into treatment.

These outsiders undertook an operation, in plain clothes, directly adjacent to the facility, which resulted in users being driven away from the facility. I received an urgent call from a mobile phone whilst this was occurring and had to speak to the officers to explain to them where they were and what they were doing. This occurred despite protocols having been developed to permit users with small quantities of drugs to access the centre. On 13 September a Woolloomooloo resident, a 52-year-old grandmother, was subjected to a search after a sniffer dog showed interest in her handbag. Her handbag was emptied in a public bar, in full view of other patrons, but no drugs were found. She was very distressed by the incident and believes that the dog showed interest in her handbag because it contained a chicken schnitzel.

That might sound funny, but people who have been apprehended, strip searched and embarrassed in public have been seriously distressed by those incidents. On 22 October there was a raid in Oxford Street involving 300 police officers and the media units of all major newspapers. As a result only two dealers were arrested. I point out to the Minister that that occurred at a time when one of my constituents, a dry cleaner, was assaulted senseless in Oxford Street outside his shop. I have referred to that incident in a private member's statement. I report to the House that he later died. That assault was a tragic incident, and much more important than apprehending two dealers via 300 officers and the *Sydney Morning Herald* media unit.

The use of sniffer dogs may increase police arrest rates, but the Redfern Legal Centre reports that there is no evidence that targeting possession offences has reduced drug-related crime or drug use. Drug-related crimes are causing major concerns to me, as the member for Bligh, and to my constituents. There is no evidence to show that sniffer dogs will reduce drug-related and serious assaults on people, or the break-ins that people experience, or the most extreme assaults—such as the death of a local shopkeeper. Sniffer dogs are used in high-profile raids and get media coverage, but that diverts attention and resources from serious concerns that police should address: community safety, police corruption and mismanagement. We read depressing reports of

corruption and mismanagement in our daily newspapers. It is salutary to refer to what is happening in the United Kingdom. The Commons Home Affairs Select Committee is examining drug laws. Last November a United Kingdom newspaper stated:

A senior police officer yesterday told MPs it was a "waste of time" sending officers into nightclubs and pubs to arrest people carrying ecstasy.

Metropolitan Police Commander Brian Paddick said his officers would be better deployed pursuing "far more important" offenders who caused more harm to the community in general.

His comments came as he and other officers indicated a radical shift in drug policy by publicly advocating the down-grading of ecstasy to a Class B drug.

They also backed the creation of special areas where addicts could legally inject heroin, so-called "shooting galleries".

Mr Paddick has overseen the six-month experiment in Brixton, South London—

an area that has very serious drug problems, a bit like my electorate—

where possession of small amounts of cannabis is being dealt with by a caution rather than an arrest.

"If I felt my officers were going into nightclubs looking for people who were in possession of ecstasy" I would say to them, and I would say publicly, that they were wasting valuable police resources," he said.

Hear! Hear! My constituents—who are subjected to violent assaults, break-ins and car break-ins on a daily basis—want protection, security and uniformed police on the beat. [*Extension of time agreed to.*]

As the Minister pointed out, the bill responds to some privacy and civil rights concerns by excluding the use of sniffer dogs in private premises. If the current court ruling is that the use of sniffer dogs does not constitute an illegal search, the bill improves the situation by restricting police action to public places and operations supported by a warrant. The Council for Civil Liberties states:

The use of sniffer dogs to conduct random drug searches in public places is infringing the civil liberties and deeply affecting the lives of thousands of people across the state ...

Sniffer dogs are detecting small quantities of drugs on people who are clearly not big-time suppliers and not the Mr Bigs in the supply chain that the police say they are targeting.

Of course, the police and the Parliament should be also addressing the Mr Bigs in the supply chain. The Council for Civil Liberties further states:

Detecting and charging users with simple possession offences is not shown to be helpful in reducing harm in the society from drug abuse.

The Law Society has also contacted me, as it has contacted other members, to express its concern about the Government's proposal. The society states:

Dogs are ... used as an intimidatory agent and to assist police in detaining a person so that the dog has the opportunity to smell him or her. People react in varying ways to the actions of the dogs, including embarrassment, distress and fear. While the [Law Society] Committees do not have access to data about the incidence of false positive indications from dogs, anecdotally these do occur.

I have provided some examples of that. The Law Society further states:

Police do not (and should not have) power to randomly detain and search a person in the absence of a reasonable suspicion. It is the view of the Law Society's Criminal Law and Children's Legal Issues Committees that any police activity which involves:

- Police using dogs to detain or direct a person in any way, and/or
- The dog coming close to (within one metre) or touching a person,

Constitutes a search and should not be permitted without reasonable suspicion.

Real concerns are being expressed by two important organisations in our community: the Law Society and the Council for Civil Liberties. These matters should be debated in the community, particularly in my electorate, because, as I have said, the legislation will specifically target my electorate. The Law Society concludes:

The number of police operations using dogs to detect drugs conducted at nightclubs and other venues, and at train stations is increasing. Large-scale operations, such as the one conducted against five nightclubs at Kings Cross/Darlinghurst/Double Bay ... are labour intensive exercises and would appear to be a waste of police resources.

That is also what the United Kingdom police officer said to the House of Commons committee just last month. I should like to conclude by further quoting Reverend Ray Richmond of the Wayside Chapel in Kings Cross, which is in the heart of the electorate of Bligh, because I believe the House should hear what he had to say. Reverend Richmond said:

I am also aware of some unintended outcomes of the use of sniffer dogs among illegal drug users, causing users to change their drug of choice to substances that are not easily detected and are more dangerous and problematic for the user.

Of course, heroin cannot be detected. Last night I was informed by the director of the Kirketon Road clinic that when sniffer dogs appear heroin users swallow their drugs. That, of course, is a very dangerous practice. Reverend Ray Richmond went on to say:

The long-suffering business owners and residents of Kings Cross are not impressed with the level of effective policing. Local amenity and safety have decreased. The service has been downgraded and police numbers are way below "establishment" level for most of the last ten years. The Police Minister has been consistently absent and unresponsive to many requests for consultation and discussion.

These are the real issues that the business people and the residents of Kings Cross and the rest of my electorate would like addressed. The Bligh community do not want high-profile, showtime policing involving sniffer dogs, police officers and the media units of the major newspapers and television channels. We have consistently sought community policing, with adequately resourced local police who know the complex local situation, who work out of local stations, and who are on the streets to prevent crime, particularly in entertainment and retail precincts, and adjacent high-density residential areas. At the next election the people of New South Wales will not reject a Labor Government that has clearly worked responsibly to address the serious problems of crime, safety and harm minimisation, to ensure a reduction in the number of drug users. The community will see through and condemn a Government that has worked hard on publicity and media manipulation without making any progress on the real issues of public safety, and police resourcing, management and reform.

Mr BARR (Manly) [11.17 a.m.]: I express grave reservations about the Police Powers (Drug Detection Dogs) Bill. Given the slather of legislation that has been introduced in recent times concerning policing and law and order issues, I foresee that over the next year, as we approach the next State election, the Opposition and the Government will be trying to demonstrate to the public who is more hairy-chested about law and order issues. The bill raises serious civil liberties issues. Since the 11 September terrorist attacks on the United States of America we have sought to contrast our form of open society, our democratic ideals and institutions, and our freedom of expression and movement with the situation in many countries where those ideals do not pertain. Yet, if we begin to erode our civil liberties and do not adequately address the concerns that people may have about being stopped and searched by police, we will take the rocky road down that more totalitarian path.

I am not engaging in hyperbole but simply raising a concern I have with respect to the legislation. I am also concerned about the people whom the bill will impact upon primarily: young people—the kinds of people who frequent public places, hotels and so on. They will be stopped and searched. I suspect that most young people who are caught with anything will be caught with a small amount of marijuana. The issue is whether we want to alienate a generation of young people who are basically users, and not suppliers or traffickers. That is where a clear distinction must be made. Will the legislation actually get the traffickers and the heavy movers? Will it get the big fish or will it catch some minnows? If we are serious about the drug issue, we must attack the suppliers and traffickers—in other words, the sources of the drug supply. I do not believe that the bill addresses that issue. As the honourable member for Bligh pointed out, the Law Society has expressed grave concerns about the legislation. It says:

Police do not (and should not have) power to randomly detain in search of personal in the absence of a reasonable suspicion. It is the view of the Law Society's Criminal Law and Children's Legal Issues Committees that any police activity which involves:

- Police using dogs to detain or director person in anyway, and so short
- the dog coming close to (within one metre) or touching a person,

Constitutes a search and should not be permitted without reasonable suspicion.

I refer to comments made last night in the upper House by the Hon. Dr Arthur Chesterfield-Evans concerning the rights of the people of the United States. He said:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause—

"probable cause" in the United States means the same as "reasonable suspicion" in Australia—

supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Although it may not necessarily be the case, I believe that the use of dogs can be an intimidatory form of policing. Many speakers in the debate have distinguished between the work done by sniffer dogs for customs and quarantine at airports and that proposed in this bill. Those dogs perform an important and significant role. They are sniffing out the potential importation of large quantities of drugs, as opposed to someone being caught at a dance venue, on the street or at a railway station who may or may not have a quantity of drugs and who may have something quite innocent that has aroused the dog's interest. Strip searching is also a serious concern. In the debate in the upper House the Minister for Police, the Hon. Michael Costa, referred to strip searches but he was not very convincing. The notion that people can be sniffed by a dog and then searched in a public place or in close proximity to a public place, perhaps the corner alley, is a serious concern. The Minister said:

A strip search cannot be conducted unless clearly justified. If you decide to strip search, do it out of view of anyone not needed for the search—at a nearby police station is preferred. It is to be conducted by an officer of the same sex as the person being searched. Where possible conduct the search in the presence of a duty officer, crime manager or supervisor of the same sex as the person. If it is not possible conduct it in the presence of another of the same sex. Record all searches, those present, the reasons for your suspicions, all conversation and actions ...

Ms Moore: That is not happening.

Mr BARR: The honourable member for Bligh says that that is not happening. The comments of the Minister for Police are vague and general. Indeed, the words, "... do it out of view of anyone not needed for the search—at a nearby police station is preferred" are particularly disturbing. Citizens can be strip searched after having attracted the attention of a sniffer dog when they may or may not be carrying an illicit substance. This may impact on certain classes of people—namely, younger people at particular locations. The bill does not go to the heart of the drug issue, which is to stop the big players, who are not likely to be hanging around pubs or dance venues with large quantities of drugs for sale. The smaller players may be caught, but the cost will be the invasion of civil liberties. On 21 October in the Darlinghurst area 300 police and nine dogs were involved in an operation that was highly publicised and that resulted in four people, according to the Law Society, being charged with drug supply.

Ms Moore: They got two people.

Mr BARR: The honourable member for Bligh says they got two people. In addition, 14 other people were charged with possession of drugs for their personal use. That is not a very good return on this kind of investment in public and police resources when people are concerned about safety in their community, break-ins, crimes of violence, aggression and other criminal behaviour. The Law Society said that three months prior to the operation undercover police conducted controlled buys from alleged drug dealers. Accordingly, it is feasible to assume that people charged with supply as a result of the raid were already known to police. Of course, police carry out undercover operations, intelligent policing, which they are proud to tell us they undertake these days to catch criminals.

However, this will be a random activity—sniffer dogs will sniff out someone in a public place who may or may not be carrying an illicit substance and, as a result, some people may be arrested. The big cost is that our civil liberties will be eroded. Therefore, we should consider this kind of legislation very carefully. I know that the Ombudsman will monitor the situation and will report back after two years and that is something in its favour. Unfortunately, the amendments proposed in the upper House late last night were not agreed to, including the sensible measure involving strip searches and distinguishing between dealers and users. There are genuine and legitimate concerns about this bill and we should be wary about giving police these kinds of powers.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [11.26 a.m.], in reply: I do not propose to spend a long time in reply. However, I remind honourable members who have spoken in the debate that the Government introduced this legislation with great emphasis on the obvious need to balance civil liberties on the one hand with the need to curtail the use of drugs in our society on the other. Everyone knows that a balance must be achieved and that is why the Ombudsman and the Minister for Police will conduct reviews on the operation of this legislation. The honourable member for Manly acknowledged the efficacy of drug dogs at airports. They are used at airports in the public interest—as far as possible, they intervene to prevent the illegal entry of drugs into the country within a geographically restricted area.

All the arguments made by previous speakers regarding the amounts of drugs likely to be held by individuals come into play in the case of airports. One will almost certainly find relatively small amounts of drugs held by individuals if people clamber over cabin luggage in the luggage delivery areas at airports. This bill addresses a situation that has existed for quite a long time. Police have been using sniffer dogs for a long time

with very little legislative sanction. This legislation will ensure that limitations are placed on the way in which random searches, in particular, might be carried out. The Government has chosen to adopt exactly the same strategy for limiting that use, especially at the geographical level, as already exists under Commonwealth legislation with respect to the use of such dogs at airports.

All the arguments put about potential embarrassment to citizens in pubs or other areas, where from now on drug sniffer dogs will be permitted, apply equally to airports. We must establish the appropriate level of freedom for the use of these dogs as a matter of public policy and from the passage of this bill there will not be a circumstance where police can use sniffer dogs at random in the street. A number of the examples of incidents that honourable members complained about in their contributions to this debate quite specifically involved police actions in the street in circumstances that will no longer be possible after the passage of this bill. At the same time, on a number of occasions the honourable member for Bulli and the honourable members for Manly came perilously close to blaming the dogs for other aspects of police operations that they wished to criticise. It was almost like blaming machine guns for creating the war.

Sniffer dogs are merely one of a spectrum of tools that are available to police to use to detect drugs. All of those tools are used in the context of the Government's well-established spectrum of diversionary programs, cautioning schemes, and so on. It simply cannot be denied that the sorts of premises defined by the bill as premises in which random sniffing by drug detection dogs will continue to be permitted—random, as distinct from searches conducted on the basis of reasonable suspicion or of a warrant, about which there can be no significant complaint at a public policy level—are exactly the premises where substantial drug dealing takes place.

It is somewhat disingenuous of honourable members to talk about individuals who will not be in possession of any large amount of drug at venues such as those that are defined in the Act, when in truth it is frequently the case that substantial drug dealing is conducted in those establishments. It is those dealers to which police appropriately direct their activity. It is not for me, in the context of this bill particularly, to justify every action that police have ever taken anywhere in this State when, inter alia, they happened to use drug detection dogs. It is for me to demonstrate—as, palpably, I am able to do—that it is very important that police should have available all possible tools, including these dogs, to pursue dealers in drugs, and that they should be able to appropriately enter those sorts of places where that kind of activity is most likely to occur.

At the same time, I repeat, this bill substantially constrains the use of sniffer dogs. The elderly person in the street, the respectable couple having dinner in an outdoor cafe—who may, in the past, have accidentally been the subject of a search by sniffer dog—cannot now be so subjected. At the same time, we are able—as we have successfully demonstrated with the knife legislation—to review the operation of this Act through the Ombudsman, and separately through a procedure that will be implemented by the police commissioner, to ensure that the future use of sniffer dogs is appropriate and is indeed directed to having an effect on interdicting serious drug trafficking.

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

Division called for. Standing Order 191 applied.

Noes, 2

Mr Barr
Ms Moore

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

DISTINGUISHED VISITORS

Mr SPEAKER: Order! I draw the attention of the House to the presence in the gallery of Mr and Mrs Hughes. Mr Hughes is a former member of the Queensland Parliament who has also been active in the Commonwealth Parliamentary Association. I welcome Mr and Mrs Hughes to the Parliament of New South Wales.

BUSINESS OF THE HOUSE

Consideration of Legislative Council Amendments: Suspension of Standing and Sessional Orders

Motion by Mr Whelan agreed to:

That standing and sessional orders be suspended to permit the consideration of the amendments made by the Legislative Council in the bills reported this day and the Cemeteries Legislation Amendment (Unused Burial Rights) Bill in one Committee of the Whole.

GAMING MACHINES BILL

LANDCOM CORPORATION BILL

INDUSTRIAL RELATIONS (ETHICAL CLOTHING TRADES) BILL

NATIONAL PARKS AND WILDLIFE AMENDMENT BILL

CHILDREN (CRIMINAL PROCEEDINGS) AMENDMENT (ADULT DETAINEES) BILL

TRANSPORT ADMINISTRATION AMENDMENT (RAIL ACCESS) BILL

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (SKI RESORT AREAS) BILL

DISORDERLY HOUSES AMENDMENT (BROTHELS) BILL

COURTS LEGISLATION AMENDMENT (CIVIL JURIES) BILL

CEMETERIES LEGISLATION AMENDMENT (UNUSED BURIAL RIGHTS) BILL

In Committee

Consideration of the Legislative Council's amendments.

Schedule of amendments to the Gaming Machines Bill referred to in message of 6 December

- No. 1 Page 14, clause 15, lines 15 and 27. Omit "variation" wherever occurring. Insert instead "increase".
- No. 2 Page 15, clause 17, line 21. Omit "no more". Insert instead "less".
- No. 3 Page 15, clause 17, line 23. Omit "at the request of". Insert instead "on application by".
- No. 4 Page 15, clause 17, line 27. After "premises." insert "Any such application may be made only once in respect of the premises concerned".
- No. 5 Page 16, clause 18, lines 4 to 9. Omit all words on those lines. Insert instead:
 - (3) A poker machine entitlement cannot be allocated in relation to a hardship gaming machine until after the period of 3 years following the date (as determined by the Board) on which the hardship gaming machine was approved to be kept in the hotel or on the premises of the club concerned.

Note. Section 31 provides that a hotelier or clubs may apply for a poker machine entitlement in relation to a hardship gaming machine only after the period of 3 years following the approval of the keeping of the hardship gaming machine.
- No. 6 Page 17, clause 20. Insert after line 19:
 - (4) A block of 3 poker machine entitlements may comprise entitlements that have been allocated in respect of more than one hotelier's licence or more than one set of club premises.
- No. 7 Page 17, clause 20. Insert after line 19:
 - (4) Despite subsection (3), one poker machine entitlement allocated in respect of a hotelier's licence that is held in relation to a country hotel (the *transferring hotel*) may be transferred in any period of 12 months without the requirements of that subsection applying to the transfer if:
 - (a) the transfer is to another hotelier's licence that is held in relation to a country hotel, and
 - (b) the number of approved gaming machines that are authorised to be kept in the transferring hotel does not exceed 8.

- (5) Subsection (3) continues to apply in respect of any subsequent transfer, in any period of 12 months, of poker machine entitlements allocated in respect of a hotelier's licence of a transferring hotel as referred to in subsection (4).
- No. 8 Page 17, clause 20, line 22. Omit "5".
- No. 9 Page 20, clause 25, line 7. Omit "which poker machines". Insert instead "which poker machine".
- No. 10 Page 24, clause 31, line 24. Omit "After 3 years from the commencement of this section, the". Insert instead "The".
- No. 11 Page 24, clause 31. Insert after line 29:
- (3) An application under subsection (1) for the allocation of a poker machine entitlement in relation to a hardship gaming machine may be made only after the period of 3 years following the date (as determined by the Board) on which the hardship gaming machine was approved to be kept in the hotel or on the premises of the club concerned.
- No. 12 Page 28, clause 38, line 26. Omit "switched off, and is not capable of being operated,". Insert instead "not operated for the purposes of gambling".
- No. 13 Page 29, clause 39, line 4. Omit "switched off, and is not capable of being operated,". Insert instead "not operated for the purposes of gambling".
- No. 14 Page 29, clause 40, lines 17 and 18. Omit "switched off, and is not capable of being operated,". Insert instead "not operated for the purposes of gambling".
- No. 15 Page 30, clause 41. Insert after line 5:
- (b) was, on a regular basis before 1 January 1997, closed for business between midnight and 10 am for a minimum of 3 hours on at least one day of the week, and
- No. 16 Page 30, clause 41, line 6. After "open" insert "and close".
- No. 17 Page 30, clause 41, line 22. Omit "early opening times". Insert instead "opening and closing times (as referred to in subsection (1))".
- No. 18 Page 30, clause 41, line 26. Omit "switched off, and is not capable of being used,". Insert instead "not operated for the purposes of gambling".
- No. 19 Page 30, clause 41, line 31. Omit "council". Insert instead "consent authority".
- No. 20 Page 31, clause 42, lines 9 and 10. Omit "required to be switched off under". Insert instead "not to be operated for the purposes of gambling in accordance with".
- No. 21 Page 39, clause 53, line 30. Omit "proof". Insert instead "evidence".
- No. 22 Page 160, Schedule 2 [45], line 7. After "person" insert "personally".
- No. 23 Page 164, Schedule 3 [11], lines 17 to 23. Omit all words on those lines. Insert instead:
- (i) the total value of the remuneration packages (comprising salary, allowances and other benefits) of over \$100,000 per year paid or payable to the 5 highest paid employees of the club (as reported alongside each successive \$10,000 band of income over \$100,000),
- No. 24 Page 177, Schedule 3 [48], line 30. After "person" insert "personally".

Legislative Council's amendments agreed to on motion by Mr Debus.

Schedule of amendments to the Landcom Corporation Bill referred to in message of 11 December

- No. 1 Page 4, clause 8, lines 20-25. Omit all words on those lines. Insert instead:
- (2) The board is to consist of 7 directors appointed by the Governor on the recommendation of the voting shareholders.
- No. 2 Page 8. Insert after line 34:
- 14 Environmental reporting indicators**
- (1) The portfolio Minister is from time to time to adopt environmental reporting indicators, including environmentally sustainable development indicators, for use by the Corporation.
- (2) The indicators must include a methodology for making comparisons to international best practice in environmentally sustainable residential, commercial and industrial development.

- (3) Before adopting any environmental reporting indicators, the portfolio Minister:
 - (a) must cause notice of the proposed indicators to be published in a daily newspaper circulating throughout the State, and
 - (b) must cause copies of the proposed indicators to be made available for public inspection on the Corporation's website and at each of the offices of the Corporation, and
 - (c) must allow a period of at least 30 days for members of the public to send written comments to the portfolio Minister in relation to the proposed indicators, and
 - (d) must take any such comments into consideration.
- (4) The Corporation must monitor its activities against the environmental reporting indicators and must compile data on those indicators.
- (5) The Corporation is to publish an annual report that sets out the results of the monitoring referred to in subsection (4).
- (6) Copies of the report are to be made available for public inspection on the Corporation's website and at each of the offices of the Corporation.

No. 3 Page 12, clause 21. Insert after line 4:

- (2) The Minister is to make arrangements for public comment on the Act and consider those comments as part of the review.

Legislative Council's amendments agreed to on motion by Mr Debus.

*Schedule of amendments to the Industrial Relations (Ethical Clothing Trades) Bill
referred to in message of 11 December*

Page 7, clause 9. Insert after line 13:

- (4) The Minister must, as soon as practicable after receiving the report, lay a copy of the report, or cause it to be laid, before both Houses of Parliament.
- (5) If a House of Parliament is not sitting when the Minister seeks to comply with subsection (4), the Minister must present copies of the report to the Clerk of the House of Parliament.
- (6) A report presented to the Clerk of a House of Parliament:
 - (a) is taken on presentation, and for all purposes, to have been laid before the House of Parliament, and
 - (b) may be printed by authority of the Clerk of the House, and
 - (c) for all purposes is taken to be a document published by order or under the authority of the House, and
 - (d) on the first sitting day of the House after receipt of the report by the Clerk, must be recorded:
 - (i) in the case of the Legislative Council in the Minutes of the Proceedings of the Legislative Council, or
 - (ii) in the case of the Legislative Assembly in the Votes and Proceedings of the Legislative Assembly.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [11.38 a.m.]: I move:

That the Legislative Council's amendments be agreed to.

Mr HARTCHER (Gosford) [11.38 a.m.]: This amendment relates to a motion moved by the Coalition in the Legislative Council to ensure proper accountability of the council that is to be established by this bill. I foreshadowed that when I spoke on behalf of the Coalition in this House. The concern remains that such bodies established by the Government—in this case by legislation—simply go their own way. It is important that their reports be made available to the House for review by it. Accordingly the Coalition welcomes this bill as it will provide a level of transparency to the deliberations of the ethical council. It will enable the Parliament, as the representatives of the people, to monitor the progress of the council in establishing a code of practice that is designed to protect women from exploitation. Accordingly I am happy to support this amendment on behalf of the Coalition.

Motion agreed to.

Legislative Council's amendments agreed to.

*Schedule of amendments to the National Parks and Wildlife Amendment Bill
referred to in message of 12 December*

No. 1 Page 3, Schedule 1 [2], lines 16-22. Omit all words on those lines. Insert instead:

adaptive reuse of a building or structure on land means the modification of the building or structure and its curtilage to suit an existing or proposed use, and that use of the building or structure, but only if:

- (a) the modification and use is carried out in a sustainable manner, and
- (b) the modification and use are not inconsistent with the conservation of the natural and cultural values of the land, and
- (c) in the case of a building or structure of cultural significance, the modification is compatible with the retention of the cultural significance of the building or structure.

No. 2 Page 6, Schedule 1. Insert after line 9:

[20] Section 5 (1)

Insert in alphabetical order:

world heritage property means property of outstanding universal value that is inscribed on the World Heritage List under Article 11 of the Convention for the Protection of the World Cultural and Natural Heritage done at Paris on 23 November 1972, as in force in Australia.

world heritage values means natural, heritage and cultural values contained in a world heritage property that are of outstanding universal value as described by the Convention for the Protection of the World Cultural and Natural Heritage done at Paris on 23 November 1972, as in force in Australia.

No. 3 Page 6, Schedule 1. Insert after line 9:

[21] Section 5 (5)

Insert after section 5 (4):

- (5) In this Act, a reference to sustainable visitor use and enjoyment includes a reference to appropriate public recreation.

No. 4 Page 6, Schedule 1 [20], proposed section 7 (2) (d), line 24. Insert "appropriate" before "public appreciation".

No. 5 Page 6, Schedule 1 [20], proposed section 7 (2) (d), lines 24 and 25. Omit ", understanding and enjoyment". Insert instead "and understanding, and sustainable visitor use and enjoyment,".

No. 6 Page 6, Schedule 1 [20], proposed section 7 (2). Insert after line 28:

- (f) the desirability of protecting wilderness values,

No. 7 Page 6, Schedule 1 [20], proposed section 7 (2). Insert after line 29:

- (g) the desirability of protecting world heritage properties and world heritage values.

No. 8 Page 7, Schedule 1. Insert after line 2:

[22] Section 9

Insert after section 8:

9 Audit and compliance

- (1) The Minister is to establish an Audit and Compliance Committee to oversee the compliance of the Director-General with his or her obligations under this or any other Act.
- (2) The Minister may also request the Audit and Compliance Committee to oversee the investigation of any matter relating to the Director-General's obligations under this or any other Act.
- (3) The Audit and Compliance Committee may request the Director-General to provide any document or information in the Director-General's possession to assist the Committee in the exercise of its functions. The Director-General must, unless the Minister directs otherwise, provide such documents or information to the Committee.
- (4) The members of the Committee are to comprise the Director-General (or the Director-General's delegate) and the following members appointed by the Minister:
 - (a) 1 member of the Council,
 - (b) an officer of the New South Wales Audit Office,

- (c) 1 member with expertise in the protection of natural or cultural heritage who is not a member of the Public Service,
 - (d) 1 member with scientific qualifications and expertise in nature conservation, not being an officer of the Service,
 - (e) 1 member with legal or financial experience and expertise, not being a member of the Public Service,
 - (f) 2 officers of the Service.
- (5) The members of the Committee referred to in subsection (2) (a), (c), (d) and (e) are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.
 - (6) An appointed member of the Committee holds office for such period, and on such terms, as are specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
 - (7) The Audit and Compliance Committee is to report to the Minister at least every 2 years from the commencement of this section.

No. 9 Page 7, Schedule 1 [22], proposed section 12. Insert after line 15:

- (c) the conservation and protection of wilderness areas and wild rivers,

No. 10 Page 7, Schedule 1 [22], proposed section 12. Insert after line 19:

- (e) the provision of facilities and opportunities for sustainable visitor use and enjoyment on land reserved under this Act,
- (f) the identification and protection of buildings, places and objects of non-Aboriginal cultural values on land reserved under this Act,

No. 11 Page 7, Schedule 1 [22], proposed section 12, line 21. Omit "(a)-(d)". Insert instead "(a)-(e)".

No. 12 Page 7, Schedule 1 [22], proposed section 12, lines 23. Omit "(a)-(d)". Insert instead "(a)-(e)".

No. 13 Page 8, Schedule 1 [23], proposed section 30B. Insert at the end of line 27:

, or

- (e) crown lands reserved under the Crown Lands Acts (within the meaning of the *Crown Lands Act 1989*).

No. 14 Page 9, Schedule 1 [23], proposed section 30B, lines 1-4. Omit all words on those lines.

No. 15 Page 10, Schedule 1 [23], proposed section 30E (1), line 7. Insert ", protect and conserve" after "identify".

No. 16 Page 10, Schedule 1 [23], proposed section 30E (2). Insert after line 20:

- (c) the protection of the ecological integrity of one or more ecosystems for present and future generations,

No. 17 Page 11, Schedule 1 [23], proposed section 30F (1), line 2. Insert ", protect and conserve" after "identify".

No. 18 Page 11, Schedule 1 [23], proposed section 30G (1), line 24. Insert ", protect and conserve" after "identify".

No. 19 Page 12, Schedule 1 [23], proposed section 30H (1), line 26. Insert ", protect and conserve" after "identify".

No. 20 Page 13, Schedule 1 [23], proposed section 30I (1), line 16. Insert ", protect and conserve" after "identify".

No. 21 Page 13, Schedule 1 [23], proposed section 30I (2) (a), line 22. Insert ", including the protection of catchment values, such as hydrological processes and water quality" after "environment".

No. 22 Page 13, Schedule 1 [23], proposed section 30I (2). Insert after line 26:

- (d) the conservation of biodiversity, the maintenance of ecosystem function, the protection of the geological and geomorphological features and natural phenomena and the maintenance of natural landscapes, cave formations and fossil deposits,

No. 23 Page 14, Schedule 1 [23], proposed section 30J (1), line 6. Insert ", protect and conserve" after "identify".

No. 24 Page 14, Schedule 1 [23], proposed section 30J (2) (c), line 18. Insert ", enjoyment" after "appreciation".

No. 25 Page 14, Schedule 1 [23], proposed section 30K (1), line 23. Insert ", protect and conserve" after "identify".

No. 26 Page 15, Schedule 1 [23], proposed section 30K (2) (a), line 1. Insert "natural values," after "conservation of".

No. 27 Page 16, Schedule 1 [27], proposed section 47M. Insert after line 6:

- (2) The review is to give reasons as to why each area of land within a state conservation area should or should not be reserved as a national park or natural reserve under section 47MA.
- (3) The results of the review are to be made available for public inspection free of charge, during ordinary office hours, at the head office of the Service and are to be published on the Internet by means of the website of the Service.

No. 28 Page 18, Schedule 1 [37], line 28. Omit "(5)". Insert instead "(4)".

No. 29 Page 21, Schedule 1 [47], line 1. Omit all words on that line. Insert instead:

[47] Section 69I Proposals by statutory authorities affecting conservation areas

No. 30 Page 21, Schedule 1. Insert after line 13:

[48] Section 69K

Insert after section 69J:

69K Exhibition of proposed agreements

- (1) When a draft conservation agreement between the Minister and a statutory authority or another Minister, or which applies to Crown lands or lands of the Crown, has been prepared, the Minister must, before entering into the agreement:
 - (a) give public notice, in a form and manner determined by the Director-General, of the places at which, the dates on which, and the times during which, the draft agreement may be inspected by the public, and
 - (b) publicly exhibit the draft agreement at the places, on the dates and during the times set out in the notice, and
 - (c) specify, in the notice, the period during which submissions concerning the draft agreement may be made to the Minister.
- (2) The Minister must cause a copy of the draft conservation agreement to be forwarded to the Council.
- (3) Any person may, during the period referred to in subsection (1) (c), make written submissions to the Minister about the draft agreement.
- (4) The Minister must, before entering into the agreement, consider any submissions made under subsection (3) or by the Council.
- (5) This section does not apply to land leased by a person (other than a statutory authority or a Minister) if the lease is made under the *Crown Lands Act 1989*, the *Crown Lands (Continued Tenures) Act 1989* or the *Western Lands Act 1901*.
- (6) This section applies to a draft amendment to a conservation agreement in the same way as it applies to a draft conservation agreement.

No. 31 Page 21, Schedule 1. Insert after line 29:

[50] Section 72 Preparation of plans of management

Insert after section 72 (1B):

- (1BA) The responsible authority is to seek the advice of the appropriate regional advisory committee in the preparation of a plan of management, other than a plan of management prepared for lands reserved under Part 4A.

No. 32 Page 22, Schedule 1 [51], proposed section 72AA (1) (c), line 13. Insert "and appreciation" after "protection".

No. 33 Page 22, Schedule 1 [51], proposed section 72AA (1) (c), line 14. Insert ", and tracts of land" after "cultural significance".

No. 34 Page 22, Schedule 1 [51], proposed section 72AA (1) (f), line 18. Insert "and the management of wilderness areas" after "wilderness values".

No. 35 Page 22, Schedule 1 [51], proposed section 72AA (1) (l), line 32. Insert ", including opportunities for sustainable visitor use" after "heritage values".

No. 36 Page 23, Schedule 1 [51], proposed section 72AA (1), line 18. Insert ", including the protection of world heritage values and the management of world heritage properties" after "agreements".

No. 37 Page 23, Schedule 1 [51], proposed section 72AA (1). Insert after line 18:

- (t) benefits to local communities,

No. 38 Page 23, Schedule 1 [51], proposed section 72AA. Insert after line 27:

- (2) A plan of management must include the means by which the responsible authority proposes to achieve the plan's objectives and performance measures.

No. 39 Page 24, Schedule 1 [51], proposed section 72AA (5) (c), lines 26-37. Omit all words on those lines. Insert instead:

- (c) in relation to land reserved under Part 4A, provide for the use of the land for any community development purpose prescribed by the regulations.

No. 40 Page 25, Schedule 1 [53], proposed section 73A (2) (c), line 19. Omit "60". Insert instead "90".

No. 41 Page 25, Schedule 1 [53], proposed section 73A (3), lines 24-27. Omit all words on those lines. Insert instead "area must forward the plan of management and any representations received within the time for making representations specified in the notice to the appropriate regional advisory committee and the Council."

No. 42 Page 25, Schedule 1 [53], proposed section 73A. Insert after line 27:

- (4) The appropriate regional advisory committee must consider the plan of management and representations and provide the Council with such advice as the committee considers appropriate.
- (5) The Council must consider the plan of management, the representations and any advice received from the appropriate regional advisory committee and provide the Minister with such advice as it considers appropriate.
- (6) The Council must send a copy of any advice it provides to the Minister to the appropriate regional advisory committee and the appropriate regional advisory committee may provide comments to the Minister within 30 days of receiving the copy of the advice.

No. 43 Page 25, Schedule 1 [53], proposed section 73A (4), lines 28 and 29. Omit all words on those lines. Insert instead:

- (4) Subsection (3) does not apply to a plan of management for land reserved under Part 4A. However, the responsible authority for such a plan of management is to forward any representations received within the time for making representations specified in the notice to the Council for consideration and advice.

No. 44 Page 26, Schedule 1 [53], proposed section 73B (1), lines 2-5. Omit all words on those lines.

No. 45 Page 26, Schedule 1 [53], proposed section 73B (2), lines 6-10. Omit all words on those lines. Insert instead:

- (2) After considering the representations made under section 73A and any advice from the Council, the Minister may adopt a plan of management without alteration or with such alterations as the Minister may think fit or may refer it back to the responsible authority and the Council for further consideration.

No. 46 Page 27, Schedule 1 [53], proposed section 73B (8), line 8. Omit "Section 73A". Insert instead "Section 72AA, 73A, 74".

No. 47 Page 27, Schedule 1 [53], proposed section 73C, lines 18-37. Omit all words on those lines.

No. 48 Page 28, Schedule 1 [55], line 5. Omit all words on that line. Insert instead:

Omit "relates to". Insert instead "directly relates to the intertidal zone or".

No. 49 Pages 28-30, Schedule 1 [56], line 6 on page 28 to line 20 on page 30. Omit all words on those lines. Insert instead:

[56] Sections 151B - 151D

Insert after section 151A:

151B Leases and licences of reserved land in accordance with plan of management

- (1) In this section:

existing building or structure means:

- (a) in relation to land within a reserve before the commencement of this section, a building or structure in existence on the land at that commencement, or
- (b) in relation to land that becomes a reserve or part of a reserve on or after the commencement of this section, a building or structure in existence on the land at the time at which it becomes a reserve (or part of a reserve).

reserve means a national park, historic site, state conservation area, regional park or karst conservation reserve, but does not include land reserved under Part 4A.

- (2) The Minister may, on such terms and conditions as the Minister thinks fit, grant a lease of land within a reserve to enable the adaptive reuse of an existing building or structure on the land for any purpose specified in subsection (12) (whether or not it is a purpose for which the land is reserved).
- (3) The Minister may, on such terms and conditions as the Minister thinks fit, grant a licence under this section to occupy and use land within a reserve, and any existing building or structure on the land, for any purpose (whether or not it is a purpose for which the land is reserved), but may do so only if:
 - (a) the land is a modified natural area, and
 - (b) the licence is granted for a term not exceeding 3 consecutive days.
- (4) A lease or licence granted under this section may authorise the exclusive use of the land, buildings and structures concerned.
- (5) The Minister must not grant a lease or licence under this section unless:
 - (a) the purposes for which the lease or licence is to be granted are identified in the plan of management for the reserve in which the land is situated as being permissible purposes for which the land, and any relevant identified building or structure on the land, or any modified natural area on the land, may be used, and
 - (b) the location of any such building or structure is identified in that plan of management, and
 - (c) in the case of a lease of land, the Minister has followed the procedures in subsections (7)-(10).
- (6) In considering whether or not to grant a lease or licence under this section, the Minister is to have regard to the conservation values of the reserve within which the land is situated and, in a case where the lease or licence authorises the use of a building or structure, the cultural significance of the building or structure.
- (7) The Minister is to refer a proposal to lease land under this section to the Council for advice and is to cause notice of the proposal to be published in a newspaper circulating throughout New South Wales and in a newspaper circulating in the area in which the land is located.
- (8) The notice must contain the following:
 - (a) sufficient information to identify the land concerned,
 - (b) the purposes for which the land and any building or structure on the land is proposed to be used,
 - (c) the term of the proposed lease (taking into account any option to renew),
 - (d) the name of the person to whom the lease is proposed to be granted,
 - (e) the closing date for making submissions on the proposal (being a date not earlier than 28 days after the date on which the notice was first published),
 - (f) the address to which submissions are to be sent,
 - (g) any other information that the Minister considers relevant to the consideration of the proposal, for example, identification of the provisions of any relevant plan of management that authorises the proposed purposes for which the land, building and structures concerned are to be used.
- (9) The Minister may hold a public hearing into any proposed lease under this section if the Minister thinks it appropriate to do so.
- (10) Before determining whether or not to grant a lease under this section, the Minister must take into account:
 - (a) any submissions received before the notified closing date for submissions under subsection (8), and
 - (b) if relevant, any report from, or submissions received at, a public inquiry, and
 - (c) any advice received from the Council.
- (11) It is a condition of every lease of or licence over land granted under this section that the lessee or licensee must ensure that the provisions of this Act, the regulations and the plan of management for the reserve in which the land is situated are complied with in relation to the land.
- (12) A lease may be granted under this section for one or more of the following purposes only:
 - (a) the provision of educational facilities for natural heritage, cultural heritage, park management or fire management,

- (b) the provision of research facilities for natural heritage (including natural phenomena) and cultural heritage,
 - (c) the provision of retail outlets commensurate with the needs of the area in which that outlet is located,
 - (d) the provision of restaurants, cafes, kiosks and other food outlets,
 - (e) the provision of cultural institutions, including museums and galleries,
 - (f) the provision of visitor and tourist accommodation,
 - (g) the provision of facilities for conferences and functions,
 - (h) the provision of sporting facilities,
 - (i) the provision of facilities and amenities for tourists and visitors, including information centres and booking outlets,
 - (j) the provision of facilities in relation to Aboriginal culture and Aboriginal cultural activities,
 - (k) any other purpose specified in section 151 (1) (c), but subject to section 151C,
 - (l) any other purpose prescribed by the regulations for the purpose of this subsection.
- (13) A regulation must not be made for the purposes of subsection (12) (not being a principal statutory rule for which a regulatory impact statement is required to be prepared under the *Subordinate Legislation Act 1989*) unless the Minister has:
- (a) caused notice of the draft regulation to be published in a newspaper circulating throughout New South Wales, and
 - (b) invited the public and the Council to comment on the draft regulation with the closing date for the making of submissions being not earlier than 45 days after the date of publication of the notice, and
 - (c) taken into account any submissions from the Council or the public received before the notified closing date for submissions.
- (14) The validity of a regulation made for the purposes of subsection (12) is not affected by a failure of the Minister to comply with subsection (13) (c).

151C Restrictions on grant of lease for residential accommodation

- (1) The Minister must not grant a lease under section 151, 151A or 151B for the purpose of permanent residential occupation unless the lease:
- (a) provides accommodation to an officer of the Service in the vicinity of the officer's place of employment, or
 - (b) facilitates:
 - (i) the maintenance and security of the reserve, and buildings and facilities on or in the reserve, or facilities passing through the reserve such as a road, transmission lines and pipelines, or
 - (ii) the provision of services to tourists and visitors to the reserve, or
 - (iii) the provision of educational and research facilities in the reserve, or
 - (c) is for the occupation of buildings in an historic site or land reserved under Part 4A, or
 - (d) is of a class prescribed for the purposes of this section.
- (2) A regulation must not be made for the purposes of subsection (1) (d) (not being a principal statutory rule within the meaning of the *Subordinate Legislation Act 1989*) unless the Minister has:
- (a) caused notice of the draft regulation to be published in a newspaper circulating throughout New South Wales, and
 - (b) invited the public and the Council to comment on the draft regulation with the closing date for the making of submissions being not earlier than 45 days after the date of publication of the notice, and
 - (c) taken into account any submissions from the Council or the public received before the notified closing date for submissions.
- (3) The validity of a regulation made for the purposes of subsection (1) (d) is not affected by a failure of the Minister to comply with subsection (2) (c).

151D Register of certain interests to be publicly available

- (1) Information on leases granted under this Act and every easement or right of way granted under this Act:
 - (a) is to be recorded in a register that is to be kept in the head office of the Service and made available to the public, free of charge, during ordinary office hours, and
 - (b) is to be placed on the Service's website.
- (2) Information to be included on the register and website is to include the following:
 - (a) the name of the person to whom the lease, easement or right of way has been granted,
 - (b) the term of years of the lease, easement or right of way (including any option to renew),
 - (c) the location of the land to which the lease, easement or right of way relates,
 - (d) the purpose for which the lease, easement or right of way has been granted,
 - (e) information as to the terms and conditions of the lease, easement or right of way, except information that the Director-General would be prevented from disclosing by the *Freedom of Information Act 1989* or the *Privacy and Personal Information Protection Act 1998*.

No. 50 Page 30, Schedule 1. Insert after line 20:

[57] Section 153A Leases etc relating to wilderness areas

Insert "or 151B" after "section 151 (1)".

No. 51 Page 30, Schedule 1, proposed section 153B, lines 30-33. Omit all words on those lines. Insert instead:

- (b) the Minister:
 - (i) is satisfied that it is not practical for the owner of the other land to obtain an alternative means of access (whether by land or water) because it is not legally or physically available, or
 - (ii) while satisfied that it is practical for the owner of the other land to obtain an alternative means of access, considers that the proposed means of access will have a lesser environmental impact than that alternative means of access to the land concerned, or
 - (iii) while satisfied that it is practical for the owner of the other land to obtain an alternative means of access, considers that the proposed means of access will assist in more efficient management of the reserved land and will have no greater environmental impact than that alternative means of access to the land concerned.

No. 52 Page 31, Schedule 1, proposed section 153B, lines 1-11. Omit all words on those line. Insert instead:

- (2) The Minister must not grant an easement, right of way or licence under subsection (1) unless the Minister is satisfied that:
 - (a) the access proposed to be granted under the easement, right of way or licence will not have a significant impact on the environment of the area adjacent to the proposed access, and
 - (b) the access proposed to be granted under the easement, right of way or licence is consistent with the relevant plan of management.
- (3) The Minister must not grant an easement, right of way or licence under subsection (1) unless the Minister has considered:
 - (a) the extent of, and legality of, any access that the owner had to the land before that access became unavailable, and
 - (b) any guidelines (as referred to in subsection (4)) in relation to access to land.
- (4) The Director-General must prepare and adopt, after consulting with the Council, guidelines relating to the provision of access to land under this section, and may, from time to time, vary those guidelines after further consultation with the Council.

No. 53 Page 49, Schedule 2 [2], proposed section 23 (1) (a), lines 21-29. Omit all words on those lines. Insert instead:

- (iii) strategies for promoting, consistent with this Act, the conservation of natural and cultural heritage outside the reserve system, and
- (iv) the care, control and management of areas reserved under this Act and the development, implementation, review, amendment and alteration of plans of management for those areas, and

- (v) the preservation and protection of wildlife, and
 - (vi) conservation agreements and conservation areas, and
 - (vii) wilderness areas and wild rivers, and
 - (viii) any matter referred to the Council for advice under this Act or by the Minister or the Director-General or that the Council considers necessary for the administration of this Act.
- No. 54 Page 50, Schedule 2 [3], proposed section 25 (1) (c), lines 22-25. Omit all words on those lines. Insert instead:
- (c) to provide advice to responsible authorities within the meaning of section 71BO on draft plans of management relating to the administrative region for which it was constituted and to the Council on the implementation of such plans of management,
 - (d) to provide advice to the Director-General on the implementation of plans of management relating to the administrative region for which it was constituted.
- No. 55 Page 51, Schedule 2 [4], line 19. Insert ", including providing strategic advice on the plan of management and the heritage impact permit process" after "Aboriginal cultural heritage".
- No. 56 Page 51, Schedule 2 [5], line 25. Omit "17". Insert instead "19".
- No. 57 Page 52, Schedule 2 [5], proposed clause 1 (2). Insert after line 15:
- (g) 1 person representing peak recreational bodies, selected from a panel of 3 nominees of bodies that, in the opinion of the Minister, are peak recreational bodies,
- No. 58 Page 52, Schedule 2 [5]. Insert after line 20:
- (i) 1 person with expertise and experience in agriculture and rural issues, being a person nominated by the New South Wales Farmers' Association,
- No. 59 Page 52, Schedule 2 [5], lines 23 and 24. Omit all words on those lines. Insert instead:
- (j) 2 persons with experience in planning and local government, to be selected from a panel of 4 persons nominated by the Local Government and Shires Associations,
- No. 60 Page 53, Schedule 2 [5], proposed clause 1 (5), lines 1-5. Omit all words on those lines. Insert instead:
- (5) If a nomination for the purposes of subclause (2), or a panel of nominees from which a member is to be chosen for appointment, is not provided within the time and in the manner directed by the Minister, the Minister may appoint a person to be a member instead of the person required to be appointed on that nomination, or to be chosen for appointment from a panel so nominated, as the case may be.
- No. 61 Page 54, Schedule 2 [10], line 14. Omit all words on that line. Insert instead:
- Omit "other than the chairperson".
- No. 62 Page 54, Schedule 2 [11], line 18. Omit "10". Insert instead "12".
- No. 63 Page 54, Schedule 2 [11], line 19. Omit "15". Insert instead "17".
- No. 64 Page 54, Schedule 2 [11], line 21. Insert ", a person jointly nominated by the Nature Conservation Council of New South Wales and the National Parks Association of New South Wales," after "persons".
- No. 65 Page 54, Schedule 2 [11]. Insert after line 30:
- (f) expertise and experience in agriculture and rural issues, being a person nominated by the New South Wales Farmers' Association,
- No. 66 Page 55, Schedule 2 [11], line 1. Insert "ecologically" before "sustainable".
- No. 67 Page 82, Schedule 4 [1], proposed section 2A. Insert at the end of line 15:
- and
- (iv) landscapes and natural features of significance including wilderness and wild rivers,
- No. 68 Page 82, Schedule 4 [1], proposed section 2A, line 31. Omit "having regard to". Insert instead "by applying".
- No. 69 Page 82, Schedule 4 [1], proposed section 2A. Insert after line 32:
- (3) In carrying out functions under this Act, the Minister, the Director-General and the Service are to give effect to the following:
 - (a) the objects of this Act,
 - (b) the public interest in the protection of the values for which land is reserved under this Act and the appropriate management of those lands.

Mr WHELAN (Strathfield) [11.40 a.m.]: I move:

That the Legislative Council's amendments be agreed to.

Ms SEATON (Southern Highlands) [11.40 a.m.]: The Opposition does not oppose the amendments. Members of the Opposition, and no doubt Government members, have received many emails and letters from people who are concerned that the bill in its original form might have resulted in some wind-back in the level of protection for values in national parks and reserve areas, particularly in regard to short-term leases and licences. I am glad that the Government produced some recommended amendments to the bill that were picked up by members in another place and supported by both the Opposition and the Government. They will go some way to providing the level of protection and certainty that many people believe was missing in the original bill. I also want to acknowledge the Opposition's amendment that includes a specific representative of the farming community, namely a nominee from the New South Wales Farmers Association, on the advisory bodies. That will achieve a much better liaison relationship between the National Parks and Wildlife Service and its neighbours and partners.

I am also glad that the Government took steps to clarify the conservation agreements that can now be made between the Minister for the Environment and the Ministers in charge of various pieces of Crown land. As I said almost two years ago in my discussion paper on conservation issues entitled "Liberating the Environment", one of the important things is to try to maximise the number of opportunities for off-reserve conservation. Certainly these sorts of agreements on Crown land are a step in that direction. I was concerned that with the making of those conservation agreements, other forms of Crown land use that would also have a beneficial conservation effect would be excluded by a unilateral or bilateral decision between two Ministers to enter into such a conservation agreement. I therefore wanted to have a specific amendment to require the Government to be much more consultative about proposed arrangements between the Minister for the Environment and any other Ministers in charge of Crown land.

I was cautioned against that by members of the New South Wales Farmers Association, who were concerned that in creating an extensive consultation process we might actually exclude the opportunities for conservation that lease-holders on Crown land, namely farmers in the Western Division, might seek to pursue. It is very important that we maximise any opportunity to include people who lease Crown land, in this case farmers, and Ministers in charge of Crown land to encourage whatever possible conservation outcomes can be achieved. I am glad that the Government gave assurances that the bill and the amendments that were accepted will not stand in the way of maximising those conservation agreement opportunities. We should also look at ways to maximise sustainable economic outcomes.

I want to acknowledge my very good working relationship during the consideration of this bill with the Minister's staff, particularly Ted Plummer. I thank him for being available to answer questions from me, at a very late hour on several nights. I also acknowledge the assistance of Mark Aarons. This bill has been a bit of an epic and I acknowledge the very professional way in which both those staff members, but particularly Ted, with whom I always have a good working relationship, solved some of my problems and helped to improve the bill. Most particularly I thank the Hon. John Ryan, a member of the Legislative Council, for his perseverance and hard work. This was a very complex bill and we often did not see even a final draft of amendments until a few minutes before they were considered in the Legislative Council. John has been extremely helpful in making sure that this bill ran smoothly.

I want to raise the concerns of the Australian Native Orchid Society. During the course of developing amendments and negotiating with the Government on various amendments I was contacted by my constituent Terry Morrissy, who owns a business called Orchid Images in the Kangaroo Valley. Terry Morrissy is one of a number of people who have done some extremely valuable work over many years. He has been trying to find ways in which to propagate native orchids for more general community access. He recognised a long time ago that unless we find ways to propagate rare native plants legally and make them commercially available, native plants on reserves and Crown land will be vulnerable to being stolen. Apart from the fact that those specimens are taken out of the wild, many of them die. He was concerned that the bill would apply imposts on growers and propagators who source their material legally and then try to propagate them. He was concerned that there would be restrictions that would make that sort of business too costly or unwieldy and in so doing put pressure back on to people who illegally take those plants. That is not the intention of the Opposition or the Government in this legislation.

I raised those issues with the Minister's office because we were not sure whether there was a need to try to amend the bill or clarify it in some way to make sure that people who are propagating orchids legally are not disadvantaged. I acknowledge that conversations between the Minister's office, Terry Morrissy and myself, and

information from John Riley, President of the Macarthur Australian Native Orchid Society, have been productive. We clarified that the provisions in this bill relate to the cut flower industry and that some time in the future some attention will be paid to native plant licensing, which would include orchids.

I acknowledge the Government's undertaking that at that time Mr Morrissy, John Riley, the Australian Native Orchid Society and others with an interest in this matter will be consulted. We hope that through those consultations a way will be found to ensure that plants of this sort have a proper process through which they can be propagated and made available to the general public, and that native stocks of these rare plants in the wild are not plundered by people who simply want to take a short-cut. Terry Morrissy has been growing organic orchids for approximately 20 years. He said that propagating orchids is not something that is done within 12 months; it can take years and years. He said that to unfairly burden orchid growers with rules and costs would push them out of the business and result in shonky dealers and illegal traders moving in, and we certainly we do not want that. The Opposition does not oppose the amendments.

Motion agreed to.

Legislative Council's amendments agreed to.

*Schedule of amendments to the Children (Criminal Proceedings) Amendment (Adult Detainees) Bill
referred to in message of 13 December*

No. 1 Page 2. Insert after line 9:

4 Monitoring by Ombudsman

- (1) For the period of 3 years after the commencement of this section, the Ombudsman is to keep under scrutiny the operation and effect of section 19 of the *Children (Criminal Proceedings) Act 1987* as substituted by this Act.
- (2) For that purpose, the Ombudsman may require the Director-General of the Attorney General's Department, the Director-General of the Department of Juvenile Justice or the Director-General of the Department of Corrective Services to provide information concerning the participation of the Department concerned in the operation of that section.
- (3) As soon as practicable after the expiration of that period of 3 years, the Ombudsman must prepare a report as to the operation and effect of that section and furnish a copy of the report to the Attorney General, the Minister for Juvenile Justice and the Minister for Corrective Services.
- (4) The Attorney General is to lay (or cause to be laid) a copy of the report before both Houses of Parliament as soon as practicable after the Attorney General receives the report.
- (5) If a House of Parliament is not sitting when the Attorney General seeks to lay a report before it, the Attorney General may present copies of the report to the Clerk of the House concerned.
- (6) The report:
 - (a) is, on presentation and for all purposes, taken to have been laid before the House, and
 - (b) may be printed by authority of the Clerk of the House, and
 - (c) if so printed, is for all purposes taken to be a document published by or under the authority of the House, and
 - (d) is to be recorded:
 - (i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and
 - (ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly,

on the first sitting day of the House after receipt of the report by the Clerk.

No. 2 Page 3, Schedule 1 [1], proposed section 19, lines 12-15. Omit all words on those lines. Insert instead:

- (2) A person is not eligible to serve a sentence of imprisonment in a detention centre after the person has attained the age of 21 years, unless:
 - (a) in the case of a sentence for which a non-parole period has been set - the non-parole period will end within 6 months after the person has attained that age, or
 - (b) in the case of a sentence for which a non-parole period has not been set - the term of the sentence of imprisonment will end within 6 months after the person has attained that age.

No. 3 Page 3, Schedule 1 [1], proposed section 19, lines 23 and 24. Omit all words on those lines. Insert instead:

- (b) in the case of a sentence for which a non-parole period has been set - the non-parole period will end within 6 months after the person has attained that age, or
- (c) in the case of a sentence for which a non-parole period has not been set - the term of the sentence of imprisonment will end within 6 months after the person has attained that age.

Mr WHELAN (Strathfield) [11.50 a.m.]: I move:

That the Legislative Council's amendments be agreed to.

Mr HARTCHER (Gosford) [11.50 a.m.]: These amendments are consistent with the Coalition's request for greater accountability with regard to this legislation. One of the amendments provides for the Ombudsman to monitor and report on the operation of section 19 of the Children (Criminal Proceedings) Act 1987. The Coalition indicated in debate in the Legislative Assembly that it would seek such a provision, and I am pleased that the wisdom of our position was accepted in the Legislative Council. A Government amendment, which was supported by the Coalition, concedes that a person need not be transferred from a detention centre if his or her sentence has only six months to run before the non-parole period expires.

We expect the Government to proclaim these amendments. Parliament has had just about enough of the Government's practice of accepting Legislative Council amendments and then not proclaiming them. I hope the Government will recognise the wisdom of these amendments and not create a problem for itself in 2002 by accepting them but not proclaiming them. If that occurs, the Coalition will expose the hypocrisy of the Government. The Coalition is happy to accept the Legislative Council's amendments.

Motion agreed to.

Legislative Council's amendments agreed to.

*Schedule of amendments to Transport Administration Amendment (Rail Access) Bill
referred to in message of 14 December*

No. 1 Page 6, Schedule 1, line 16. Insert ", and posted on its Internet website," after "public inspection".

No. 2 Page 6, Schedule 1. Insert after line 17:

- (b) must cause notice of the proposed undertaking or variation:
 - (i) containing details of the places (including the address of the relevant Internet website) where it can be inspected, and
 - (ii) stating that public submissions may be made in relation to it during that period, to be published in a daily newspaper circulating throughout New South Wales, and

Legislative Council's amendments agreed to on motion by Mr Whelan.

Schedule of amendments to the Environmental Planning and Assessment Amendment (Ski Resort Areas) Bill referred to in message of 14 December

No. 1 Page 5, Schedule 1. Insert after line 12:

- (2) Despite any other provision of this Act:
 - (a) the Minister is the consent authority for all development applications relating to land within a ski resort area and a regulation made pursuant to this Part can not make a council responsible for exercising any other function referred to in subclause (1), and
 - (b) a regulation may be made pursuant to this Part for or with respect to a ski resort area only on the recommendation of the Minister made after consultation with the Minister for the Environment, and
 - (c) a State environmental planning policy may be made for or with respect to a ski resort area only on the recommendation of the Minister made after consultation with the Minister for the Environment, and
 - (d) any other environmental planning instrument for or with respect to a ski resort area may be made by the Minister only after consultation with the Minister for the Environment.

If the Minister recommends that any such regulation or State environmental planning policy be made, or makes any such other environmental planning instrument, against the advice of the Minister for the Environment, the Minister is to publish the reasons for making the recommendation or instrument in the same Gazette as that in which the regulation, policy or instrument is published.

- (3) When consulting with the Minister about whether a recommendation should be made for the making of a regulation or State environmental planning policy, and about whether any other environmental planning instrument should be made, for or with respect to a ski resort area, the Minister for the Environment must take into account whether the proposed regulation, policy or instrument:
 - (a) promotes the objects of the National Parks and Wildlife Act 1974, and
 - (b) is consistent with the plan of management under that Act for the land concerned.

No. 2 Page 5, Schedule 1. Insert after line 20:

32E Effect of certain regulations

To remove any doubt, a regulation made pursuant to this Schedule can not have the effect of making any provision prevail over the National Parks and Wildlife Act 1974.

No. 3 Page 5, Schedule 1. Insert after line 20:

32F State of the environment report

- (1) The Director-General is to present to the Minister a report as to the state of the environment in each ski resort area on each second anniversary of the day on which this clause commenced.
- (2) Section 428 (2) (c) of the Local Government Act 1993 applies to the content of a state of the environment report under this clause, except that references in that paragraph to a council are to be read as references to the Department and the National Parks and Wildlife Service.
- (3) Copies of each report must be furnished to such persons and bodies as are prescribed under section 428 (3) of the Local Government Act 1993.

No. 4 Page 6, Schedule 2. Insert after line 3:

[1] Section 151AA

Insert after section 151A:

151AA Leases of land in Kosciuszko National Park ski resort areas

- (1) This section applies to land in a ski resort area, within the meaning of Part 8A of Schedule 6 to the Environmental Planning and Assessment Act 1979, which areas are within Kosciuszko National Park.
- (2) Before granting a lease of land to which this section applies, the Minister:
 - (a) is to refer the proposal to the Council for advice, and
 - (b) is to cause notice of the proposal to be published in a newspaper circulating throughout New South Wales and in a newspaper circulating in the locality in which the land is situated, unless the proposal is required to be advertised by another provision of this Act.
- (3) The notice must contain the following:
 - (a) sufficient information to identify the land concerned,
 - (b) the purposes for which the land and any building or structure on the land are proposed to be used,
 - (c) the term of the proposed lease (taking into account any option to renew),
 - (d) the name of the person to whom the lease is proposed to be granted,
 - (e) the closing date for making submissions on the proposal (being a date not earlier than 28 days after the date on which the notice is first published),
 - (f) the address to which submissions are to be sent,
 - (g) any other information that the Minister considers relevant to consideration of the proposal, for example, identification of the provisions of any relevant plan of management that authorises the proposed purposes for which the land, and any building or structure concerned, are to be used.

- (4) The Minister may hold a public hearing into any proposed lease of land to which this section applies if the Minister thinks it appropriate to do so.
- (5) Before determining whether or not to grant any such lease, the Minister must take into account:
 - (a) any submission received from the Council within 30 days of referral of the proposal to the Council, and
 - (b) any submissions received from anyone else before the notified closing date for submissions under subsection (3), and
 - (c) if relevant, any report from, or submissions received at, a public inquiry.

No. 5 Page 6, Schedule 2. Insert after line 10:

- (3) An order may not be made under Division 2A of Part 6 of the Environmental Planning and Assessment Act 1979, or under Chapter 7 of the Local Government Act 1993, that would prevent or hinder the Director-General from or in carrying out any power, authority, duty, function or responsibility conferred or imposed on the Director-General by or under this Act.

Legislative Council's amendments agreed to on motion by Mr Whelan.

Schedule of the amendment to the Disorderly Houses Amendment (Brothels) Bill referred to in message of 14 December

Page 3, proposed section 17A. Insert after line 20:

- (3) However, the presence in any premises of articles or equipment that facilitate or encourage safe sex practices does not of itself constitute evidence of any kind that the premises are used as a brothel.

Mr WHELAN (Strathfield) [11.51 a.m.]: I move:

That the Legislative Council's amendment be agreed to.

Mr HARTCHER (Gosford) [11.51 a.m.]: This amendment ensures that safe sex practices do not of themselves constitute evidence of a premises being used as a brothel. As was illustrated in the other place, under the bill as originally drafted one could argue that chemist shops that sell safe sex implements were being used as brothels. This amendment is designed to achieve the purpose of the bill: to enable circumstantial evidence to be used in court to close illegal brothels. The amendment will prevent absurd situations. It was moved by the Greens, amended by the Coalition to achieve the desired result, and then accepted by the Government.

Honourable members on this side of the House—and I suppose the majority of honourable members—support legislation that closes illegal brothels. We also accept that it is important to encourage safe sex practices and to ensure that legislation does not discourage them in any way. I commend my colleague the Hon. Don Harwin in the Legislative Council, who brought this matter to my attention and discussed it with me last night. I appreciate both his interest in these issues and his conduct of the bill in the other place on behalf of the Coalition. The Coalition supports the amendment.

Motion agreed to.

Legislative Council's amendment agreed to.

Schedule of amendments to the Courts Legislation Amendment (Civil Juries) Bill referred to in message of 14 December

No. 1 Page 3, Schedule 1 [1], line 5. Omit all words on that line. Insert instead:

76A Action to be tried without jury unless jury required in interests of justice

No. 2 Page 3, Schedule 1 [1], lines 15 and 16. Omit all words on those lines. Insert instead:

- (b) the Court is satisfied that the interests of justice require that the action be tried by a jury.

No. 3 Page 5, Schedule 2 [1], line 5. Omit all words on that line. Insert instead:

85 Trial without jury unless jury required in interests of justice

No. 4 Page 5, Schedule 2 [1], lines 14 and 15. Omit all words on those lines. Insert instead:

- (b) the Court is satisfied that the interests of justice require a trial by jury in the proceedings.

Mr WHELAN (Strathfield) [11.53 a.m.]: I move:

That the Legislative Council's amendments be agreed to.

Mr HARTCHER (Gosford) [11.53 a.m.]: These amendments relate to a proposal by the Law Society that was taken up by the Coalition and moved in the Legislative Council by the Hon. Helen Sham-Ho with our support. I believe they were also accepted by the Government. The amendments omit the words "special need" and substitute "in the interests of justice". The bill did not define the term "special need"; it said there would be no jury in a trial unless it was demonstrated to a judge that there was a special need for one, but nobody could explain what constituted a special need.

The term "in the interests of justice" is not particularly clear, but it is more consistent with the operation of the legal system that a judge should determine where the interests of justice lie. If they are best served by having a jury, one should be empanelled. If there is no demonstrated benefit and the interests of justice will not be better served by having a jury, the judge will refuse the request. The Coalition recognised the wisdom of the Law Society's proposal—as did the Government—and we support the amendments.

Motion agreed to.

Legislative Council's amendments agreed to.

*Schedule of amendments to the Cemeteries Legislation Amendment (Unused Burial Rights) Bill
referred to in message of 14 November*

- No. 1 Page 3, Schedule 1, line 6. Insert ", or any previous body of trustees for the portion concerned" after "it".
- No. 2 Page 3, Schedule 1. Insert after line 11:
- (6) At any time before the expiry of the period for responding to the notice, the holder of the exclusive rights of burial concerned may enter into negotiations with the relevant body of trustees for:
 - (a) the sale of those rights to the trustees, or
 - (b) the retention of those rights.
- No. 3 Page 3, Schedule 1, lines 15 to 19. Omit all words on those lines.
- No. 4 Page 4, Schedule 1. Insert after line 9:
- (3) If there is no alternative burial place available, or if there is no applicable scale of fees, the amount of compensation referred to in subsection (2) (b) is to be ascertained in accordance with the regulations.
- No. 5 Page 4, Schedule 1. Insert after line 12:
- (4) Despite section 24 (2), if the former holder of the revoked exclusive rights of burial is granted exclusive rights of burial for an alternative burial place, any assignment of those rights is of no effect if made by the former holder within 5 years after the date on which they were granted.
- No. 6 Page 4, Schedule 1. Insert after line 15:
- (5) A former holder of revoked exclusive rights of burial may apply to the Minister for a review of any election of the relevant body of trustees under this section.
 - (6) The Minister's decision on such a review:
 - (a) is final, and
 - (b) is taken to be the decision of the relevant body of trustees, and
 - (c) is to be given effect to accordingly.
- No. 7 Page 4, Schedule 1. Insert after line 18:
- [3] Section 37 Regulations**
- Insert after section 37 (2) (b):
- (b1) the accounts to be kept by trustees under this Act,
- No. 8 Page 6, Schedule 2, line 7. Insert ", or any previous reserve trust for the cemetery concerned," after "it".

No. 9 Page 6, Schedule 2, lines 11 to 15. Omit all words on those lines.

No. 10 Page 7, Schedule 2. Insert after line 5:

- (4) Despite clause 29, if the former holder of the revoked exclusive rights of burial is granted exclusive rights of burial for an alternative burial place, those rights may not be transferred by the former holder within 5 years after the date on which they were granted.

No. 11 Page 7, Schedule 2. Insert after line 5:

- (4) A former holder of revoked exclusive rights of burial may apply to the Minister for a review of any election of the relevant body of trustees under this section.
- (5) The Minister's decision on such a review:
- (a) is final, and
- (b) is taken to be the decision of the relevant body of trustees, and
- (c) is to be given effect to accordingly.

No. 12 Page 8, Schedule 3.1. Insert after line 11.

- (p3) the accounts to be kept by reserve trusts,

Mr WHELAN (Strathfield) [11.55 a.m.]: I move:

That the Legislative Council's amendments be agreed to.

Mr HARTCHER (Gosford) [11.55 a.m.]: The Cemeteries Legislation Amendment (Unused Burial Rights) Bill had a considerable airing both in this Chamber and in the other place. It is not normal for cemeteries legislation to be the subject of heated parliamentary debate and extensive amendment, but that happened with this bill. The Coalition supported these amendments in the Legislative Council and I hope they will be proclaimed by the Government. As I said earlier, in 2002 we intend to expose the Government whenever it supports amendments but does not proclaim them. We will make an issue of that practice. I am sure the Government accepts the wisdom of these amendments and will proclaim them.

Motion agreed to.

Legislative Council's amendments agreed to.

Resolutions reported from Committee and report adopted.

Messages sent to the Legislative Council advising it of the resolutions.

SPECIAL ADJOURNMENT

Mr WHELAN (Strathfield) [11.56 a.m.]: I move:

That the House at its rising this day do adjourn until Tuesday 26 February 2002 at 2.15 p.m.

Mr HARTCHER (Gosford) [11.57 a.m.]: As I did not participate in the felicitations debate I would like to express to you, Mr Speaker, to the Clerk, to the Leader of the House and to the Government and Opposition Whips my appreciation of the co-operative spirit that prevails in this place—despite moments of tension that you would be aware of, Mr Speaker. Business is always conducted in a spirit of responsibility to the Parliament and the people of New South Wales. It is sad that the Leader of the House will not contest the seat of Strathfield in 2003. We were looking forward to a spirited contest in that electorate, but that will not happen now. I will make the appropriate comments about the Leader of the House in 2002. I wish everybody a very happy Christmas.

Motion agreed to.

House adjourned at 11.59 a.m.
