

# LEGISLATIVE ASSEMBLY

Wednesday 23 October 2002

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

**Mr Speaker** offered the Prayer.

## AUDIT OFFICE

### Report

**Mr Speaker** tabled, pursuant to section 38E of the Public Finance and Audit Act 1983, the Performance Audit Report entitled "Outsourcing Information Technology in the NSW Public Sector", dated October 2002.

**Ordered to be printed.**

## BUSINESS OF THE HOUSE

### Bills: Suspension of Standing and Sessional Orders

#### Motion by Mr Knowles agreed to:

That standing and sessional orders be suspended to permit the introduction forthwith and progress up to and including the Minister's second reading speech of the following bills:

Courts Legislation Miscellaneous Amendments Bill  
Human Tissue and Anatomy Legislation Amendment Bill

### HUMAN TISSUE AND ANATOMY LEGISLATION AMENDMENT BILL

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

#### Second Reading

**Mr KNOWLES** (Macquarie Fields—Minister for Health) [10.02 a.m.]: I move:

That this bill be now read a second time.

During the spring sitting of Parliament last year the Government introduced the Human Tissue Amendment Bill 2001. As the legislation dealt with matters of great sensitivity and concern to the community, the Government allowed the bill to lie on the table to provide an opportunity for public comment. Shortly afterwards the report entitled "Inquiry Into Matters Arising from the Post-Mortem and Anatomical Examination Practices of the NSW Institute of Forensic Medicine", that is the Glebe morgue, was published.

The report, prepared by Mr Bret Walker, SC, contains a number of recommendations relating to the legislation that currently governs the use of human tissue and the conduct of anatomical examinations. Consequent upon the submissions received in relation to the Human Tissue Amendment Bill and the recommendations in the Walker report, the Government has prepared revised legislation in the form of the Human Tissue and Anatomy Legislation Amendment Bill. The underlying purpose of the proposed legislation is to ensure that public confidence in the conduct of post-mortem examinations in New South Wales is maintained. To this end, the bill provides for amendments to the Human Tissue Act 1983, the Anatomy Act 1977 and the Coroners Act 1980.

I refer to the main features provided by the proposed legislation. Tissue removed during medical, surgical or dental procedures or for the purposes of a post-mortem examination is not to be used for other purposes without written consent. All non-coronial post-mortem examinations are to be carried out in accordance with the wishes of the deceased or their senior available next of kin. It will be unlawful to use tissue

removed from a body during a non-coronial post-mortem examination for any other purpose without written consent. The purpose for which a coronial post-mortem examination may be conducted is to be clarified. In the conduct of any post-mortem or anatomical examination, regard must be had to the dignity of the deceased person. The proposed legislation also has more effective provisions covering the prohibition in the trade in human tissue and the enforcement of this and other provisions under the Human Tissue Act generally and the making of regulations to deal with human tissue collections in an accountable manner.

For the information of honourable members, I provide further background to the proposed legislation and discuss the amendments in greater detail. The law in New South Wales allows for two kinds of post-mortem examinations. A post-mortem examination may be ordered under the Coroners Act to assist a Coroner in investigating a death. Owing to the nature of the Coroner's jurisdiction, the consent of the next of kin to perform the post-mortem is not required. Nevertheless, there are provisions in the Coroners Act that allow next of kin to object to a coronial post-mortem examination. A coroner orders the majority of the post-mortem examinations undertaken in New South Wales.

The second kind of post-mortem examination is one that is authorised under the Human Tissue Act. Such a post-mortem examination can be authorised when the deceased expressed a wish or consented to such a procedure during his or her lifetime. Where the deceased did not express any views, the Act sets out two different sets of rules as to when a post-mortem examination may take place. If the body of the deceased is not at a hospital, a post-mortem examination can be authorised only by a senior available next of kin. If there is no next of kin to consent to the procedure, no post-mortem may be undertaken.

On the other hand, if the body is at a hospital and no next of kin can be located, a post-mortem examination can be authorised by a designated officer of the hospital. Those two sets of rules are inconsistent with each other. The bill amends those rules to ensure that, where the deceased expressed no views about a post-mortem examination during his or her lifetime, a senior next of kin must be consulted. Where no next of kin is available, a post-mortem examination will not be able to take place. The amendment ensures that consent is always obtained for a post-mortem examination, regardless of whether or not the body is at a hospital.

A similar anomaly exists under the Act in respect of tissue donation. The bill amends the relevant provisions so that tissue may only be removed for donation according to the written consent or wish of the deceased, given whilst alive, or where a senior next of kin gives written consent. Another area of reform introduced by the bill relates to how tissue that is removed during a post-mortem examination may be used. At present, section 31 of the Human Tissue Act allows tissue that is removed during any post-mortem examination to be used for other therapeutic, medical or scientific purposes. The consent of the deceased or his or her next of kin is not required for these other uses. "Tissue" is defined in the Act as an organ or any part of the human body.

In the past, this provision has led to tissue, such as hearts and lungs, which are removed as part of a post-mortem examination, being used for research. In some cases, such organs and tissue have been kept in hospital tissue collections. Families have often been unaware that bodies released to them after post-mortem examination have had organs or tissue missing from them. This practice has caused great distress for some families, especially for those whose cultural or religious beliefs require the burial of the whole body in tact. It is a particular issue in coronial post-mortem examinations where the next of kin do not have a role in consenting to the post-mortem examination itself.

The bill also addresses cultural sensitivities by allowing a next of kin of a deceased person to authorise another person to exercise his or her functions under the legislation. The provision recognises the kinship and other familial relationships that exist in cultural groups, such as the Aboriginal and Torres Strait Islander cultures. For example, in the case of a death of an Aboriginal person or a Torres Strait Islander, the powers and duties of the senior next of kin would traditionally be exercisable by the designated culturally appropriate person of the family, extended family, clan or tribe to which the deceased person belonged. By allowing consent to be delegated, the bill provides a means of addressing these important cultural differences.

The provisions in the Human Tissue Act, which currently allow tissue to be used for other purposes without consent, are based on the recommendations of the Australian Law Reform Commission in its 1977 report on human tissue transplants. The law reform commission recommended that body parts removed during post-mortem examinations should be available for use for other therapeutic, medical and scientific purposes. However, it is clear that the community no longer considers it appropriate that tissue removed during post-mortem examinations may be used for medical research or other scientific or therapeutic purposes, without the need for consent. The bill will render such a practice unlawful.

The bill inserts new provisions in the Act which state that an authority to use tissue removed during a post-mortem examination for other purposes may be given only if the deceased consented in writing whilst alive. Alternatively, if the deceased did not indicate his or her wishes whilst alive, or the deceased was a child, the senior available next of kin may consent in writing. However, no such consent may be given if the designated officer is aware, after making reasonable inquiries, that the deceased person had objected to the use of his or her tissue. An authority to use the tissue must be given by a "designated officer" who is a person appointed under the Act to authorise the use of human tissue obtained through donation or from a post-mortem examination. Where the death is in the jurisdiction of a coroner, the coroner's consent will also be required.

Persons giving consent to the use of tissue may limit that consent as they see fit. For example, they may limit the use of tissue to one particular research project. Under the legislation, the requirement to obtain written consent will also be extended to tissue removed from a living person during medical, dental or surgical treatment. It is anomalous that consent is required for the use of tissue removed after death, but not for tissue removed or expelled in the course of medical, dental or surgical treatment. Thus, the use of such tissue for therapeutic, medical or scientific purposes will be permitted only if the patient, or, if the patient has died, the senior available next of kin, has given consent in writing to the use of the tissue for that purpose.

However, a general exception has been included in the legislation with respect to persons for whom the Minister administering the Children and Young Persons (Care and Protection) Act has parental responsibility. After consultation with the Minister for Community Services the view has been taken that children and young persons who are under that Minister's care should not be subject to the provisions of the legislation enabling consent to be given to the use of their tissue. For the purposes of consistency, the bill also amends the Human Tissue Act to require written authority for the removal and use of tissue from the body of a deceased person and its use for transplantation or other therapeutic, medical or scientific purposes.

The bill renders it an offence to use tissue removed during a medical, dental or surgical procedure, from the body of a deceased person, or during a post-mortem examination, unless an authority has been given for its use under the Act. It is also unlawful to use tissue outside the terms of the authority. The legislation provides for two exceptions in respect of the requirement for written consent for the use of tissue removed from a deceased person or during the course of therapeutic, medical or scientific procedures. Firstly, no consent will be required for the retention and therapeutic, medical or scientific use of small samples of any tissue that is lawfully removed from the body of a person, whether living or deceased, and retained in the form of a tissue block or slide. An exception in these terms has also been included in the proposed amendments to the Anatomy Act and the Coroners Act.

The retention of such material is essential in assisting in determining the manner and cause of death under the Coroners Act. The Walker report also noted the strong justification for the indefinite retention of tissue blocks and slides without specific consent requirements to allow for their use in teaching and research. The second exception allows for the retention of tissue for a prescribed period for the purpose of obtaining a written authority under the Human Tissue Act for the use of the tissue for therapeutic, medical or scientific purposes. This exception is designed to enable tissue removed in certain circumstances, such as emergency surgery, to be retained until the consent of the person from whom the tissue was removed, or, if the person dies, the senior available next of kin, can be obtained.

The bill also provides for improved enforcement powers. The updated and improved enforcement provisions will assist in monitoring compliance with the legislation generally. More particularly, these new powers are generally aimed at ensuring that the prohibition on the trade in human tissue contained in section 32 (1) of the Act can be appropriately investigated and enforced. Section 32 (1) provides that it is an offence to enter into a contract or arrangement under which any person agrees, for valuable consideration, to the sale or supply of tissue from a person, either living or deceased, or to the post-mortem examination of any person after death. Section 32 has been updated to ensure that it not only captures any contract or arrangement that might breach section 32 (1) but also captures an offer to enter into such an agreement.

The Act provides for an exception regarding the prohibition on contracting for the sale or supply of human tissue. This exception allows for the sale and supply of therapeutic goods that contain human tissue. At present, this exception applies only to goods that are to be used "in accordance with the direction of a medical practitioner". Since this provision was enacted, a number of therapeutic goods have been developed which contain processed human tissue, but are not necessarily used in accordance with the directions of a medical practitioner. These include serological tests for certain human diseases which contain human serum, cell feeder lines for culturing viruses, and other scientific and therapeutic goods. These products, which are regulated by the

Commonwealth Therapeutic Goods Act, may be used by persons such as laboratory scientists and researchers, rather than in accordance with the directions of a medical practitioner. The bill therefore also updates the current exception to take such therapeutic goods into account.

The further matter addressed by the bill is that of human tissue collections. The Chief Health Officer's audit of human tissue collections indicated that much stored tissue is unidentified. This makes it difficult for comprehensive audits of tissue collections to be undertaken. The bill addresses this issue by inserting new regulation-making powers into the Act. This will allow regulations to be made regarding record keeping for tissue collections, or use of tissue under the Act. Regulations may also be made for the forwarding of such information to the Director-General of the Department of Health. This will allow the department to properly monitor human tissue collections. The bill before the House also amends the Anatomy Act 1977. Consistent with the proposed amendments to the Human Tissue Act, the legislation introduces a requirement for written consent by the deceased prior to their death, or by the senior available next of kin of the deceased, for the use of a body for anatomical examination.

A number of other amendments have been included in the bill by way of updating and clarifying the operation of the Act. The Walker report took the view that the current provisions of the Anatomy Act allow only for the dissection of bodies. This means that bodies donated under the Anatomy Act cannot be used for the purposes of other medical or scientific research, such as teaching or practising surgical techniques. A new definition of "anatomical examination" has therefore been included in order to make it clear that such examination includes the use of the body for medical and scientific purposes. A reference to medical or scientific purposes includes educational purposes connected with medicine or science. This will ensure bodies donated under the Act will be able to be used for purposes such as instructing students studying medicine.

The bill also introduces a provision stating that, in the conduct of an anatomical examination, regard is to be had to the dignity of the deceased. The bill provides for the inclusion of a similar provision in both the Human Tissue Act and the Coroners Act. The comment might be made that neither anatomical examinations nor post-mortems are, of themselves, inherently dignified procedures. However, it is important that there be some acknowledgement by way of general principle that the process surrounding these procedures should reflect the ongoing dignity that should be accorded to any person between the time of his or her death and burial or cremation.

Presently, a licensee may retain indefinitely a body that has been donated under the Act, provided an authority to do so is given by an inspector, as required. However, in keeping with the principle propounded in the Walker report that regard is to be had to the dignity of the deceased, it is proposed that a maximum period of eight years be set for the retention of bodies donated under the legislation. Specific provision has been made for the permanent retention of tissue where the deceased has given written consent prior to death. Where no consent has been given and the wishes of the deceased in this respect are unknown, the senior available next of kin may consent. However, as previously noted, no consent is required for the retention of tissue in the form of tissue blocks and slides.

The Act currently makes provision for the transfer of bodies between institutions licensed under the Act. However, the legislation is silent regarding the transfer of tissue between licensees. The bill allows for the transfer of human tissue from a body that is in the possession of a licensed institution to another holder of a license, an authorised officer of a hospital, or a person approved by the director-general for use for medical or scientific purposes. Such transfer will not be permitted where it is contrary to the authority given by the deceased or the next of kin. This amendment will ensure that activities such as the practice of surgical procedures on particular tissue or body parts can be conducted at hospitals and licensed facilities. Provision is made in the bill requiring the licensee to have arrangements in place for the return of the tissue, unless it has been wholly or substantially destroyed in the process.

Finally, the bill amends the Coroners Act in a number of respects. The bill clarifies that the purpose of a coronial post-mortem is to assist in the investigation of the manner and cause of death, the time and place of death or the identity of the deceased. I am sure honourable members will agree that it is imperative that the proper administration of the justice system not be impeded. To this end, provision has also been made in the bill to allow tissue from a coronial post-mortem examination to be used for the Coroner's investigation of a death. Tissue so removed may also be used for the investigation of any offence or in any offence proceedings. The provision is essential to ensure that forensic evidence is preserved for the proper investigation of a person's death by the Coroner, and for the proper investigation and prosecution of crime.

The new provision in the bill also allows small samples of bodily fluids, such as blood, to be retained from a coronial post-mortem examination. Small samples of skin, hair and nails may also be kept. Other small samples of tissue may be kept only where the Coroner makes a direction in a particular case. The direction is required to be made in writing so that a record of the retention exists. Such a direction may not be made as a general practice, but only in a particular case. The small samples of tissue that are retained under this provision can be used only for certain purposes. These are as follows: the exercise of the Coroner's functions; the investigation of an offence; for use in legal proceedings; for any use that is authorised by the deceased or their next of kin under the Human Tissue Act; and a purpose prescribed by the regulations.

The ability to prescribe further purposes for the use of such tissue samples is necessary to deal with contingencies that may arise in the future. For example, a particular government inquiry or a royal commission may require such samples to be re-examined for the purposes of its inquiry. The capacity to retain these small samples of tissue is necessary to ensure that the coronial system and the justice system continue to function effectively. For example, retained samples of tissue may be used in cases of unsolved deaths. New evidence may come to light several years later and retained tissue samples may be needed in the re-investigation of the death.

As previously noted, tissue slides and blocks may be retained and used for any therapeutic, medical or scientific purpose. Honourable members will appreciate that the retention of these small samples of tissue is necessary to preserve important interests of society, being the proper investigation of suspicious or unusual deaths and the proper administration of the criminal justice system. The provision represents a reasonable balance between the wishes of some individual community members who may wish all tissue to be returned to them and the interests of society as a whole. The Government is committed to ensuring that the interests of individual community members regarding the use of human tissue from deceased persons are protected. It is also committed to ensuring the proper and effective administration of the justice system. The Human Tissue and Anatomy Legislation Amendment Bill has been developed to represent a balance between the community's expectations concerning the dignified and respectful treatment of deceased persons, the interests of justice and the need for ongoing medical and scientific research, teaching and inquiry. I commend the bill to the House.

**Debate adjourned on motion by Mr Maguire.**

## **COURTS LEGISLATION MISCELLANEOUS AMENDMENTS BILL**

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

### **Second Reading**

**Mr MOSS** (Canterbury—Parliamentary Secretary), on behalf of Mr Debus [10.26 a.m.]: I move:

That this bill be now read a second time.

This bill proposes miscellaneous amendments to legislation affecting the operation of the courts of New South Wales. Late last year Parliament passed the Justices Legislation Repeal and Amendment Act 2001, the Criminal Procedure Amendment (Justices and Local Courts) Act 2001—the CPA Act—and the Crimes (Local Courts Appeal and Review) Act 2001. This legislative package will replace the Justices Act 1902, a complex, disjointed, procedure-orientated and difficult-to-understand piece of legislation, which sets out the procedures to be followed for criminal cases and statutory applications in the Local Court.

Given the magnitude of the changes brought about by the Justices Act reform package, it was necessary to delay commencement until new rules of court were prepared and agencies could make preparations necessary to implement the new procedures. The Local Court Rule Committee has now drafted the rules to support the package and other agencies are working on their implementation plans. In the process of drafting the necessary rules, the Local Court Rule Committee has identified a number of minor areas where legislative amendment is required to facilitate the introduction of the new operational procedures, to clarify the requirements of a new section or to ensure consistency with the current regime.

Schedule 1 to the bill will make a number of consequential amendments to the Crimes Act 1900, the Criminal Procedure Act, the Gaming Machines Act 2001, the Liquor Act 1982, the Local Courts Act and the Protection of the Environment Operations Act 1997. Schedule 1.1 will amend section 562A of the Crimes Act 1900 to make it clear that those people who are currently authorised to issue a complaint and summons in relation to apprehended violence orders will continue to be able to do so. There was a concern that the Justices

Act reform package may have inadvertently restricted the class of people who could issue such processes. Schedule 1.2 [1] and [5] will amend sections 50 and 175 of the Criminal Procedure Act which set out the requirements for the contents of a court attendance notice. The sections make references to new terminology which may be ambiguous. It was not intended that the Justices Act reform package change the law in relation to the contents of the initiating process. Therefore sections 50 and 175 will be amended to more closely reflect the language of the current law.

Schedule 1.2 [2] will amend sections 51 and 176 of the Criminal Procedure Act which provide that a court attendance notice may not relate to more than one offence. This restriction will cause significant problems for the police when they issue field court attendance notices. The benefits of being able to issue court attendance notices out in the field, without having to come to court to file the documents, would be lost if police had to issue multiple notices where a person was being charged with a number of offences. The bill will repeal these sections.

Schedule 1.2 [3] will amend section 88 of the Criminal Procedure Act to make it clear that a deposition made by a dangerously ill person so that the person's evidence is not lost is an exception to the general rule that a written statement made by a person who has since died is not admissible in committal proceedings. Schedule 1.2 [4] will amend section 158 of the Criminal Procedure Act which requires transcripts of committal proceedings in Local Courts to be certified. The certification requirements are unnecessary and are an impediment to electronic transfer of transcripts to parties and between court registries. The amendment will remove the certification requirements and will include a discretionary power for the court to exclude a transcript if there is some doubt about the accuracy of the document.

Regulations can be made under the Justices Act to exempt the prosecution from serving a brief of evidence in minor matters commenced by penalty notice or where it would be unnecessary and impractical to prepare a brief of evidence. This saves prosecuting authorities from preparing and serving briefs of evidence in thousands of minor matters such as traffic infringement cases. There is currently no equivalent power under the Criminal Procedure Act. Schedule 1.2 [7] will amend section 187 of the Criminal Procedure Act to allow regulations to be made to prescribe a class of action where service of a brief is not required, thereby making the new legislation consistent with the current law. A consequential amendment will also be made to section 183 to make it consistent with section 187.

Section 240 of the Criminal Procedure Act sets out a procedure for the recall of warrants. This section does not reflect what is intended to be the practice in this area. Schedule 1.2 [8] to [10] will amend section 240 to enable the Local Court to cancel warrants if requested to do so by the person who originally requested the warrant or if it is appropriate to do so. It will then be the responsibility of the person holding the warrant rather than the court to actually dispose of the warrant.

Section 313 of the Criminal Procedure Act was adapted from section 147 of the Justices Act 1902. Subsections (1) and (2) refer to "warrants issued under this Act". This terminology was suitable in the Justices Act 1902 because all warrants relating to proceedings in Local Courts were issued under the Justices Act. The Justices Act reform package will allow warrants to be issued under the Criminal Procedure Act 1986 and the Local Courts Act 1982. Schedule 1.2 [11] to [15] will amend section 313 to make it clear that the provision applies to warrants issued under the Criminal Procedure Act or any other Act.

The amendments to the Liquor Act 1982 and Gaming Machines Act 2001 will address anomalies arising as a result of the Justices Act reform package. Schedule 1.3 will amend section 196 of the Gaming Machines Act to remove references to "information", which is an antiquated term found in the Justices Act 1902, which is scheduled to be repealed when the Justices Act reform package commences. Sections 14 and 15 of the Liquor Act respectively provide the Licensing Court with discretion to adjourn matters and amend applications in both criminal and civil matters. These sections are to be omitted by the Justices Act reform package. Schedule 1.4 will reinstate the effect of these sections in relation to non-criminal applications, thereby ensuring that uniform procedures are adopted in the Local and Licensing courts.

Court fees for matters in the Local Court are currently set out in the Justices (General) Regulation 2000. This regulation will be repealed when the Justices Act reform package commences. There is no provision in the Local Court Act 1902 to make regulations to set fees. Schedule 1.5 [1] includes a regulation-making power in the Local Court Act to allow fees to be set. In addition, schedule 1.5 [5] includes a transitional provision which will allow the current regulation to remain in force until a new regulation is made.

This bill will also clarify the rule-making power of the Local Court. Each of the Acts in the Justices Act reform package confer various rule-making powers on the Local Court Rule Committee. It is preferable, for consistency with other courts, that the Local Court rules be made under the Local Court Act 1982 rather than separate rules being made under each of the Acts. Schedule 1.5 [2] and [3] will amend section 28A of the Local Court Act 1982 to make it clear that rules can be made under that Act even if the rule-making power is conferred on the Local Court Rule Committee by another Act.

Schedule 1.5 [4] will re-enact in the Local Courts Act a provision currently contained in the Local Courts (Civil Claims) Act that makes Local Court practice notes subject to the disallowance and publication provisions applying to regulations. Schedule 1.6 makes the consequential amendment to the Local Courts (Civil Claims) Act to remove this provision from that Act. The amendments will make it clear that all practice notes and not just those relating to civil procedure are subject to disallowance and publication provisions. The Justices Act reform package will amend section 268 of the Protection of the Environment Operations Act 1997, and in doing so will inadvertently remove the reference which identifies against whom a noise abatement order may be sought. Schedule 1.7 clarifies against whom such an order can be sought.

Schedule 2 to the bill deals with amendments relating to electronic case management for courts. Two years ago, Parliament passed the Electronic Transactions Act. That Act formed part of a national scheme developed by the Standing Committee of Attorneys-General which was designed to remove any doubts about the validity of electronic transactions and to facilitate the implementation of electronic commerce by both public and private sector agencies. It was recognised, however, that the Act did not fully address the special issues that arise for judicial bodies in relation to electronic transactions. For this reason, the Electronic Transactions Regulation 2001 excluded transactions relating to judicial proceedings from the operation of division 2 of part 2 of the Act dealing with the giving of information in electronic form, the use of electronic signatures, the production of documents in electronic form and the retention of information in electronic form.

In the two years since the Electronic Transactions Act was passed, much work has been carried out on developing systems to enable the public to deal electronically with courts and tribunals. Earlier this session, Parliament passed the Courts Legislation Further Amendment Act 2002 which amended the Land and Environment Court Act to facilitate the introduction of electronic filing of applications in class 1, 2, 3 and 4 matters in the court. The court will shortly be implementing its new eCourt system to enable on-line lodgment of originating and other documents and fee payments, service of documents and remote case inquiries.

The department is also working on a new computerised case management system for the New South Wales Supreme, District and Local courts and the Sheriff's Office. The system will provide common software to all New South Wales courts, allowing information to be exchanged electronically between each court, justice agencies, the legal profession and court users in general. It will offer the facility for creating an electronic court file containing every item that would normally be held on a court's paper file. As with the Land and Environment Court, there are legislative impediments to implementing an electronic case management system in the Supreme, District and Local courts. Because the courts operate under a number of different Acts, a slightly different approach has been taken to that taken for the Land and Environment Court, which operates under a single Act of Parliament.

Rather than specifically amending each Act to remove impediments to electronic commerce, the amendments in schedule 2 create a separate legislative regime which can, by order published in the gazette, be applied to courts establishing an electronic case management system. Whilst the initial focus of this legislation is to enable an electronic case management system to be established in the Supreme, District and Local courts, the legislation will permit any person or body that exercises judicial, magisterial or coronial functions to be established as an electronic case management court. Such an approach recognises the move towards electronic service delivery across government. The specific details about how an electronic case management system will operate in a particular court will be contained in rules of court or regulations under which the particular court operates. Proposed section 14N clarifies the rule and regulation-making power of the courts and the Executive in this regard.

Schedule 3 to the bill deals with amendments relating to appeals to the Court of Appeal. The Supreme Court Act 1970 requires a party to seek leave if they wish to appeal from consent, costs or interlocutory orders of a Supreme Court judge. The bill will amend the appeal provisions in various court and tribunal legislation to ensure that the same principle applies when parties seek to appeal against consent, costs or interlocutory orders.

Schedule 4 to the bill deals with a number of miscellaneous amendments. Schedule 4.1 repeals an unintended consequential amendment to the Coroners Act 1980. The Community Services Legislation

Amendment Act 2002, once commenced, will amend section 14B of the Coroners Act to make it mandatory for the Coroner to hold an inquest into certain categories of deaths of vulnerable children and disabled persons in care. The Coroner would be required to hold an inquest even if the death is one where the Coroner would not ordinarily hold an inquest. The State Coroner has indicated that this requirement will have massive resource implications for the Coroner's Office. This was not the intent of the legislation. The bill will repeal section 14B of the Coroners Act. The Coroner will still be able to hold an inquest into the death of a vulnerable child or disabled person in care where one is warranted, using the existing powers available to that office.

Schedule 4.2 will amend the Costs in Criminal Cases Act 1967 to make it clear that a certificate under the Costs in Criminal Cases Act 1967 may be granted when the Director of Public Prosecutions gives a direction that no further proceedings be taken. The amendment will remove a doubt that had arisen as to whether a certificate could be granted in such cases due to differences in terminology between the Costs in Criminal Cases Act and the Director of Public Prosecutions Act 1986.

Schedule 4.3 will amend the Interpretation Act 1987 so as to allow rules of court to provide for forms to be approved under the rules even though some other Act or statutory rule requires such forms to be prescribed by the rules. This provision will give courts greater flexibility to approve their own forms. Schedule 4.4 makes a number of limited technical amendments to the cost assessment regime under the Legal Profession Act 1987. Cost assessment matters are handled through the Supreme Court. The amendments will enable these matters to be handled through the electronic case management system that is being developed for the Supreme Court. I am aware that some issues have been raised about the cost assessment scheme, which has been operating for nearly 10 years. For this reason, the department will be conducting a review of this scheme next year. Comments will be sought from the public at that time. I commend the bill to the House.

**Debate adjourned on motion by Mr Maguire.**

## **BUSINESS OF THE HOUSE**

### **Ministerial Statement**

**Mr WOODS:** I seek leave to make a ministerial statement.

**Leave not granted.**

## **BUSINESS OF THE HOUSE**

### **Ministerial Statement: Suspension of Standing and Sessional Orders**

**Mr WHELAN** (Strathfield—Parliamentary Secretary) [10.46 a.m.]: I move:

That standing and sessional orders be suspended to allow the Minister for Local Government to make a ministerial statement and to table a report.

It is odd that the Opposition refuses to allow the Minister the opportunity to make a ministerial statement, whether or not he has advised the Opposition. The standing and sessional orders allow the Minister to make a ministerial statement, by leave, at any time. There is no reason why the leave of Parliament should not be granted at this stage. It is unreasonable for the Opposition to refuse the Minister this opportunity. Therefore, I have moved the motion to enable this to occur. As a Minister of the Crown, the Minister is entitled to table documents and to make a statement in his role as Minister for Local Government.

**Mr TINK** (Epping) [10.47 a.m.]: If the Government had had the courtesy to inform the Opposition about the ministerial statement so that debate in this Chamber could proceed on an informed basis, the matter could have been debated in a sensible manner. The Government has sought to ambush the Opposition in an effort to obtain some advantage. The forms and procedures of the House require leave to be given to make a ministerial statement at this time. The Minister has sought to take the Opposition by surprise in not having the courtesy to inform the Opposition of the subject matter of the ministerial statement. The Leader of the House is not correct in stating the attitude of the Opposition. We are about informed debate, transparent government, disclosure and equal opportunity for debate in this House. The Government is seeking to use its numbers to achieve some political advantage and this is not conducive to debate. The Opposition opposes the motion because the Government seeks to take advantage of the procedures of this House without allowing informed debate or the provision of information. The Opposition would not have refused leave if the Minister were fair dinkum and had allowed it the opportunity to make an adequate response.



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

**The House divided.**

**Ayes, 47**

Ms Allan	Mrs Grusovin	Ms Nori
Mr Amery	Ms Harrison	Mr Orkopoulos
Ms Andrews	Mr Hickey	Mr E. T. Page
Mr Aquilina	Mr Iemma	Mrs Perry
Mr Ashton	Mr Knowles	Mr Price
Mr Bartlett	Mrs Lo Po'	Dr Refshauge
Ms Beamer	Mr Lynch	Ms Saliba
Mr Brown	Mr Markham	Mr W. D. Smith
Miss Burton	Mr Martin	Mr Tripodi
Mr Collier	Mr McBride	Mr Watkins
Mr Crittenden	Mr McManus	Mr Whelan
Mr Debus	Ms Meagher	Mr Woods
Mr Face	Ms Megarrity	Mr Yeadon
Mr Gaudry	Mr Mills	<i>Tellers,</i>
Mr Gibson	Mr Moss	Mr Anderson
Mr Greene	Mr Newell	Mr Thompson

**Noes, 35**

Mr Armstrong	Dr Kernohan	Ms Seaton
Mrs Chikarovski	Mr Kerr	Mr Slack-Smith
Mr Collins	Mr Maguire	Mr Souris
Mr Cull	Mr McGrane	Mr Stoner
Mr Debnam	Mr Merton	Mr Tink
Mr George	Ms Moore	Mr Torbay
Mr Glachan	Mr O'Farrell	Mr J. H. Turner
Mr Hartcher	Mr Oakeshott	Mr R. W. Turner
Mr Hazzard	Mr D. L. Page	Mr Webb
Ms Hodgkinson	Mr Piccoli	<i>Tellers,</i>
Mrs Hopwood	Mr Richardson	Mr Fraser
Mr Humpherson	Mr Rozzoli	Mr R. H. L. Smith

**Pairs**

Mr Stewart	Mr Brogden
Mr West	Mrs Skinner

**Question resolved in the affirmative.**

**Motion agreed to.**

**DEPARTMENT OF LOCAL GOVERNMENT WARRINGAH COUNCIL REPORT**

**Ministerial Statement**

**Mr WOODS** (Clarence—Minister for Local Government, Minister for Regional Development, and Minister for Rural Affairs) [10.57 a.m.]: Yesterday I received the final report of the Department of Local Government's major investigations into Warringah Council. This is the first opportunity I have had to table that report, which is what I undertook to do.

**Mr Hazzard:** Point of order: If the Minister is going to make a statement and he intends to make some assertions, which might or might not have any substance, Opposition members should at least be able to hear them. I ask you to direct honourable members to be quiet so that we can at least hear the Minister's statement.

**Mr SPEAKER:** Order! I ask those members leaving the Chamber to do so expeditiously and quietly.

**Mr WOODS:** Yesterday I received the final report of the Department of Local Government's major investigation into Warringah Council. This is the first opportunity I have had to table that report, which is what I undertook to do. I table the report of the New South Wales Department of Local Government entitled "Report of an Investigation in terms of Section 430 of the Local Government Act 1993 into Warringah Council", dated October 2002.

**Report tabled.**

**Mr WOODS:** Departmental officers are delivering that report to council and to councillors now.

**Mr Barr:** Point of order: Hansard cannot hear.

**Mr SPEAKER:** Order! Hansard is having difficulty hearing the Minister's statement. I remind the House that one member of the Opposition will have the opportunity to reply to the ministerial statement. The member who replies should be able to formulate his or her thought processes after hearing everything the Minister has to say.

**Mr Hartcher:** Point of order: It is my understanding that leave has to be sought and obtained for the tabling of papers.

**Mr Whelan:** No. The motion for the suspension of standing and sessional orders actually included that.

**Mr Hartcher:** No, I do not think that it did.

**Mr SPEAKER:** Order! The motion moved by the Leader of the House was to suspend standing and sessional orders to allow the Minister to make a ministerial statement and to table the report.

**Mr WOODS:** Departmental officers are delivering the report to the council and councillors. Council is required to table the report at its next meeting. It then has 40 days to respond to the recommendations. The investigation follows a series of complaints by residents, as well as a request from the council for the department to step in. Warringah Council has the dubious distinction of being the most complained about council of the State's 172 local government areas. The State Government has received an avalanche of complaints about Warringah Council. From May 2001 to 30 April 2002 the Government received 188 letters of complaint from 110 individuals relating to 262 specific allegations or complaints. When the council responds to the recommendations in the report I will consider my position.

**Mr Hartcher:** What about Rockdale?

**Mr WOODS:** I do not know why those opposite are so opposed to the tabling of this report. What are they scared of?

**Mr SPEAKER:** Order! I call the honourable member for Ku-ring-gai to order. I call the honourable member for Blacktown to order.

**Mr WOODS:** One of the options is a full public inquiry, which can lead to the dismissal of a council. The recommendations in the report are damning. They urge a further, more extensive review. The report details alleged actions by individuals of council who may have acted corruptly, perceived conflict of interest, inappropriate use of ratepayers' money and a belligerent attitude to residents, including abusive and disruptive behaviour at council meetings. The investigation was undertaken by the Deputy Director-General of the Department of Local Government, Mr Jim Mitchell. He is a no-nonsense investigator who worked for the New South Wales Audit Office for 40 years, most recently as the Deputy Auditor-General. He said that there were examples of inappropriate behaviour by councillors that led to a deterioration of community confidence in the council. One of the recommendations is that the report be referred to the Independent Commission Against Corruption [ICAC]. I inform honourable members that the report has been referred to the ICAC by the Director-General of the Department of Local Government, Mr Garry Payne.

The report outlines a number of case studies, some of which relate to former mayors Councillor Darren Jones and Councillor John Caputo. One case outlined in the report involved two developments, the Nautilus

apartments on Pittwater Road, Dee Why, in which Councillor Caputo has an interest, and the Centrepoint development on the same side of the street in which Councillor Jones has an interest. In July 2001 Councillor Jones, as mayor, moved a motion, which was agreed, to approve the development application in relation to the Councillor Caputo development for an additional floor. If permitted the development would exceed the height restrictions in the council's local environmental plan. At the time, Councillor Jones' family company, Songkal, was before the Land and Environment Court appealing the council's decision to refuse the Centrepoint development application. One day later the court was given information about the decision of council to approve the additional floor on the Nautilus apartments. The approval of the non-complying extension was cited as a precedent in support of Councillor Jones' Centrepoint development. The appeal by Councillor Jones in the court was successful.

Another case study involved the Hayman and Ellis site at Pittwater Road, North Manly. In December 1998 Councillor Jones moved a rezoning motion from light industrial use to medium density. The motion was successful. Councillor Jones owns the property that adjoins the site and falls within the rezoning. As the report said, this created a perception of a potential increase in value. Another case study involved Councillor Jones' motion for council to approve \$1.4 million flood-prevention works at Manly lagoon. Councillor Jones' property at North Manly is close to the lagoon foreshore and, therefore, could be affected by severe flooding. Another case involves Councillor Caputo's joint application for dual occupancy on his property at Cromer. The original application was lodged in September 1998, but approved more than two years later. Mr Mitchell concludes:

I find it is significant that there is a possibility that individuals at Warringah Council may have intentionally misled the Department of Local Government in their previous inquiries into this matter.

The report also details a series of other council decisions or actions that have led to community concern. This includes the repetitive nature of expulsions and walkouts that have characterised Warringah Council meetings for some time. Mr Mitchell concluded that this has disrupted the council in the exercise of its business and, consequently, imposes a hidden cost on the community. The report outlines 11 recommendations to the council, including a re-examination of its code of conduct and the creation of an independent hearing and assessment panel to hear development applications. I await the council's response to the report and its recommendations.

**Mr HUMPHERSON** (Davidson) [11.05 a.m.]: I respond to the ministerial statement as both a local member whose electorate is covered by Warringah Council and as a former councillor on Warringah Council. I recognise some of the history that has beset the council. I warn the Government that it should not play politics and repeat the events of 1985 when, on a political whim, the then Premier, Neville Wran, sacked Warringah Council. Since the last council elections in 1999 the council has been beset with internal animosity and hatred. It has been dysfunctional. The council has had a majority four and a majority five block. By and large, with very few exceptions, every vote within council since that time has followed that four-five split. Personal relationships between councillors, and sometimes between councillors and staff, have been poisonous to say the very least.

Warringah Council is now on death row. No-one in the community believes that Warringah Council will or can survive in its current form. What is happening now will drag out what has occurred for the past three years. For a range of reasons the community no longer has confidence in the council. Professional working relationships between staff and councillors have deteriorated to a level that members in this House could not believe. The dysfunctionality of the council mirrors the NRMA: Warringah Council is the northern beaches NRMA. It is paramount and urgent that the council go. Nothing can be improved until fresh elections are held, which will give both the council and the community a fresh start. The status of all councillors has become untenable. The unworkable relationships cannot be improved. I say to the Government on behalf of the Opposition: Get on with it. Stop dragging it out. The process, which has been drawn out for at least six months, must be accelerated. Clearly, the Government intends to drag this on until the election campaign next year.

I say to the councillors: It is timely to consider your future. It would be timely to resign. Give everyone in Warringah a fresh start. Give us a chance to have some breathing space and clear air. Draw a line in the sand. Let us have fresh elections. I say to every one of those nine councillors: To varying degrees you, individually, have contributed to the dysfunctionality of the council. The only solution, given that this process will be dragged out for the next four months, is for the entire elected council to resign. Many of the problems that have beset Warringah Council were created and encouraged by the honourable member for Manly, but most particularly by the Labor Government.

**Mr SPEAKER:** Order! If the honourable member for Manly wishes to say something he should take a point of order. He should not debate the matter across the Chamber.

**Mr HUMPHERSON:** Many of the problems have occurred as a result of State planning policies Nos 5 and 53, which have forced overdevelopment on Warringah Council. Overdevelopment has become a political

issue, facilitated and exacerbated by a number of community members and by the honourable member for Manly. A number of matters have been referred to in the report, which members of this House, except for the Minister, have not had a chance to fully read. The report clearly refers to matters involving individual councillors who have been referred to ICAC by the council and by individual members of the community. The Opposition supports those matters being referred again to ICAC.

Any suggestion or evidence of impropriety by any councillor or member of staff in relation to the processes of development should be referred to ICAC. I suspect that many of the matters have already been investigated by ICAC. If they have not, such investigations should be undertaken. The Opposition also supports, where required, further investigation of any of the matters. The report does not seem to touch on the contributions made by community activists such as Vince De Luca and other members of the community. Vince De Luca led some of the disruptive behaviour at council meetings and has been a facilitator in encouraging walkouts by individual councillors. From my brief reading, I do not see any reference in the report to those matters.

**Mr SPEAKER:** Order! The honourable member for Wakehurst is making it difficult for his colleague the honourable member for Davidson to address the House. The honourable member for Manly should refrain from responding to the interjections of the honourable member for Wakehurst. The honourable member for Wakehurst is contravening the standing orders. The honourable member for Davidson has the call.

**Mr HUMPHERSON:** The dysfunctionalities and problems in council have been facilitated by a number of community activists, including Vince De Luca who has worked hand in glove with the honourable member for Manly over a number of years.

**Mr Hazzard:** In his office.

**Mr HUMPHERSON:** Including in his office. There does not seem to be any reference in the report to the orchestrated walkouts and the early adjournment of council meetings, which have contributed to the council's inability to perform its functions.

**Mr Barr:** Point of order: The honourable member for Davidson is quoting from a report that has only just been tabled. The honourable member cannot possibly know what is in it.

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

**Mr HUMPHERSON:** Matters directly relevant to the dysfunctionality of council do not seem to have been considered in the report. The aim of the report was to examine the effectiveness of the operation of Warringah Council. The operations of community activists, the role played by the honourable member for Manly and the role played by Vince De Luca in orchestrating numerous complaints about Warringah Council should have been thoroughly investigated. As honourable members know, many matters have already been referred to the Ombudsman and to ICAC and have been investigated. All members of this House would agree that the community has lost confidence in Warringah Council. The councillors have no choice but to resign. If they do not, the process of dismissal should be accelerated. The community requires the air to be cleared, a fresh start and a new election. [*Time expired.*]

## **PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT (PARTY REGISTRATION) BILL**

### **Second Reading**

**Debate resumed from 25 September.**

**Mr O'FARRELL** (Ku-ring-gai) [11.14 a.m.]: Free and fair elections are essential in a democracy. To know that they live in a genuine democracy, citizens must know that they have the right to participate in the electoral system: to stand for election, to choose to join with others in a political party and to vote for the candidate or party of their preference. In a true democracy people must be confident in the knowledge that the electoral process will produce an honest and fair result, that their vote is equal to that of their neighbours, that a majority vote determines the success of a candidate and that elections are regularly held. In leading for the Liberal-National Coalition on this legislation, I indicate my strong belief that such circumstances exist here in New South Wales.

Our democratic tradition—which will be celebrated by a sesquicentenary of responsible government in 2006—owes much to wisdom and good sense of successive generations of citizens of New South Wales, to governments that have reflected the communities they were elected to serve, and to a tradition of independence and integrity by the State's electoral agency. At the outset of this debate I place on record my confidence in the State Electoral Office [SEO]. After 14 years of dealing with the office, two State Electoral Commissioners and numerous full-time staff and those employed during State elections, I have never had occasion to question the fairness, partiality or competency of the State Electoral Office. That is not to suggest that during the cut and thrust of a general election or by-election I have not joined vigorous battle with the staff of the State Electoral Office. Vigorous campaigning characterises Australian politics at all levels. Yet I can never recall feeling hard done by a decision made by an employee of the State Electoral Office, despite over the course of 14 years having been involved in more than my fair share of results that have been decided by a handful of votes.

I offer these comments at the outset because they go to the heart of the bill before the House and because I reject the criticisms made by some people about the role of the State Electoral Office in the circumstances leading to the bill. This bill seeks to clarify the Parliament's decision in 1999 to prevent a repeat of the so-called tablecloth ballot paper for the Legislative Council. In debating this bill it is important that we recall the circumstances that led to the 1999 legislation. In 1999, 81 groups contested the election for the Legislative Council, resulting in a ballot paper so huge that special instructions had to be issued to voters on how to deal with it, fill it out and fold it in polling booths. The increase in the size of the ballot paper in the 1999 election, due to the presence of 81 groups on the ballot paper, cost taxpayers in this State an additional \$10 million to run the election.

In earlier elections the number of groups was considerably smaller: 27 in 1995 and 12 in 1988. In 1978—the first election for the Legislative Council—seven groups stood for election. Whilst I would like to report that the increase in the number of groups in 1999 was due to an increased participation in the democratic process, I cannot. If that were the case one would expect to see a correlation between the groups standing for the Legislative Council and those standing for the Legislative Assembly. But in 1999 only 25 of the 81 groups standing for election to the Legislative Council also stood for the lower House electorates. Rather, the burgeoning number of groups was due to a change in the electoral strategy for council elections: a move away from gaining election by winning the hearts and minds of citizens to a complex horse-trading exercise designed to secure the greatest preference flow. It was based upon a corruption of the system of registering preference tickets and the preference flows that came into operation when voters opted not to put a number in every square but simply to place the number "1" above the line in the box of the group they favoured.

To highlight this point, I refer to an analysis of preference flows undertaken by the Hon. Don Harwin after the 1999 election. His analysis showed that in the top 20 preference allocations at least 22 parties allocated preferences to only three candidates. Not surprisingly, one of those candidates, the Hon. Peter Breen, secured election. What did surprise us was the primary vote he secured—just 0.2 per cent of votes cast for the Legislative Council. Legislative Council members owed their election to what was essentially a lottery; it was not a true reflection of voter sentiment. This situation occurred in 1995 with the election of the Hon. Alan Corbett, who represents A Better Future for Our Children party, when he secured 1.28 per cent of the votes cast. We thought it could not get worse. It did, with three or four candidates receiving less than that quota of the vote being elected in the 1999 election.

That the 1999 practice was antidemocratic is best demonstrated by one statistic: 274,500 votes were cast informally. Given that 3.8 million votes were cast during that election, that is an enormously high level of informal votes. It relates to what was going on to secure upper House seats, which was not winning the hearts and minds of people but harvesting preferences from a plethora of micro parties. That was certainly antidemocratic. The 1999 legislation aimed to stop that rot. It did so by proposing a number of reforms, including the abolition of below the line preference flows, an increase in nomination fees and—the subject of this bill—an annual requirement that political parties have a minimum number of members. That number was originally set at 1,000 but, following the second reading debate of the bill in the Legislative Council, the final figure was 750. The 1999 legislation specifically requires the State Electoral Office to administer the new arrangements. The State Electoral Office established a test to help verify the accuracy of claimed party membership.

The first part of the test involved checking the names of people put forward in support of a party against eligibility criteria—for example, that the people are enrolled voters and that their names have not been put forward in support of another party that has been registered. The second part of the test involved the SEO sending a letter—returnable in a stamped, self-addressed envelope—to a randomly selected 300 people seeking

confirmation of their membership and support of the putative political party. The third part of the test involved a 75 per cent response rate by a date set by the SEO—that is, 225 of the 300 people had to respond for the SEO to be satisfied that these groups met criteria to be established as political parties. The validity of that test is at the heart of this bill. In seeking political party status the group Save Our Suburbs [SOS] failed to meet the test and was refused registration in time to meet the date set by law for parties intending to contest the 2003 State election. Electoral law in this State requires parties to be registered 12 months in advance of the date of the election.

Save Our Suburbs took the matter to the Supreme Court. On 30 August Justice Burchett ruled in favour of SOS. He argued that the commissioner's test was invalid because it had not been included in what he termed the "precisely defined provisions" of the 1999 legislation. While he indicated that he did not have the power to backdate the registration of Save Our Suburbs, Justice Burchett suggested in his ruling that the SEO had the power to do so. The bill now before the House seeks to uphold the 1999 amendments and validate the State Electoral Commissioner's powers to apply tests in determining the registration of a political party. In practice, the bill will stop those who fail the commissioner's test from seeking legal action to gain registration. In other words, when this bill is passed the test that SOS failed—the test that all other registered political parties have passed—will stand and will continue to be applied to groups seeking registration as political parties. This is an important point. Despite the comments of some people, the test applied by the State Electoral Commissioner is not being changed or is not being made invalid as a result of this bill.

Since the implementation of the 1999 legislation nothing intrinsically unfair has been applied in the test by the State Electoral Commissioner to SOS or to the Labor Party, the Liberal Party, the National Party or the Democrats. The test of that is that the same test will be applied in future. On the contrary, this bill puts the fairness and validity of that test beyond the type of legalism evident in *Save Our Suburbs (NSW) Inc. v Electoral Commissioner of NSW (NSWC 785)*. Despite Justice Burchett's ruling, examination of the 1999 debate on the legislation effecting a minimum membership requirement for groups seeking to be registered reveals much discussion about the requirement and the way it would be administered by the State Electoral Office. In the Legislative Council the Minister's second reading speech detailed the aims of the legislation and he spoke of the membership check and the role of the State Electoral Office. Most of the other 18 members of the Legislative Council who spoke in that debate referred to the provisions, the way they would operate and how they would be administered.

In preparing for this debate I reviewed the debates on the 1999 legislation and media reports of the time. I find it hard to believe that the intent of the 1999 legislation was found to be unclear. I find it inexplicable that a court would set such a debate aside. Indeed, even as a non-lawyer, I always believed that the purpose of second reading speeches and second reading debates was to aid courts in the consideration of questions arising about the application of legislation. However, on this occasion score one more for judicial activism. In the event of the passage of this bill, one of the unique features of the 2003 election will be a footnote forever to the State's electoral history: the participation of a party that failed the standard test for registration as a political party. The legislation backdates the registration of Save Our Suburbs as a political party. I stated earlier that Justice Burchett indicated in his ruling that the commissioner had the power to backdate the registration of a party in these circumstances. As the Minister indicated in his second reading speech, the New South Wales Solicitor General has advised the Government that no such power exists. As a result, schedule 1 of the bill will backdate registration of SOS to 1 March 2002, a date prior to the cut-off point for parties wishing to contest the next State election.

If Save Our Suburbs had not waited until literally five minutes to midnight on the electoral cycle to seek registration—in other words, it waited until November last year to start the process of party registration—and if it had started midway through last year it probably would have passed the test. The subsequent legal action would have proven to be unnecessary and this bill would not be before the House. It is important to note that because the process was started so late everything became critical because SOS failed to meet the test in time to be eligible to contest the next election; it required other means to secure that. I admit to being uncomfortable with the special treatment accorded to Save Our Suburbs. I am uncomfortable for a couple of reasons. I know many of the people who have been involved in Save Our Suburbs and the campaigns they have been involved in prior to their becoming a political party. I have worked with them on common issues and I certainly have no objection to their motivation.

Given the overdevelopment this Government has wreaked upon communities across Sydney—including my electorate of Ku-ring-gai, Sutherland shire, the inner west and Penrith—and the Central Coast there are views I hold in common with members of SOS. We share, for instance, the desire to see the back of the

Carr Government and an end to Dr Refshauge's disastrous planning administration. We are both trenchant critics of Labor's centralised planning and its flaws and State environmental planning policies Nos 53 and 5. This city is now testimony to the overdevelopment created by the Carr Government over 7¼ years. Suburb by suburb, region by region, the Carr Government has left its stamp on this city in relation to unit blocks and it is not one that the community likes—

**Mr Martin:** It is one of the world's great cities.

**Mr O'FARRELL:** It is not one that the community likes. Country members, such as the member for Bathurst, will discover next March what voters do in relation to those issues given that, like the Liberal and National parties, SOS will be campaigning against Labor and its flawed policy. I was surprised when I read the bill and saw the lengths the State Government was going to ensure the registration of Save Our Suburbs for the 2003 election. I remind the House that notwithstanding the findings of the Supreme Court, the effect of this bill is to validate the registration test administered by the State Electoral Commissioner. The test that SOS failed and then objected to will continue to apply to groups pursuing for political party registration. Save Our Suburbs will be the only party contesting the next election having failed to meet that test.

Why then would Labor, through its former general secretary, the 1995 and 1999 election mastermind, be so willing to assist the registration of a party so opposed to its policies? Given the depth of feeling across communities all over Sydney, why would Labor risk losing votes on this issue to a party such as SOS? It will come as no surprise to leading members of SOS that I believe that preferential treatment is solely due to Labor's assessment that with SOS in the field the anti-overdevelopment vote will be fractured, that the campaign against Labor's destruction of Sydney suburbs will be rendered ineffectual, and that the bar required to retain marginal seats will be lowered in Labor's favour.

In other words, and given the State's optional preferential voting system, Labor is prepared to gamble against the unlikely chance of SOS winning a seat in the Legislative Council—a Chamber that Labor has never paid much regard to—in the sure knowledge that it will directly assist it in retaining marginal Legislative Assembly electorates. It knows that another minor party representative in the Legislative Council is a minor price compared with what it sees as the prize of hanging on to State government.

In those electorates where Labor is in real danger of losing because of the rampant inappropriate development that has resulted from its planning policies—seats such as Miranda and Georges River in the south; Strathfield, Penrith and Parramatta in the west; and Ryde in the north—it knows that the entry of a party such as SOS can help Labor retain office. That would be less likely but not completely eliminated if SOS decided to direct preferences away from the Labor Party and ultimately to the Liberal Party. But Labor knows that will not happen. Labor has had people within SOS laying the groundwork for that party to simply advocate a "Vote 1" policy. Even if one supposes the "Vote 1" campaign is genuinely founded in a belief in being truly independent—and I am not of that view—Labor still benefits.

At the last election there was a significant exhaustion factor in elections for Legislative Council seats. Clearly, it was related to the tablecloth ballot paper, publicity from political parties concerned about the effect of the tablecloth ballot paper, and the greater emphasis on a campaign for the Legislative Council advocating that people just vote 1. That campaign flowed through to lower House seats. The effect of a high exhaustion rate in an optional preferential system is to reduce the number of votes required to win. To try to explain, let me take the example of the mythical seat with a total number of formal votes of 100. Hypothetically, in an optional preferential system the winning mark does not have to be 50 plus one votes. Let us assume that Labor gets 40 votes, the Liberals 35, SOS 10, Greens 8 and Democrats 7. If people voting for the last three parties do not extend preferences Labor wins even though it received 40 per cent of the vote and 60 per cent of people voted against it.

If that sounds too far-fetched and too cynical, let me remind honourable members about the Auburn by-election. Labor feared a defeat following the record nomination of candidates and an agreement amongst the minor party candidates to put Labor last. Does that not have a great resonance? There were events on the weekend south of Sydney where exactly the same thing occurred. But what did Labor do with the Auburn by-election? To counter its concern about a preference flow amongst minor parties against Labor it had posters and handouts printed advocating that voters "Just Vote 1". One might think that to be legitimate, but the flyers and posters were deliberately designed to look like material issued by the State Electoral Office intended to help people to cast a formal vote. So good were they in design that staff of the State Electoral Office inadvertently handed them out to voters.

**Mr Martin:** The Liberals did not stand a candidate.

**Mr O'FARRELL:** We did stand a candidate.

**Mr Orkopoulos:** No, you did not.

**Mr O'FARRELL:** We did. Wrong again! No wonder the Left is in such a terrible state when some of their leading lights such as the honourable member for Swansea, whom I have some regard for, makes a fundamental error, missing the fact that Labor not only had a 10 per cent swing against it in Auburn but also that the swing was to the Liberal Party. I thank the honourable member for Swansea for giving me the opportunity to remind the House of the result. Never believe that Labor takes anything for granted when it comes to elections. Never believe there is a trick or ruse that it will not use to try to hang on to office. Always believe that the "whatever it takes" mantra of the Hon. John Della Bosca's predecessor as general secretary of the New South Wales branch of the Australian Labor Party is still chanted and practised in the Sussex Street offices, or at least those operated by the New South Wales Right as opposed to among those party officials who subscribe to the New South Wales Left. Even in this bill, which is intended to give effect to the 1999 amendments to make our electoral test fairer and freer, Labor seeks to gain advantage by bending the rules to allow entry to next year's election for a party that has failed the test for registration as a political party and whose candidates, wittingly or not, would aid Labor's re-election prospects.

We have a concern in relation to schedule 1 that we are in endeavouring to remedy. If we cannot remedy it then it may be the subject of an amendment in the upper House. It involves the backdating of registration for SOS. We will not oppose the bill, but I again indicate I have concerns about that provision. We believe that the date a registration can be backdated to should be made more specific. A registration should be backdated only to the date on which it was initially rejected, and there should be no possibility for a party to contest the date or for the court to select a day at random. It should be set out in legislation that if this path is to be followed again—and I pray that we will not have to follow this path again—the backdating should clearly apply to the point at which the party seeking registration failed to meet the commissioner's test. I would like some advice on that. If we cannot get satisfactory advice on that we will seek—

**Mr E. T. Page:** Read the court determination.

**Mr O'FARRELL:** For the benefit of the retiring member for Coogee, the court determination in my view is a disgrace. It ignores the 1999 debate in both Chambers. I have made my point. I am sorry that the concentration span of the honourable member for Coogee is so short these days that he cannot listen to such things. I understand why he is retiring. I agree with the honourable member that debate in this place that leads the introduction of legislation ought to be listened to. That legislation ought to be adhered to. In my view on this occasion it was not, and judicial activism has again had a go. I hope that my fears about the entry of SOS into next year's election campaign will not be realised. As I said at the outset, SOS and the Liberal Party have a common view in relation to overdevelopment in the city, as do many other parties and groups in suburbs across Sydney. We need to combine our efforts to ensure that the Labor Government is defeated, that the centralised policies are defeated and that Labor's inappropriate developments across our communities are stopped once and for all.

It is incumbent upon all political parties—Liberal, Labor, SOS or whatever—to demonstrate to those who seek to support them next year exactly what their policies are in these areas and how they will combine to ensure that the cause of the current overdevelopment in Sydney—that is, the centralised planning of the Carr Government and the Minister for Planning—is ended. In 1999 we supported the amendments to end the tablecloth ballot paper for the Legislative Council, and we do so again strongly today. I make the point again, as we did in 1999 and previously, that we need certainty in our electoral laws. We support that today through this bill. We support the bill with the one reservation that I have raised in relation to the date of backdating.

**Ms NORI** (Port Jackson—Minister for Small Business, Minister for Tourism, and Minister for Women) [11.38 a.m.], in reply: I thank the honourable member for his contribution. I will draw the Minister's attention to the issue that he raised.

**Motion agreed to.**

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



**MURRAY-DARLING BASIN AMENDMENT BILL****Second Reading****Debate resumed from 17 September.**

**Mr D. L. PAGE** (Ballina) [11.40 a.m.]: I lead for the Opposition on the Murray-Darling Basin Amendment Bill. At the outset I indicate that the Coalition supports the bill, which has resulted from the corporatisation of the Snowy Mountains Hydro-electric Authority on 28 June 2002. As part of that corporatisation the New South Wales, Victorian and Commonwealth governments agreed to increase environmental flows to the Snowy River by up to 21 per cent over the next 10 years. Those increased flows will be achieved by decreasing inefficiencies in the system. The New South Wales and Victorian governments have committed a total of \$300 million over 10 years to achieve those water savings through capital works, including the reduction of evaporation and leakage from irrigation channels. The two governments have agreed that there will be no impact on irrigation allocations in the Murrumbidgee and Murray rivers.

Whilst the Coalition welcomes that commitment and hopes it will be honoured, it seems to me that the amount of money to be invested is a good model for application to other parts of the regulated river system across New South Wales. The initiative of investing in the more efficient use of water in the Murray and Murrumbidgee rivers to generate environmental flows in the Snowy River is a good template for water management in the future. I would like that principle of investing in more efficient water use to be applied with more vigour in other regulated river systems in New South Wales. Water released from the Snowy scheme contributes to the water entitlements of Victoria and South Australia under the Murray-Darling Basin Act. As a result of corporatisation, Snowy Hydro Ltd is subject to the New South Wales legal and regulatory regime and New South Wales has issued the Snowy water licence to Snowy Hydro Ltd.

South Australian and Victorian water users have been concerned that their entitlements will change should New South Wales change the Snowy water licence. As a result, the New South Wales, Victorian, South Australian and Commonwealth governments have signed the Murray-Darling Basin Amending Agreement to make new arrangements for sharing water. The amending agreement also includes, for the first time, the benchmark definition of the required annual water releases from the Snowy scheme to the Murray Valley. Specifically, the bill amends the New South Wales Murray-Darling Basin Act 1992 to include the Murray-Darling Basin Amending Agreement, dated 3 June 2002, which sets out arrangements for the sharing between New South Wales, Victoria and South Australia of water made available in the Murray River catchment above the Hume Dam by the Snowy scheme.

As I indicated earlier, the agreement includes the benchmark definition of the required annual water releases from the Snowy scheme to the Murray Valley. This bill brings the New South Wales Murray-Darling Basin Act 1992 into line with Commonwealth Acts and gives legislative approval to the intergovernmental Murray-Darling Basin Amending Agreement. The Coalition has consulted interested parties, including the New South Wales Irrigators Council, Murray Irrigation, Murrumbidgee Irrigation, the New South Wales Farmers Federation, and the Nature Conservation Council. Those groups, with the exception of the Nature Conservation Council, have indicated their strong support of the bill. I am not aware of any objection by the Nature Conservation Council to this bill. In summary, the Opposition believes that this bill is sensible and necessary, and supports it.

**Mr MARTIN** (Bathurst) [11.44 a.m.]: I also support the Murray-Darling Basin Amendment Bill, the main purpose of which is to give effect to those agreements that have been alluded to between the New South Wales, Victorian, South Australian and Commonwealth governments for water releases from the Snowy scheme following corporatisation of the Snowy Mountains Hydro-electric Authority. The bill amends the Murray-Darling Basin Act 1992 to give legislative approval to the Murray-Darling Basin Amending Agreement. The agreement was signed on 3 June 2002 by the Prime Minister and the Premiers of New South Wales, Victoria and South Australia and came into effect on 28 June 2002. The amendments are designed to implement detailed arrangements between participating States for water releases from the Snowy scheme.

It is interesting to reflect on the history of the original concept of the Snowy Mountains scheme, which was one of the great achievements of the McKell Labor Government. In 1941 the then Premier, William McKell, commissioned the Snowy Mountains Committee to investigate proposals for the utilisation of the waters of the Snowy River. In 1944 the committee delivered its report and while the New South Wales Government regarded irrigation as the primary object, in those days the Victorian and Commonwealth

governments regarded electricity generation as the priority. It took the Chifley Government, under Prime Minister Ben Chifley, to pass the necessary Federal legislation under the Defence Act, declaring that the project was necessary for defence purposes. So we have learned that in politics there is more than one way to skin a cat. The Snowy scheme plays an important role in providing drought security to farms in the west, something that is very much on our minds. The scheme meets critical demand for electricity generation in the national electricity market.

In response to recent reforms in the electricity industry, the New South Wales, Victorian and Commonwealth governments had agreed on the need to corporatise the Snowy Mountains Hydro-electric Authority. In 1998, following concerns raised about the condition of the Snowy River, the New South Wales and Victorian governments commissioned the Hon. Robert Webster, a former Greiner Government Minister in the New South Wales Legislative Council, to conduct an inquiry into the environmental flows in the Snowy River. With the election of the Bracks Government in Victoria in September 1999, negotiations on achieving increased water flows in the Snowy commenced between the Hon. John Della Bosca, Special Minister of State in New South Wales, and the Hon. Candy Broad, the Victorian Minister for Resources and Energy.

After much discussion and further negotiations with the Commonwealth Government, heads of agreement were reached by all three governments. The heads of agreement provided key protections for irrigators and communities to the west of the mountains. The honourable member for Ballina mentioned that important fact. The agreements specifically stated that there would be no adverse impacts on water entitlements for irrigators in the Murray River or in the Murrumbidgee and Goulburn-Murray river systems. They also provided that there would be no adverse impact on water security or quality for South Australia. Under the plan the New South Wales and Victorian governments will each contribute \$150 million to the scheme over a 10-year period. That is a significant investment. The Commonwealth Government will contribute a further \$75 million for dedicated environmental flows into the Murray River. Water flowing down the Snowy River will be returned to the equivalent of 21 per cent of the river's original flow.

An additional 70 gegalitres will flow into the Murray River each year. About 120 gegalitres of water will flow to alpine rivers within the Kosciusko National Park. There is provision for public-private partnerships to find a further 7 per cent of water flows to bring the targeted flow to 28 per cent. Some people believe that is a fairly optimistic objective but we hope that it can be achieved over time. A joint government enterprise will be established to manage and fund various water-saving projects. As I said earlier, there will be no adverse impact on irrigators' water entitlements. That is written in stone in this agreement. The capacity of the Snowy scheme to protect against drought will also remain the same and communities will continue to be protected for seven to 10 years. This is uppermost in our minds at present.

The Snowy hydro scheme, mainland Australia's largest low-level greenhouse emissions generator, will continue to meet critical demands for electricity supply. In addition to the \$150 million mentioned earlier, the New South Wales Government is also providing \$32 million to the National Parks and Wildlife Service for remediation and environmental improvement works, which will include \$7 million to be spent within the Kosciusko National Park and \$25 million for rehabilitation works along the Snowy River. This work will involve the redemption of about 60 kilometres of blackberry and willow trees, pests that were introduced into this country a couple of hundred years ago. The removal of blackberry trees and willows is vital to the health and biodiversity of our rivers throughout the State. Some 40,000 native trees will be planted as part of this capital works program.

Protection of the irrigation communities along the Murrumbidgee and Murray rivers has always been at the forefront of negotiations about this agreement. Some people feared that environmental flows would be achieved at the expense of farming communities, particularly irrigators. That is not the case, and the New South Wales Government will monitor this position closely. Increased irrigation allocations for the Murrumbidgee and Murray irrigation areas were announced on 15 August by the New South Wales Department of Land and Water Conservation. The allocations for each of the river valleys are reviewed at least monthly. This is critical at the moment. We cannot stress too much the importance of this part of the legislation, particularly to those honourable members who represent rural areas, given the broader community debate about water management.

This legislation has been warmly welcomed right around Australia, particularly by those communities along the Snowy River. I am sure that all honourable members remember the pictures from the day that the agreement was signed and the excitement generated when the first flows were released into the river. While it may have had romantic connotations, I am sure that everyone will agree down the track that this is a step in the right direction that has involved much negotiation and the agreement of four governments. It demonstrates once again how progress can be made if we focus on an achievable environmental outcome that also sustains the viability of our farming communities. I support the bill and commend it to the House.

**Mr PICCOLI** (Murrumbidgee) [11.53 a.m.]: The Opposition does not oppose the Murray-Darling Basin Amendment Bill, but I shall make several comments on behalf of my constituents. The Snowy agreement will significantly affect my electorate, which contains the Murrumbidgee and Murray rivers and the Murrumbidgee, Coleambally and Murray irrigation areas. The honourable member for Bathurst spoke of the significance of the nation-building Snowy scheme that was completed some 50 years ago. However, it is unfortunate that the current State Labor Government, in conjunction with the Victorian Labor Government, has sought to undo part of that project by agreeing to return to the Snowy River some 28 per cent of the water from that scheme. The priority in that agreement is simply the return of the water, not necessarily any environmental outcome that will benefit both the river and the river valley.

I must also clarify that the Snowy River runs at about 50 per cent of its original capacity, not at the 1 per cent that is often quoted in the media and in Parliament. It is true that the top 20 or 30 kilometres of the river flow at 1 per cent of capacity but it has other significant tributaries and an audit of Australian rivers found the Snowy to be one of the healthier rivers in this country. Much misinformation is peddled freely, usually by people who do not know the facts. I guess that 1 per cent is a sexy figure to bandy about when pursuing a particular agenda.

At the time, I described the agreement between the New South Wales and Victorian governments, which was reached a couple of years ago, as a sleazy deal, and I continue to use that description today. I believe the agreement was reached for no purpose other than to ensure the election of the Bracks Labor Government in Victoria and to placate the independent member for Gippsland East. Those reasons were obvious at the time. The \$300 million allocated by the State governments was welcomed by irrigators, who thought that if the water were to be returned to the Snowy River it should at least be accompanied by investments in water savings. A few months ago the Premier and Steve Bracks waded around the upper reaches of the Snowy River when a small percentage of extra water was released into the Snowy, accompanied by great fanfare and claims about saving the Snowy. However, there has been no significant expenditure from the \$370 million allocated.

Some water has been returned to the river, but water savings on the western side have not yet been achieved, despite the commitment that no water would be released until there had been water savings. My long-held fear—which is shared by irrigators—is that, although water savings cannot be achieved, 28 per cent of water will be released into the river in line with that commitment. We had an illustration on the weekend of the pressure that the Greens will put on the Labor Party. Labor will bend to placate its new friends in the Green movement and irrigators will suffer in the long term. I emphasise the need to start investing the \$300 million—\$370 million including the Commonwealth's contribution—immediately. We have been talking about this issue for several years and prominent Australian businessmen have now joined the discussion. Some projects are ready to go: all they need is the money. I am obviously in constant contact with Murrumbidgee and Murray irrigation management, which have projects in those areas that are ready to go and which can, and will, deliver significant water allocations. We should begin to spend some of that money.

A couple of years ago the Opposition initiated the Webster inquiry to investigate the potential impact of Snowy hydro scheme corporatisation on irrigators in the west of New South Wales. The Opposition established that inquiry to protect irrigators' interests, and I thank Robert Webster and the honourable member for Ballina for the work they did before I entered Parliament to protect the interests of my constituents, in particular, and of people in the electorate of Murray-Darling, where this agreement is having a significant and increasing impact.

Finally, I comment on the Commonwealth's contribution. I suggested this was a sleazy deal because I do not think many scientists would disagree that the water should go into the Murray-Darling system—the Murray and Murrumbidgee rivers—not into the Snowy River. The Commonwealth has indicated that its contribution should go towards increasing the environmental flows in the Murray River because the Murray-Darling system certainly needs those flows. The funding must go towards achieving those water savings for the benefit not only of extractive users and irrigators but also for the environment. As an irrigation farmer my future is very much tied into the health of the Murrumbidgee and Murray rivers.

**Mr AQUILINA** (Riverstone—Minister for Land and Water Conservation, and Minister for Fair Trading) [12.01 p.m.], in reply: I thank the honourable member for Bathurst for his relevant comments and, in some instances, the relevant comments of the honourable member for Murrumbidgee. The honourable member for Murrumbidgee seemed somewhat confused in his initial comments, although he may have lost his train of thought following interjections by the honourable member for Coogee. He congratulated the Government on the bill, but then went on to criticise it for returning water to the Murray River while not improving environmental outcomes. I do not understand the rationale behind those comments. Returning substantial amounts of water to the Murray will improve the environmental and water quality outcomes for the area.

Salinity is a major problem that I have had considerable involvement with, particularly in the lower reaches of the Murray. Crucial to salinity is the volume of water available in the Murray. Obviously, the larger the volume of water flow, the better the water quality. Salinity is a dominant factor in certain parts of the Murray, and South Australians could certainly attest to the importance of water flows to salinity. Growth of blue-green algae is directly related to the volume of river flow. Unfortunately, with summer now approaching, a combination of heat, low river flow and low water volume will encourage growth of blue-green algae. Increased river flow will significantly alleviate that problem.

The honourable member for Murrumbidgee referred to the amount of water that the Government has agreed to provide. His comments could cause confusion in the community, so I will clarify those matters. The Government has agreed to provide up to 21 per cent of the original average flow in the Snowy River progressively over a 10-year period. His comments indicated that the increase would be immediate. The Parliamentary Secretary stated in his second reading speech that it may be possible in the future to release additional water from the Snowy scheme equivalent to up to 7 per cent of flows to achieve a maximum of 28 per cent average flows to the Snowy River. The initial aim is for 21 per cent, not 28 per cent, and this will be achieved over a 10-year period.

The New South Wales and Victorian governments have committed \$300 million over 10 years to achieve water savings through capital works and diversions from the Murray River and in the Murrumbidgee and Goulburn-Murray systems. That \$300 million has been committed and will be spent to accommodate the changed circumstances of increased river flows over that 10-year period. The honourable member for Murrumbidgee referred to real water savings. The Parliamentary Secretary stated that there would be no impact on irrigation farming in the Murrumbidgee and Murray valleys because water savings will be found by reducing inefficiencies in the supply of water for irrigation, such as by reducing evaporation and leakage in irrigation channels. A substantial portion of that \$300 million will be provided to achieve that. This is in line with what has been happening in the Murrumbidgee in recent times. For example, over the past 10 years rice farmers in that area have doubled their crops for the same amount of water used by adopting more efficient farming practices, and those improvements will continue. Once again, I thank the honourable member for Bathurst and honourable member for Murrumbidgee for their contributions to the debate. I commend the bill to the House.

**Motion agreed to.**

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

## **BUSINESS OF THE HOUSE**

### **Bill: Suspension of Standing and Sessional Orders**

**Motion by Mr Whelan agreed to:**

That standing and sessional orders be suspended to permit the introduction forthwith and progress up to and including the Minister's second reading speech of the Civil Liability Amendment (Personal Responsibility) Bill.

## **CIVIL LIABILITY AMENDMENT (PERSONAL RESPONSIBILITY) BILL**

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

### **Second Reading**

**Mr CARR** (Maroubra—Premier, Minister for the Arts, and Minister for Citizenship) [12.08 p.m.]: I move:

That this bill be now read a second time.

The introduction of this bill today is a triumph for commonsense. Personal responsibility will rightly assume a much higher profile in our law thanks to these reforms. Simple pleasures enjoyed by the community will be able to continue because of them. But, regardless of the commonsense of these reforms, we recognise that Parliament will be debating some of the most fundamental changes to the law of negligence ever made. Thanks to the historic joint sitting last month and the assistance of four eminent speakers, I am sure that we will all have a much better appreciation of how the law of negligence has developed. I am hopeful the seminar will mean that this debate is of a high calibre. Honourable members might also be interested in the Senate economics

committee report on public liability and professional indemnity insurance released only yesterday. The bill I am introducing today is different to the consultation draft I released in early September. The consultation draft opened up some authentic consultation and the Government has listened.

However, most of the changes implement or draw on the recommendations by the expert panel, which released its final report, "The Review of the Law of Negligence", late last month. That report became known as the Ipp report after the Chair of the panel, Justice David Ipp. The New South Wales Government has taken the lead in responding to the recommendations in the report, and the need for New South Wales to move quickly has been recognised by the other States, Territories and the Commonwealth who noted that the particular hardships faced by the New South Wales community, the most litigious in Australia, deserved prompt attention. That is what we have done. We are further down the road than any other jurisdiction in Australia.

However, the Government acknowledges that national consistency is desirable to some reforms in this area. For that reason we have modelled many of the new provisions in the bill following the original exposure draft on those recommendations in the Ipp report that are more likely to have a national impact on the Law of negligence. I stress, however, that not all reforms in the bill or in the Ipp report need to be made in other jurisdictions or in exactly the same terms. But it would be helpful to the community and the courts if those reforms dealing with basic principles of the law of negligence were consistent. That is why we have been so ready to change the draft bill. I understand that the Queensland Government also proposes to introduce further reforms by the end of the year, and is considering this approach. I am confident that we now have a more comprehensive and finely honed bill to debate.

Our stage one and proposed stage two reforms have already led to announcements by the insurance industry that new public liability insurance products will be made available to New South Wales community organisations. But I emphasise that these reforms are not only a response to the current problems regarding insurance. It is important to remember that these reforms are not only about reducing premiums. The insurance crisis served to highlight just how far the law has drifted away from the concept of personal responsibility. This is the Americanisation of our legal system. I want this Parliament to seize the opportunity to wind back this culture of blame. If we do, we will help to preserve the community's access to socially important activities. Our community deserves our best efforts to preserve the Australian way of life. That is what it is about.

I turn now to the detail of the bill. The bill modifies particular aspects of the common law. It does not establish a complete code. We have adopted the approach in the Ipp report to the duty of care and causation. A risk has to be not insignificant before a court can find it was reasonably foreseeable. This will send a clear message to the courts that, under the current common law, liability for insignificant risk is too easily imposed. Our new formulation will emphasise the community's reasonable expectation that people should have to guard only against risks that are a real possibility. A court will not be able to rely solely on the benefit of hindsight, on evidence of subsequent remedial action by the defendant or the mere fact that a risk was easily avoidable.

Although people might argue that these considerations are already the law, putting them in this bill will help to curtail the willingness of some courts to find a creative way around them. The bill will also deal with causation. Its intention is to guide the courts as they apply a commonsense approach. The rules for factual causation are set out, including the very limited exception to the "but for" test. This exception was developed by the court for those rare cases, often in the dust diseases context, where there are particular evidentiary gaps. By including this exception in the bill it is not intended that the bill extend the common law in any way. Rather, it is to focus the courts on the fact that they should tread very carefully when considering a departure from the but for test.

It is only for the most limited and exceptional circumstances where any departure can be justified. The bill will limit claims that arise from an inherent or obvious risk, or from the plaintiff's own contributory negligence. There will be a presumption that a person is aware of obvious risks, as was recommended in the Ipp report. Similarly, there will be no duty to warn of an obvious risk, providing that no written law requires such a warning in the particular case. Nor will there be any liability for the obvious risks of particularly dangerous sports and other risky activities. The bill will also codify the current law so that there is no liability for the materialisation of inherent risks.

Inherent risks are those risks that no amount of reasonable care and skill can avoid or minimise. If a person has a duty under the common law to warn of an inherent risk that is not obvious, that duty will not be affected by the bill. The bill also refers to the common law position that plaintiffs cannot be found 100 per cent responsible for their own injury. If plaintiffs acted with such little regard for their own safety that they should

not recover, the court will be able to find them 100 per cent contributory negligent. As was the case under the consultation draft of the bill, there will be no liability for injury, death or property damage resulting from the risk of recreational activity in respect of which a risk warning has been given.

Risk warnings will be effective for children and disabled people in certain circumstances. It is important because it would be unreasonable that a recreational service provider should not be able to rely on warnings given, for example, to parents before their child goes horse riding. You cannot expect potential defendants to take better care of a child than the child's own parents would take. It is also important to note that risk warnings will be effective if given in such a way that most people would understand. It will not matter that particular individuals say they did not see the sign, or could not read English, or could not understand clear symbols. The courts will have to apply an objective test about the effectiveness of the warning.

A participant in a recreational activity will also be able to assume responsibility for an injury received and waive the implied contractual requirement that services be provided with due care and skill. The Commonwealth has recognised that, for many recreational service providers, the right to assume such a risk under a contract also requires amendments to the Trade Practices Act. That amendment is before the Senate. Naturally, the new protections for risk warnings and waivers will be subject to compliance with the safety laws of the Commonwealth and the State. Shoddy operators will not be able to escape liability if they are in breach of specific safety laws.

The bill will clamp down on plaintiffs who are injured while they are intoxicated. A defendant will not owe a plaintiff a higher standard of care simply because the plaintiff was intoxicated. Nor will personal injury damages be available for an intoxicated person unless the accident was likely to have occurred even if the person had not been intoxicated. If the accident is likely to have occurred anyway, the intoxicated person's damages will be reduced on a presumption of contributory negligence of 25 per cent, or more if appropriate, unless the person's intoxication played no part in the accident.

Very importantly, the bill will limit people claiming damages for injuries received while committing a crime. The general rule under the bill will be that no damages are payable if the injured person was engaged in conduct constituting a serious offence. Serious offences include a very wide range of crimes: entering a dwelling house, breaking and entering, and escaping lawful custody. People who engage in such criminal conduct should not sue for slipping over while they do so. Nor will any damages be available if the criminal was injured through reasonable self-defence. Also, no damages will be payable if the criminal was injured through excessive self-defence, unless the court considers the circumstances are exceptional.

No damages will be available at all for pain and suffering for a criminal injured through self-defence. The bill also creates an additional defence to alleged professional negligence if the professional acted in a manner that was widely accepted in Australia by pure professional opinion as competent professional practice. This reflects the Ipp report. A court will still be able to find that peer opinion was irrational, where warranted. Irrationality is not the same as unreasonableness. We are making it much harder for the court to disregard experts in the field.

We have ensured, however, that there is no change to any common law duty of a professional to advise, inform or warn about the risks of personal injury in the provision of the services. Obviously, the most important application for this carve-out will be for medical practitioners. The carve-out is quite reasonable because patients—and clients of other professionals, where relevant—need to have enough information about the risk of personal injury to decide whether to proceed to obtain the service. The common law rule in the case of *Rogers v Whittaker* will, therefore, continue to apply in relation to any duty to warn in such situations. The bill will also provide, as recommended by the Ipp Report, that non-delegable duty claims will be subject to the reforms contained in the bill.

Proportionate liability will also be introduced for claims for economic loss or property damage, other than in personal injury claims. This means that a person jointly responsible with some other person or persons will be liable only to the extent of their responsibility. The bill will make important changes to the way that courts deal with claims against public authorities. These changes simply recognise that services provided to the community by public authorities are not provided for commercial gain but for the public good. The bill will not, therefore, sanction a public authority to act in a negligent or unsafe way. It will, however, require the courts to take into account principles relating to the financial and other resources available to the authority, the general responsibilities of the authority, and its compliance with general practices and applicable standards.

The bill will also protect regulatory and roads authorities if they could have done something to avoid a risk but did not do so. It is more than reasonable that functions performed by a public authority are treated differently under the law. Public authorities carry out what is often a limitless task with necessarily limited resources. We must ensure, therefore, that it is not left to the courts to determine a public authority's expenditure on its tasks. In keeping with this approach, the bill will also provide immunity for a public or other authority for breach of statutory duty, unless it has acted irrationally.

An authority that has not exercised a regulatory function—such as a power to close a fishery—will also not be liable unless it could have been compelled by a court to exercise that power. A "roads authority" that has not exercised a discretionary power to mend, for example, a pothole will not be liable unless it actually knew about the particular risk that led to the injury. This will reintroduce a protection for certain "non-feasance" on the part of roads authorities. If a roads authority did know about the particular risk, it will still be able to rely on the general "resources" protection in the bill for public authorities.

The bill will also protect the good faith actions of good Samaritans who come to the assistance of a person in danger. This will mean no liability for voluntary rescue organisations, such as surf life saving clubs, if a person is injured in the course of or in connection with a rescue. Individual volunteers will also be protected from law suits where their actions were done in good faith. It is not intended to alter the potential liability of a community organisation by providing the individual members with immunity. The Ipp Report recommended codifying the law in relation to mental harm. The bill follows these recommendations.

Instead of using the imprecise term "nervous shock", the bill will provide that damages are only recoverable for a recognised psychiatric illness. The bill also provides that the only people who can recover for mental harm are victims of the negligence, people present at an accident scene, or a family member of a victim. This eliminates the relatives of criminals making a bid for \$10,000 to compensate for the nervous shock they sustained. That is an unbelievable situation and is, in essence, why this legislation is required. An apology by or on behalf of the defendant will also not constitute an admission of liability and will not be relevant to the determination of fault or liability in connection with civil liability. Injured people often simply want an explanation and an apology for what happened to them. If these are not available, a conflict can ensue. This is, therefore, an important change that is likely to see far fewer cases ending up in court.

The bill will facilitate structured settlements by providing that the courts must give a further opportunity to parties to negotiate a structured settlement. Lawyers will also have to notify parties about the availability of such a settlement. The Ipp Report recommends that personal injury actions should not be brought more than three years after the date of "discoverability". The new time period will run against every injured person, with three exceptions: first, if the person is a child or a disabled person without a capable parent or guardian to look after his or her interests; second, if an injury to a child was caused by a person in a close personal relationship with the child or the child's parents; and third, if a child's parents "irrationally" fail to bring a claim on the injured child's behalf. The new discoverability test should provide more certainty and limit applications for extensions of time.

This bill is one of the most important pieces of legislation to be put before this Parliament in recent years. We need to get it right. That is why we had public consultation and took notice of what came out in Canberra's Ipp Report. It is fair to say that we have held public consultation and we have looked carefully at the Ipp Report. Now it is time for this House to debate a proposal for the most important reform of the laws of negligence in 70 years. I commend the bill to the House.

**Debate adjourned on motion by Mr Debnam.**

## **CRIMES (ADMINISTRATION OF SENTENCES) FURTHER AMENDMENT BILL**

### **In Committee**

#### **Consideration of the Legislative Council's amendments.**

*Schedule of the amendment referred to in message of 25 September*

Page 21, schedule 1 [18], proposed section 267. Insert after line 25:

- (5) If the Commissioner refuses to approve an application, the Commissioner must give the applicant reasons in writing for the refusal.

**Legislative Council's amendment agreed to on motion by Mr Aquilina.**

**Resolution reported from Committee and report adopted.**

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

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

That standing and sessional orders be suspended to permit the introduction forthwith and progress up to and including the Minister's second reading speech of the Water Management Amendment Bill.

**WATER MANAGEMENT AMENDMENT BILL****Bill introduced and read a first time.****Second Reading**

**Mr AQUILINA** (Riverstone—Minister for Land and Water Conservation, and Minister for Fair Trading) [12.29 p.m.]: I move:

That this bill be now read a second time.

On 8 December 2000 the Water Management Act was assented to, thereby ushering in a new era of water management in this State. That piece of legislation was the product of an extensive review of how we as a community manage water. It was also the product of close negotiations between government, water users, environmentalists, indigenous people and others. It represented a significant achievement. This bill continues the work of improving the legislative basis of water management. It introduces some new provisions to improve water planning and trading, as well as provisions to clarify a variety of technical matters. While largely machinery in their nature, these amendments to the Water Management Act are important because these will greatly improve its implementation.

Before I turn to the amendments, it is worth reminding ourselves of some of the major changes that the Water Management Act introduced. First, the new legislation heralded the recognition of the environment and sustainability in our water law. It incorporated a way of thinking, as well as a set of principles and practices, that acknowledge the environmental fragility of water systems. For example, it entrenched in law the objective of ecologically sustainable development in the area of water. Further, as fundamental objects and principles, it clearly specified the protection, enhancement and restoration of water sources and their associated ecosystems. In sharing access to water, it gave primacy to environmental health. It also gave legislative recognition to biodiversity, the protection of habitats and the avoidance or minimisation of land degradation as they relate to the use and management of water.

Another major change was the introduction of a broad-based and participatory water management planning system. This system was put in place to allow all parties, including farmers and irrigators, environmentalists, indigenous people and local councils, to jointly resolve crucial water management issues at the local level. To this end, water sharing advisory committees have been established around the State and have produced some 36 draft management plans. These have recently been released for public consultation. Many honourable members would have seen the newspaper advertisements calling for comments. Those comments have been received and reviewed. These plans are now being finalised and are expected to be made in the near future.

The Water Management Act also made major changes in the areas of water sharing and licensing. It introduced a simple concept: water to sustain the health of water sources as first priority; water for basic land-holder rights as next priority; then a framework for sharing the balance between competing interests through the licensing system. The previous concept of a single licence containing three parts was replaced with an access licence, representing a share of the available water; a works approval, representing permission to use a pump or bore to take water; and a use approval, representing the authority to use the water on land. Related to this change was the separation of water rights from land, permitting rights to be more fully tradeable. In turn, free trading of water rights will lead to the re-allocation of water to its highest value and best use. Another important change was that the rights of indigenous people were embedded in the Water Management Act as basic land-holder rights.

The amendments contained in this bill fall into four main areas. Amendments relate to water sharing plans, the access licence register and trading, the access licences and approvals system, and definitional matters.



The first group of amendments is very important to the water planning process. They enable water sharing plans to be made in the manner that the water sharing advisory committees have recommended. These plans—which are the practical basis of water management—must be implemented in a way that maximises their benefit and minimises the possibility of adverse effects. Experience to date with the work of the committees has been encouraging, but we need to secure in legislation the mechanisms that permit them to best carry out their path-breaking work.

The second group of amendments enables the arrangements for the access licence register and trading in water entitlements to be given best effect. They make the register more sophisticated and establish rules relating to the rights recorded in the register. These amendments also clarify the nature and rules relating to the various types of dealings with access licences. The third group of amendments concerns the access licences and approvals system and its introduction across the State. Amendments provide for the phased introduction of the new system as well as a more targeted approach to placing embargoes on water sources. Another change will extend the facility to place conditions on approvals to joint water management arrangements between neighbours, such as drainage and floodwork schemes.

The fourth group of amendments deals with some of the Act's definitions. The amendments clarify a number of terms that appear throughout the Water Management Act and in its dictionary. These amendments have arisen from practical experience in administering the Water Management Act, in developing water sharing plans, and in consulting with water users and other interested parties. Several are the direct result of the Crown Solicitor's advice. Many have been developed in conjunction with water users and other interested groups. The amendments are needed so that the important work of managing this most valuable of resources can go ahead in a manner that is consistent and fulfils the objects and principles of the Water Management Act.

I will now deal with the specifics of each of the major amendments. I have already mentioned the committees that have worked so hard to produce draft water sharing plans. The bill contains several amendments to facilitate both their work and the operation of the plans. In making recommendations for water sharing plans, a committee must take into account a range of matters if the plan is to be realistic and meet the legislation's objectives. However, as the Water Management Act currently stands, there are some limitations that restrain committees in their work. For example, section 18 provides that a committee need only have regard to the socio-economic impacts of the proposals in the draft plan.

While clearly important in its own right, this alone is inadequate and out of touch with the full range of practical impacts that a plan can have. For the committees to do their work to best effect it is important that the matters for consideration fully cover real conditions. It is particularly important for the committees to recognise conditions and impacts from upstream and downstream of their area. This is because the area covered by a plan will generally be part of a broader, interconnected water system. Therefore, this bill introduces an amendment to section 18 to provide a more complete set of matters for consideration. Specifically, a committee can now have regard to the effect within the plan area of activities occurring, or likely to occur, outside the plan area. For example, activities upstream could have an impact on the availability and quality of water.

This change to section 18 will give the committees a better indication of what they need to consider when doing work. In turn, this will ensure that the plans are more reflective of the actual situation and consistent with the goals of the legislation. Additionally, a number of minor matters of a clarifying nature have been included in the bill to help committees do their work and for the plans to function. These include changes to ensure that provisions applying to a water management area can also apply to part of an area, ensure that discrepancies in the meaning of "land-holder" are removed and ensure that plans deal with certain core provisions. Further, the bill contains an amendment that provides a clear mechanism for the provisions of the plans to be reflected in existing licences. An amendment provides that matters addressed in a plan can be recorded on licences by way of mandatory conditions.

The next set of amendments I wish to address concern the access licence register. These amendments are very much needed if we are to achieve the objective of developing a market in access licences, thereby permitting them to be put to their highest value use. At present, section 83 of the Water Management Act provides for a register that shows the licences and also any subsidiary rights in them. Section 83 says little more because it was originally intended that the register would be nothing more than a simple list. However, following consultation with a variety of interested parties, it has become clear that a more sophisticated register would provide many benefits. In particular, a system is needed that would, firstly, facilitate a variety of transactions; secondly, ensure priority of interests based on their order of registration; and, thirdly, provide safeguards against fraud. The amendments in this bill deliver the legislative means to meet those objectives.

Dealing firstly with the register, it will be a computerised system with a separate entry for each licence. The entry will show the licence details, such as category, water source, date of expiry and entitlements. The entry will then show the owner's name and any charges, leases, reversionary rights or other interests affecting the licence. It will also contain the licence conditions and useful general information for licence holders, professionals and the public. Licence holders will be able to enter into a variety of transactions and have them recorded in the register. A set of simple forms will be used to modify or assign the licence and to create, vary, assign or extinguish subsidiary interests.

The transactions made on these forms will be stored and available for anyone to examine, as is the case with other public registers in this State. The public will also be able to search the entry for each licence. In other words, the register will be a searchable repository. People will be able to do this in person or through the Internet. To fund this expanded and more sophisticated register, those who use it—to register a document, search a licence, or obtain a copy of a document—will pay a fee. The fees will be set at the same level as the public currently pays in relation to the land register. I note that the fees for land are amongst the lowest in Australia for this kind of registration service, so those using the access licence register will not be unduly burdened.

Next, the bill provides for a system of priorities. A brief but very significant change is the introduction of new section 83C. It provides for a system of priorities that follows the one used in the General Registry of Deeds, which is maintained by Land and Property Information, formerly the Land Titles Office. The amendments alter the common law position by providing that a registered interest has priority over an unregistered interest, no matter when the documents were signed; and the order of priority amongst registered interests is based on the order in which they were registered. Under this system people are rewarded for registering their interest. Through prompt registration they gain priority over other people's unregistered interests even if they are aware of earlier, but unregistered, interests. Honourable members should note that, unlike the Torrens system, this is not a guaranteed system nor does registration cure defects in documents. The validity of documents is based on the common law and registration will not give documents any greater validity than they already have.

As to fraud protection, this will be achieved through the issue to each licence holder of a licence certificate. It will be a requirement for the certificate to be produced to allow a variation, change of ownership or new interest to be imposed on the access licence. In this way it will be more certain that the licence holder has given his or her permission to the document's registration. This approach is modelled on the certificate of title that is used in the Torrens system, which is based on the title deeds that exist in common law or old system title. As we all know, you cannot legislate against fraud but you can introduce mechanisms that make fraud that much more difficult. This is one of those mechanisms.

The capacity to trade in access licences is one of the fundamental tenets of the Water Management Act. Accordingly, the provisions of the Act relating to the transfer of access licences must be clearly spelt out. There has been some confusion to date over the terminology employed in the Water Management Act in relation to transfers. Chapter 3 uses "transfer" to mean not just assignment—in the sense of change of ownership of a licence—but also the transfer of the exercise of the licence from one stretch of river to another. Further, "transfer" is used to cover the splitting of licences, changes to the water source and changes to the category of licence. The overuse of "transfer" needs to be corrected so that we have a clear and accurate way of describing the many changes that can, on application, be made to an access licence.

This bill introduces a new division 4 to chapter 3 to provide that clarity. Each of the many changes to an access licence is clearly specified. Section 71A, for example, deals with the change of ownership. Section 71B covers the conversion of an access licence to a new category. Section 71C provides for the splitting and reforming of access licences, which are to be known as subdivision and consolidation. Section 71D covers the transfer of part of an entitlement from one licence to another. The new division 4 also deals with the interstate transfer of access licences and what used to be known as "temporary transfers"—the sale of the actual water. A further change is the introduction of the concept of the nominated work. This is the pump, bore or other water management work that is used to actually take the water specified on the access licence. A new section 71J provides a clear means of changing from one pump or bore to another. These amendments are not departures from the original terms of the Water Management Act; rather, they are an elaboration and clarification of those terms. They bring more certainty to the nature of the changes to licences and their administration.

Related to transfers of licences are the subsidiary rights that can be created. Specifically, access licence holders will be able to charge for and lease their licences in accordance with the common law rules and these

arrangements will be recorded in the register. I draw the attention of honourable members to a set of consequential amendments flowing from the redrafting of the transfer provisions. These concern some of the offence provisions in chapter 7 of the Act. Changes to the wording of some of the offences were necessary due to the new terminology introduced by the new division 4 and the introduction of the concept of nominated work. However, the redrafts do not change the nature of the offences; they simply make the words consistent with division 4.

The Water Management Act contains transitional provisions in schedule 9 that require the new access licence and approvals system to be introduced throughout the State on the same "appointed day". The system will replace the system run under the Water Act 1912. Changing licences from the Water Act to the Water Management Act is a major task. Amongst other things, it involves the making of numerous water sharing plans and the reviewing of tens of thousands of licences. As I have noted, plan making is well under way for priority areas and an administrative process has been implemented to progressively convert the licences associated with these plans. However, it is clear that both the plan making and licence conversion processes will take a number of years to finalise for the entire State.

If we were to wait until these processes were fully complete the commencement of the new system would be significantly and undesirably delayed. Conversely, if the access licence and approvals system were to be started before the processes were complete there would be great confusion and, possibly, loss of entitlements for some licence holders. As neither of these options is acceptable, this bill amends the Water Management Act to permit the staged introduction of the access licence and approvals system across the State. In particular, the Water Management Act is to be amended to permit the phased introduction of the Act by reference to water source, geographic area or licence category. It would then be phased in as the water sharing plan and data for each water source or group of licences is finalised. This amendment will ensure the earlier, as well as smoother and more systematic, change from the old to the new.

The next amendment that I would like to discuss is the one dealing with the preservation of existing rights in relation to Water Act licences and other forms of entitlements. The amendment provides for the continuation of existing rights and also the preservation of their priority against newly created interests. The amendment is necessary because water rights are no longer to be attached to land. I point out that this amendment fills a gap in the transitional provisions of the Water Management Act. Schedule 9 deals with the conversion of existing entitlements, such as licences under the Water Act, but it fails to address the many types of rights that can exist in relation to those entitlements. These may include things such as mortgages, leases and reversionary rights, as well as trusts and other types of agreements.

As the Act is currently drafted, the rights of the mortgagees and others could cease to exist on conversion of the water licence to an access licence. This is because the nature of the right is changed but, more importantly, the licence is no longer attached to the land that is the subject of the agreement. It would be wrong to deprive the interest holders of their rights due to an oversight in drafting. It would cause not only a clear and significant loss to them but also an unjust windfall to the licence holder. However, as the Water Management Act currently stands, this is precisely what could happen. To avoid this result, an amendment corrects the situation and states what has always been the Government's position—namely, that existing rights over Water Act licences and other entitlements are preserved. This change appears in new section 9A to schedule 9.

The amendment also provides that any priorities between existing rights are preserved. Further, it gives the right holders 12 months from the date of conversion in which to register their rights in the new access licence register without losing any priority to newly created interests. This will permit people who have entered into agreement with licence holders to become aware, through the publicity that is planned, of the changes and the need to register their interest. The final amendments that I wish to outline are those concerning the Act's definitions. Anyone taking even a brief glance at the Water Management Act would see that it uses a variety of terms that have a particular meaning. Many of these meanings appear in the dictionary at the back of the Act. Since the Water Management Act commenced, practical use of the definitions has revealed some anomalies in their drafting. Of particular concern are the definitions of "commercial activities", "estuary", "flood work", "water source", "water supply work" and "waterfront land".

In relation to town water supplies, a number of words also need to be clarified. In response to the shortcomings of the current definitions, they are to be amended by this bill to make them clearer and more accurate. In this way, the legislation will be a more precise tool for managing this most valuable of resources. In summary, this bill contains a number of important amendments covering various aspects of the Act. They represent refinements, elaborations and articulations of an impressive and leading-edge bill. While largely

mechanical and technical in nature, the amendments will ensure the smooth functioning of the Act and an efficient transition from the old system to the new. They will also extend important facilities to licence holders. I commend the bill to the House.

**Debate adjourned on motion by Mr D. L. Page.**

*[Mr Deputy-Speaker left the chair at 12.55 p.m. The House resumed at 2.15 p.m.]*

**BUSINESS OF THE HOUSE**

**Routine of Business: Suspension of Standing and Sessional Orders**

**Mr WHELAN** (Strathfield—Parliamentary Secretary) [2.15 p.m.]: I move:

That standing and sessional orders be suspended to allow:

- (1) Government business to have precedence of all other business on Thursday 24 October 2002; and
- (2) the routine of business to commence at 4.30 p.m.

Honourable members will recall that yesterday the House devoted a great deal of parliamentary time to a condolence motion for the victims and families of those affected by the Bali bombings on 12 October. This meant that the House, of necessity, did not deal with Government business. Therefore, it will be necessary to consider Government business on Thursday.

As to the second part of the motion, tomorrow's routine of business will commence at 4.30 p.m. What usually happens at 2.15 p.m. will take place at 4.30 p.m. The Premier will be in Canberra attending a memorial service. He will also join other State Premiers and our Prime Minister in signing documents. I am sure that all honourable members acknowledge that it is important for the leader of the Government in this State to be present for question time in the House. It is proposed that tomorrow question time and the routine of business will commence at 4.30 p.m. That will be followed by consideration of urgent motions and any matter of public importance. That is the Government's position. We believe the Premier should be present for question time. The Premier believes he should be in Canberra tomorrow—and everyone agrees except the Opposition.

**Mr BROGDEN** (Pittwater—Leader of the Opposition) [2.18 p.m.]: This is yet another attempt by this Government to suspend democracy. I will deal first with the Government's decision to delay question time tomorrow until 4.30 p.m. The Premier does not trust his Deputy Premier to look after the show on his behalf. We are happy to have question time at the normal time. We do not need the Premier to be here, because he does not answer questions anyway. We would much prefer to have the Deputy Premier running the show. We want the wet lettuce leaf in charge for a day; we want to feel the power of the Deputy Premier running the State for a day. The Premier is afraid to leave the Deputy Premier and his Ministers in charge for question time tomorrow—one of the few remaining under this Government—so, in contravention of the normal procedures of this House, he wants to push it back to suit his convenience rather than that of all honourable members.

Another factor is even more concerning. On Sunday when the Minister for Small Business, the honourable member for Port Jackson, backflipped into political oblivion she said that she intended to introduce a private member's bill that would pass through Parliament this week. If there is to be no private members' business how will that happen? How will the Minister make good on her latest promise to the people of Port Jackson? We need to consider private members' business tomorrow so that we can debate not the Minister's latest backflip but the Opposition's bill on Callan Park that has been before the House for many weeks. The Government's decision to suspend private members' business deprives the Minister of the chance to continue to backflip. When will she introduce her bill? We will not have the chance to debate her bill or many others, such as the private member's bill from the honourable member for Lane Cove that seeks to lock the Minister for Education and Training into his backflip on Hunters Hill High School.

This motion is all about protecting the Government after a week of embarrassing backflips. It has been a most embarrassing week for this Government. First, the Minister for Education and Training backflipped after many months of supporting the Government's decision to close Hunters Hill High School. Then we witnessed another shameful backflip on the day of national mourning—a day when Australians gathered to mourn; it was not a day for political decisions. The Minister for Small Business hit the panic button at 9 o'clock on Saturday night and threatened to resign—"Bob, I'll resign if you don't look after me"—if she could not put her private

member's bill before Parliament. The Minister said on Sunday that her bill would be before Parliament and passed by the end of this week. Why then is Benny Stalin seeking to suspend standing orders? Why will the soon-to-be former member for Port Jackson not have the opportunity to put her bill before Parliament?

The Opposition wants to introduce a private member's bill. The Parliament is scheduled to sit on Friday. If the Government wants to deal with Government legislation it should do so on Friday. The House should not waste another private members' day. The House should not waste another opportunity for private members to put legislation before the House. The Opposition wants to see the Minister for Small Business squirm and backflip. It wants to see her desperate attempt to try to save her political skin because she is history, no matter how many times she backflips or tries to avoid reality. She has betrayed the people of her local community. She does not actually believe in her position. Her private member's bill, as released on Monday, will allow for continued development of the site.

**Mr SPEAKER:** Order! The Minister for Small Business will cease inciting the Leader of the Opposition.

**Mr BROGDEN:** We say that private members' business should not be suspended. It is important that we have private members' day and if the Government wants to deal with its own business, it should do so on Friday.

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

**The House divided.**

**Ayes, 51**

Ms Allan	Mr Greene	Mr Orkopoulos
Mr Amery	Mrs Grusovin	Mr E. T. Page
Ms Andrews	Mr Hickey	Mrs Perry
Mr Aquilina	Mr Hunter	Mr Price
Mr Ashton	Mr Iemma	Dr Refshauge
Mr Bartlett	Mr Knowles	Ms Saliba
Ms Beamer	Mrs Lo Po'	Mr Scully
Mr Black	Mr Lynch	Mr W. D. Smith
Mr Brown	Mr Markham	Mr Tripodi
Miss Burton	Mr Martin	Mr Watkins
Mr Campbell	Mr McBride	Mr Whelan
Mr Carr	Mr McManus	Mr Woods
Mr Collier	Ms Meagher	Mr Yeadon
Mr Crittenden	Ms Megarrity	
Mr Debus	Mr Mills	
Mr Face	Mr Moss	<i>Tellers,</i>
Mr Gaudry	Mr Newell	Mr Anderson
Mr Gibson	Ms Nori	Mr Thompson

**Noes, 36**

Mr Armstrong	Dr Kernohan	Mr Slack-Smith
Mr Barr	Mr Kerr	Mr Souris
Mr Brogden	Mr Maguire	Mr Stoner
Mrs Chikarovski	Mr McGrane	Mr Tink
Mr Collins	Mr Merton	Mr Torbay
Mr Cull	Ms Moore	Mr J. H. Turner
Mr Debnam	Mr O'Farrell	Mr R. W. Turner
Mr George	Mr Oakeshott	Mr Webb
Mr Glachan	Mr D. L. Page	
Mr Hartcher	Mr Piccoli	
Ms Hodgkinson	Mr Richardson	<i>Tellers,</i>
Mrs Hopwood	Ms Seaton	Mr Fraser
Mr Humpherson	Mrs Skinner	Mr R. H. L. Smith

**Pairs**

Mr Stewart  
Mr West

Mr Hazzard  
Mr Rozzoli

**Question resolved in the affirmative.**

**Motion agreed to.**

**COMMISSION FOR CHILDREN AND YOUNG PEOPLE****Report**

**Mr Speaker** tabled, pursuant to section 26 of the Commission for Children and Young People Act 1998, the report entitled "Report of an Inquiry into the Best Means of Assisting Children and Young People with No-one to Turn to", dated 23 October 2002.

**Ordered to be printed.**

**LAKE CARGELLIGO WATER TOWER ACCIDENT****Ministerial Statement**

**Mr DEBUS** (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [2.31 p.m.]: At approximately 11.30 yesterday morning the small community of Lake Cargelligo was visited by tragedy. A team of workers labouring on the construction of a new water tower to bring a reliable summer water supply to the township was subjected to a terrifying ordeal as the 18-metre structure collapsed during a concrete pour. In that collapse two workers were killed and three were injured. This morning rescue crews completed the heartbreaking work of freeing the two bodies from the wreckage.

I am sure that all members of this House will want to join me in expressing our heartfelt sympathy to the families and friends of those killed and injured: deaths and injuries that have all the more powerful an impact in a small, close-knit community. Our emergency services—police, ambulance, the State Emergency Service [SES] and New South Wales Fire Brigades—responded magnificently to the crisis. The Salvation Army provided succour at the scene, as did dozens of ordinary citizens seeking to assist in any way they could. The local rescue unit from the SES, assisted by the Urban Search and Rescue personnel flown in by the CareFlight helicopter, as well as fire brigade units from Lake Cargelligo, Leeton and Condobolin, worked frantically with local police to help to remove the injured men so that ambulance crews could race them to hospital.

Some of the emergency personnel involved in this desperate rescue mission had been involved in the days and nights of the Thredbo rescue mission several years ago. The situation was all the more poignant because one of those injured is the son of the captain of the Lake Cargelligo fire brigade. The communities of Lake Cargelligo and surrounding towns have gathered around to support emergency services during the rescue and will also, no doubt, support the devastated families in the days and weeks ahead. I am advised that yesterday WorkCover sent two inspectors to the site. The Coroner will conduct urgent investigations as to the cause of this devastating event. But for now our thoughts are with the community during this time of crisis.

**Mr ARMSTRONG** (Lachlan) [2.34 p.m.]: Lake Cargelligo is within my electorate, and I join with the Minister in expressing my sympathy and that of the Opposition to the families of the men who were lost and injured in yesterday's almost unprecedented and tragic accident. Lake Cargelligo is approximately a two-hour drive down the Lachlan River from Forbes. In the past two weeks that region has suffered two major blows at the hand of fate. I compliment the community of Lake Cargelligo. In addition to the services the Minister has articulated, I am informed that the response from the community was phenomenal. The licensed crane driver of the small crane working on the project was one of the people either killed or injured. A local member of the Plymouth Brethren Church, which has a large community in the area, who has a crane licence drove the crane for six hours yesterday to assist in the rescue operation. That is only one example of how the community responded.

The Salvation Army, which has been mentioned by the Minister, did a magnificent job. I am told that women were making scones. Generators, tractors and utilities were provided. The community acted as one to

assist in the rescue. The community has been trying to obtain additional water storage for nigh on ten years. During at least two of every three summers, the community runs out of domestic water for about one month over the Christmas period. It has taken a long time for the community to raise the funds to provide additional water storage, but it looks as though it will not have water this Christmas. This tragedy is a cruel blow to the families of those involved and the community. Lake Cargelligo has a marvellous inland lake of about 3,500 acres for sailing and waterskiing.

**Mr Knowles:** And a good MP.

**Mr ARMSTRONG:** Yes, that is right. Most importantly, Lake Cargelligo has a magnificent new multipurpose unit for the local hospital. Lake Cargelligo has doctors and a chemist. I urge all honourable members to visit like Cargelligo.

### **DISTINGUISHED VISITORS**

**Mr SPEAKER:** I acknowledge the presence in the gallery of Paul Wallace from the United States of America who is undertaking a study of government in Australia. I welcome him to the Parliament. I also acknowledge the presence in the gallery of a former member of this House, Jim Small.

### **APIARY INDUSTRY ASSISTANCE**

#### **Ministerial Statement**

**Mr AMERY** (Mount Druitt—Minister for Agriculture, and Minister for Corrective Services) [2.36 p.m.]: As honourable members would be aware, each year beekeepers contribute approximately \$30 million to our State's economy. But the drought is hitting them hard. Many are now forced to buy sugar because there are no nectar-producing plants. Last month the Federal Government proposed an 18¢ per kilogram consumer levy on sugar to fund a restructure of the sugar industry. The Government has received an urgent plea for support from the President of the New South Wales Apiarists Association, Mr Greg Roberts, who is trying to have beekeepers immediately exempted from the tax. As I am sure many honourable members from rural areas would attest, Mr Roberts, who is based in Goulburn, is a true rural leader. He strongly represents this small but important rural industry.

In addition to myself, the Premier and Mrs Carr can attest to the fact that Greg Roberts and his bees produce honey of fantastic quality. As honourable members know, every cent counts during a drought. For beekeepers this proposed levy could increase the cost of supplying sugar by an extra \$1,800 a year. We are all aware of a North Coast beekeeper who has spent \$20,000 on 25 tonnes of sugar to sustain his hives. If he had been plagued with the levy he would not have been able to keep his bees alive. Today the Government calls on the Federal Minister for Agriculture, Fisheries and Forestry, Warren Truss, to immediately exempt beekeepers from the levy.

New South Wales has the largest beekeeping industry in the country, and produces 45 per cent of all Australian honey. That is worth \$22.2 million. The Government is doing its bit to help our beekeepers during this difficult time. On 30 August the Premier announced a raft of assistance measures for beekeepers, including a 50 per cent transport subsidy to honey producers for the transport of sugar solution to feed nectar-deprived bees, and the waiving of permit fees charged to honey producers for access to national parks and State forests. It is now time for the Federal Government to offer some help to this small but important industry.

**Mr ARMSTRONG** (Lachlan) [2.39 p.m.]: This is one occasion on which there is bipartisan support for the Government and its approach. The beekeeping industry is basically itinerant. In some cases beekeepers travel for thousands of kilometres to find blossoms and feed for their bees to enable them to produce honey. One of the few remaining patches of New South Wales that is likely to have a good canola season is in the south-west, in the electorate of my colleague the honourable member for Burrinjuck and also in the southern corner of my electorate.

The canola is blooming and bees from thousands of hives have come from all over the State for the canola nectar. Bees are an essential factor in the cross-pollination of canola. They serve more than the purpose of producing honey; they are important in the seasonal cross-pollination of many plants in country areas. The Government's contribution is welcome, but a government can never do too much to preserve a core industry in times of drought. The Minister for Agriculture did not mention that the honey industry is a major export income

earner, particularly to Japan. Australian honey has been recognised for many years as the superior honey imported to Japan. I compliment Greg Roberts and his producers for their tenacity, marketing skills and organisational coherence that have led to their capacity to produce the world's best export honey.

### **DEATH OF Dr MARGARET TOBIN**

#### **Ministerial Statement**

**Mr KNOWLES** (Macquarie Fields—Minister for Health) [2.40 p.m.]: On behalf of the Government and community I express our condolences to the family, friends and colleagues of Dr Margaret Tobin, a great Australian who dedicated her life to make life better for people living with mental illness. The New South Wales health sector is in deep shock and sadness for the loss of a much-loved colleague who had a history of public service in three Australian States, including as Director of Mental Health Services in the South Eastern Sydney Area Health Service for seven years.

Dr Tobin grew up in Melbourne, the oldest of eight children in a working-class family. She graduated in medicine from the University of Melbourne in 1978 and completed her postgraduate qualifications as a psychiatrist in 1986. She was the author of dozens of publications and worked as a consultant both nationally and internationally. As many of her colleagues in NSW Health have told me, Dr Tobin was passionate about the rights of the mentally ill and she inspired her staff and patients with her commitment and professionalism. She was a tireless fighter in search of a fairer and more compassionate society. It is abhorrent to all of us that we should lose a person dedicated to the welfare of others in an act of senseless violence. But Dr Tobin's memory will live in the hearts of the people she touched with her commitment and her dedication.

**Mrs SKINNER** (North Shore) [2.42 p.m.]: The Coalition joins with the Government in extending our condolences to the family and friends of Dr Margaret Tobin. I did not personally know Dr Tobin, but many people have contacted me to say what a fine woman she was. As the Minister for Health said, Dr Tobin dedicated her life to fighting for those who perhaps are the most vulnerable in society—those with a mental illness. She grew up and was educated in Victoria at that finest of institutions, Melbourne University. She started her working life in Victoria, then worked in New South Wales with, firstly, the Southern Sydney Area Health Service and, secondly, the South Eastern Sydney Area Health Service. Many people in New South Wales will remember her work. The tragic death of Dr Tobin took many people by surprise and caused great sadness. It has brought home to them, particularly those working in the mental health area, the tremendous stress that is placed on people working in this field. I join with the Minister in extending again on behalf of the Coalition our condolences not only to Dr Tobin's family but also to all her friends and work colleagues.

### **BUSINESS OF THE HOUSE**

#### **Routine of Business**

*[During notices of motions]*

**Mr Tink:** Point of order: The Minister for Small Business has given notice of the introduction of the Callan Park Special Provisions Bill. That is a private member's bill, as described by the Minister earlier in the week. It does not fall within her portfolio; it is private member's business.

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

### **COMMITTEE ON CHILDREN AND YOUNG PEOPLE**

#### **Report**

**The Clerk** announced the receipt of the report entitled "Voices: The Education Experience of Children and Young People in Out-Of-Home Care", dated September 2002.

### **PUBLIC BODIES REVIEW COMMITTEE**

#### **Report**

**The Clerk** announced the receipt of the report entitled "Study of International Jurisdictions—July 2002", dated October 2002.



## PETITIONS

### Urban Planning

Petition asking that the House address the need for urban planning designs to be decided by local communities, received from **Mrs Hopwood**.

### Planning Control Reform

Petition requesting reform of planning controls by gazettal as a legal document, oversight by the Department of Planning, public benefit assessment of variations, and a ban on development-related donations to political parties and elected officials, received from **Ms Moore**.

### Ku-ring-gai Municipality Planning Control

Petition praying that planning control removed by implementation of State Environment Planning Policies Nos. 5 and 53 be returned to Ku-ring-gai Municipal Council, received from **Mr O'Farrell**.

### Coffs Harbour Radiotherapy Unit

Petition praying for increased funding for establishment of a radiotherapy unit in Coffs Harbour, received from **Mr Fraser**.

### Mental Health Services

Petition requesting urgent maintenance and increase of funding for mental health services, received from **Ms Moore**.

### Freedom of Religion

Petitions praying that the House reject legislative proposals that would detract from the exercise of freedom of religion, and retain the existing exemptions applying to religious bodies in the Anti-Discrimination Act, received from **Ms Megarrity** and **Ms Saliba**.

### Hornsby Shire Rail Parking Facilities

Petition requesting additional commuter parking facilities at railway stations in the Hornsby Shire, received from **Mrs Hopwood**.

### Mount Colah Traffic Arrangements

Petition requesting installation of traffic lights at the intersection of Foxglove Street and the Pacific Highway, Mount Colah, received from **Mrs Hopwood**.

### Richmond Regional Vegetation Management Plan

Petitions seeking extension of the exhibition period of the draft Richmond Regional Vegetation Management Plan, received from **Mr George** and **Mr D. L. Page**.

### Coleambally Water Access

Petition requesting a review of the process for access to supplementary water by Coleambally irrigators, received from **Mr Piccoli**.

### Underground Cables

Petition requesting that the House ensure that an achievable plan to put aerial cables underground is urgently implemented, received from **Ms Moore**.

### 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**.

**Circus Animals**

Petition praying for opposition to the suffering of wild animals and their use in circuses, received from **Ms Moore**.

**Giant Parramatta Grass Control**

Petition requesting a review of applications for funding the control of Giant Parramatta Grass, received from **Mr Stoner**.

**White City Site Rezoning Proposal**

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

**Companion Animals Legislation Obligations**

Petition asking that the House ensure that State Government authorities and local councils meet their obligations under the Companion Animals Act, received from **Ms Moore**.

**Graffiti Controls**

Petition requesting further legislative changes to reduce graffiti on private and public property, received from **Ms Moore**.

**Alcohol Sale Control**

Petition praying that alcoholic beverage sales be restricted to existing outlets, that opening hours be reduced, and that warning labels be placed on all alcoholic beverage containers, received from **Mr Bartlett**.

**Homeless Services Funding**

Petition asking that homeless services funding be increased urgently and maintained until no longer needed, received from **Ms Moore**.

**Cronulla Police Station Upgrading**

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

**Redfern, Darlington and Chippendale Policing**

Petition praying for increased police presence in the Redfern, Darlington and Chippendale areas, received from **Ms Moore**.

**Surry Hills Policing**

Petition seeking increased uniformed police foot patrols in the Surry Hills Local Area Command and installation of a permanent police van or shopfront in the Taylor Square area, received from **Ms Moore**.

**BUSINESS OF THE HOUSE****Unanswered Questions upon Notice**

**Mr SPEAKER:** Pursuant to Standing Order 141 I draw the attention of the House to fact that questions upon notice Nos 736 and 745 standing in the name of the Deputy Premier, Minister for Planning, Minister for Aboriginal Affairs, and Minister for Housing have not been answered within 35 calendar days.

**Dr REFSHAUGE:** Due to an administrative error the answers to the questions have not been completed to date. They have now been completed and lodged with the Clerk.

## QUESTIONS WITHOUT NOTICE

---

### OASIS LIVERPOOL DEVELOPMENT INDEPENDENT COMMISSION AGAINST CORRUPTION INQUIRY

**Mr BROGDEN:** My question without notice is to the Attorney General. When Irene Moss stood aside from the Oasis-Obeid-Australian Labor Party bribery inquiry and appointed Deputy Commissioner Keiran Pehm to preside over the inquiry, did your Chief of Staff reveal that she resides with Mr Pehm and that a conflict of interest had been created for the Government? Why did it take five weeks for this conflict to be resolved by the appointment of Acting Justice John Slattery to take carriage of the inquiry as Acting Commissioner?

**Mr DEBUS:** I have every confidence in the independence and in the integrity of the ICAC and of Commissioner Irene Moss.

**Mr SPEAKER:** Order! I call the honourable member for Ku-ring-gai to order.

**Mr DEBUS:** I should say also that I have absolute confidence in the integrity of my chief of staff and her partner. I understand that a number of weeks ago, in order to avoid any possible perception of bias—

**Mr SPEAKER:** Order! I call the honourable member for Ku-ring-gai to order for the second time.

**Mr DEBUS:** To avoid any reasonable perception of bias the eminent retired judge Justice Slattery was placed in charge of this particular investigation.

**Mr SPEAKER:** Order! I call the honourable member for Ku-ring-gai to order for the third time.

**Mr DEBUS:** I am confident that Justice Slattery will take every appropriate step to ensure that the investigation is carried out properly.

### NATIONAL COUNTER TERRORISM PLAN

**Mr GREENE:** My question without notice is to the Premier. What is the Government's response to community concerns about homeland security in New South Wales in light of the Bali bombings?

**Mr CARR:** The protection afforded by the so-called tyranny of distance holds, of course, for conventional warfare; it does not hold against terrorism. We must tread more carefully now and plan more wisely. We must plan as if mainland targets will be hit. The Heads of Australian Governments meeting in April 2002 agreed to the creation of a National Counter Terrorism Committee and a new National Counter Terrorism Plan. I will sign the agreement to set up the committee in Canberra tomorrow. At this time, with Australians dead as a result of a grotesquely cruel act of terrorism, unity above the normal divisions is required among Australian leaders. I will be in Canberra tomorrow to support, on behalf of the people of this State, any initiatives that the Prime Minister of this country thinks are needed to make Australia safer.

The National Counter Terrorism Committee will bring together senior police and government officials from the Commonwealth and all the States and Territories to drive national action. Its first task will be to complete the National Counter Terrorism Plan, which is already under way. Under the April agreement the Commonwealth takes on new responsibilities to provide broad direction on the response to any national terrorist incident. This does not shift the operational control of State police and emergency services to the Commonwealth. But it does mean that the Prime Minister and Federal Cabinet will set policy and broad strategies surrounding our anti-terrorist response.

The leaders also agreed to refer State legislative powers to the Commonwealth to ensure that national laws against terrorism are strong and effective. We have already received a model bill from the Prime Minister, which is being studied. I hope the bill can be introduced into this Parliament soon. I am receiving regular briefings concerning the level of threat and the NSW Police response. Our significant planning for a terrorist threat undertaken for the 2000 Olympics was a good basis, because the Olympic movement has learned the terrorism lesson the hard way—at Munich in 1972.

NSW Police is now reviewing its counter-terrorist capacity and building on that valuable Olympic experience. This review commenced before the events in Bali but it has, of course, taken on a new urgency. The

Government has also approved an additional \$5 million for NSW Police to purchase bomb disposal equipment and forensic services equipment to analyse explosive devices. We are looking at other police needs. But let this be clear: the Government will provide the police with all the support and equipment they need. I can also advise that the management committee of the NSW Crime Commission is drafting a standing reference to the NSW Crime Commission to enable it to work with the Police Protective Security Group to investigate any terrorist threat. That means bringing the Commission's considerable powers to bear on suspected terrorist crimes being planned.

These powers include the power to compel people to come forward and answer questions, and the power to compel production of documents. The Crime Commission can also obtain warrants to conduct surveillance and tap phones. Commonwealth co-operation, including the participation of the Australian Security Intelligence Organisation, will be requested for this work. I will be raising this matter with the Prime Minister because we want a higher level of co-operation than ever before between Commonwealth and State agencies.

I can further advise the House that the New South Wales State Emergency Management Committee has begun a review of all State critical infrastructure to assess the level of protection needed. Today I propose a national counter-terrorism strategy as our contribution to tomorrow's work. I propose that, in the national interest, we must, first, deploy Australian defence personnel to protect critical sites in the States and Territories in times of terrorist threat. Commonwealth legislation must be further amended to enable the Australian Defence Force to be deployed to protect vital infrastructure, at the request of States and Territories, in situations in which a credible threat is received.

Commonwealth legislation passed in 2000 requires that an incident is actually occurring or likely to occur, and the States must show that they are unlikely to be able to meet the threat. These are high thresholds and in a time of heightened threat a more flexible approach is required. Second, we must strengthen the security and protection of the Lucas Heights nuclear reactor—Australia's only nuclear reactor. The Commonwealth authorities charged with guarding the Lucas Heights site must be adequately resourced to meet this new level of threat, including the deployment of Australian Defence Force personnel as I have proposed. Third, we must review intelligence and information-sharing arrangements between the Commonwealth and the States and Territories. One of the great lessons from September 11 was that relevant information collected by the Central Intelligence Agency was not passed on to the Federal Bureau of Investigation. Many stories developed around this theme—now known, now public knowledge. We must ensure that after Bali intelligence gained through both law enforcement and national security organisations is quickly shared. The legal powers are there but we need in these bodies a culture of full co-operation. That is, we must not replicate the pre-September 11 mistakes and organisational jealousies that so badly hampered the United States of America's intelligence effort.

Fourth, we must adopt international best practice. We must ensure that current reviews of Commonwealth and State legislation take into account the most effective legislative responses from around the world, and cover all aspects of the terrorist threat. That means, for example, examining the United Kingdom Terrorism Act 2000, which has measures such as a duty of disclosure on persons who believe or suspect, on the basis of information that comes to their attention in the course of a trade, profession, business or employment, that another person has committed offences relating to the financing of terrorism; and police powers to stop and search vehicles, drivers and pedestrians in a designated area. We had a similar power here in 2000 covering Olympic venues, and the Minister for Police is drafting proposals to reinstate it relevant to the terrorist threat.

It also means analysing the United States Providing Appropriate Tools Required to Intercept and Obstruct Terrorism [PATRIOT] Act, which has extensive powers on matters such as Internet and phone tapping, accessing business records, search warrants, money laundering, fingerprinting aliens at the border, and creating offences dealing with the possession of biological agents. We need to ensure our ability to prevent a terrorist outrage is not hindered by inadequate laws.

Fifth, the Commonwealth Government should increase funding for the counter-terrorism capacity and first-call attack response of the States and Territories. The Commonwealth, given its national security responsibilities, should provide resources to State and Territory police and emergency management agencies to ensure they have the capacity, skills and equipment needed to respond to terrorist threats and incidents. These are the agencies that will be in the front line of any terrorist attack, and they will have responsibilities in those situations far beyond their normal duties. Sixth, I have formed the view that we must set up a Ministry of Homeland Security. We should study the United States example carefully and look at whether key Commonwealth agencies such as the Protective Security Co-ordination Centre, Emergency Management Australia and parts of Customs, Immigration and the Federal Police can be brought under such a ministry. This new ministry would have a clear mandate to take national leadership, and clear powers to co-ordinate Federal, State and local agencies.

I offer this plan as part of the unwavering commitment of this Government to work in a security partnership with the Prime Minister of Australia, John Howard, to see that the risk of a Bali-style or September 11-style outrage on Australian soil is minimised as far as we can. We spoke yesterday in this House of the horror of what happened in Bali and the suffering right across this nation. Imagine the suffering if we were, partly through inadequate security plans and resourcing, to see a terrorist outrage in one of Australia's cities. The plan I have put forward is crafted on the understanding that our efforts must match the threat. The threat is no longer an abstraction, no longer something in a CNN report. The threat is here and now. And the first victims lie in the Bali morgue or in the Concord burns unit. Let us not ask ourselves if; let us prepare for when.

#### **MINISTER FOR MINERAL RESOURCES, AND MINISTER FOR FISHERIES PECUNIARY INTEREST DISCLOSURE**

**Mr SOURIS:** My question is directed to the Premier. As Eddie Obeid's sworn evidence to a parliamentary investigation last week that he has had no business dealings since becoming a Minister has been contradicted by sworn evidence from Mr Karl Suleman, will the Premier sack the Minister for lying to Parliament?

**Mr CARR:** I believe the Minister answered those questions fully in the Legislative Council today.

#### **ROAD TOLL**

**Mr COLLIER:** My question without notice is to the Minister for Roads. What is the Government's response to community concerns about this year's road toll?

**Mr SCULLY:** I am sure that this year's road toll is of extreme concern to all members of this House. Last year's road toll was the lowest in 50 years. As of this morning, this year 466 people have lost their lives through a motor vehicle accident—56 more than at the same time last year. Today I announce on behalf of the Government a package of measures designed to deal with this worrying trend. The Roads and Traffic Authority [RTA] has informed me that the most significant part of that worrying trend is the speed-related fatality. The Government can do a number of things to address that worrying trend including investigating ways of reducing fatalities among young drivers; new penalties including longer suspensions, increased demerit points and trialling automatic court appearances for high-range offences; speed cameras; and extra funds to be spent on road safety, particularly along the Pacific Highway.

Honourable members would be aware that, tragically, nine young people died recently on Southern Highlands roads—six young men in one car and three in another. Young adult drivers and adolescent passengers aged about 14 or 15 piled into a car, at night, travelled at speed, and all were killed. The message was brought home to us all that we need to think about other necessary measures to make road travel safer for young drivers and their young passengers. I have asked the RTA to consult with police, the NRMA and young drivers to determine what additional safety measures need to be implemented. As members of Parliament we really need to consider what further steps we need to take to make road travel safer for young drivers and their passengers. I intend to treat that assessment most seriously.

On the subject of speeding, it is almost 20 years since random breath testing was introduced, and it has had outstanding success in reducing the number of alcohol-related driving deaths. Similarly, the compulsory wearing of seatbelts has been successful in reducing driving-related deaths. However, there are no more magic bullets. Those two measures had an unbelievable impact in dramatically reducing the number of people killed on our roads. About 20 years ago, approximately 1,400 people were killed on our roads each year, now that rate is between 520 and 600. That is still an enormous number, but unbelievably lower than 20 to 25 years ago. If there were magic bullets the Government would have applied them, but there is more that we can do. We can get the road toll down further and I intended to implement some measures to do so.

This year to date there have been 187 road deaths related to excessive speed, compared to 155 at the same time last year. One measure I propose to introduce was suggested recently by the NRMA, that is, drivers who exceed the speed limit by up to 15 kilometres per hour will have two demerit points applied to their licence, rather than one demerit point. I agree with that suggestion and it will be implemented by 1 December. Currently people who drive at between 31 to 45 kilometres per hour over the speed limit have their licence suspended for one month. I propose to increase that suspension to three months. Currently drivers who exceed the speed limit by 45 kilometres per hour, an almost feral level of speeding, have their licence suspended for three months. I propose to double that to a six-month suspension.

I am sending a strong message to the minority of motorists who have not yet got the message. Having a driver's licence is a privilege and if drivers do not comply with the road rules and behave in such a way as to make it more likely that they, their passengers or fellow citizens will be killed, and are caught doing that, they will lose their licence for a long time. Additionally, the northern police region, along with the RTA, will conduct a trial of automatic court appearances for speeding offences in excess of 45 kilometres per hour over the speed limit. That means that if one is in the northern police region and drives in excess of 45 kilometres an hour over the limit, and is caught, that person will automatically face a court and not be dealt with via an infringement notice.

In addition, anyone caught by a fixed digital speed camera to be driving at more than 45 kilometres an hour over the speed limit will automatically be sent to court and not be dealt with by an infringement notice. I have made a decision that anyone caught driving a car at 130 kilometres per hour, irrespective of the posted speed limit, will have his or her licence suspended for one month. These are important measures that are comprehensive and will go some way to getting the message through to motorists that they have to drive in accordance with the speed limit, they have to slow down. If they do not, their licence will be taken from them.

I refer to another road safety matter. Many members on both sides of this House, members of parents and citizens associations, school principals, teachers and parents have put to me that we need to do more to make the school environment safer. From time to time I have had discussions, correspondence and meetings with many members on both sides of this House in an endeavour to address these concerns. A little while ago I announced that I would put three digital speed cameras at 10 school sites on a rotating basis. I have reconsidered that and have decided that it is appropriate to install speed cameras at each of those 10 trial sites, rather than at three sites on rotation. Motorists will know where the speed cameras are located and that they will operate for 24 hours a day, seven days a week.

I advise members that the schools chosen for the trial of the speed cameras are St Catherine Labore at GyMEA, St Patricks in Kogarah, Middle Harbour Public School in Mosman, Epping West Public School, Woy Woy Public School, Our Lady of the Rosary in Wyoming, Ourimbah Public School, Woy Woy South Public School, Fairy Meadow Public School, and the Illawarra Grammar School. Those sites have been selected in accordance with traffic volumes, high levels of pedestrian use and accident history. I expect all cameras to be installed by the beginning of, or during, term one next year. There will be a rigorous six-month assessment program. Whether the trial is to be extended to other schools, and in what manner, will depend on how well they work in operation and on the success of the assessment process.

Earlier I have indicated that flashing lights would be installed outside certain schools. The lights will be installed at Chatham Public School in Taree, Tomaree Public School in Salamander Bay, Holmwood Public School in Cowra, Holbrook Public School, St Patricks in Holbrook, Bredbo Public School, Helensburgh Public School, Mount Terry Public School in Albion Park, Edmund Rice College in Wollongong, Blaxland Public School, and Dundas Public School. The criteria used to determine which schools should or should not have flashing lights installed was based on a speed limit of at least 70 kilometres per hour, high pedestrian use, higher traffic volumes and poor sight distance for motorists. Each site will also be subject to continuous assessment.

Members on both sides of the House represent electorates in which the Pacific Highway is being upgraded. In January 1996 the Commonwealth and State governments committed \$2.2 billion to upgrade the highway. An enormous proportion of that amount has already been expended and it has made a huge difference to the economy and travel times along the North Coast and has improved road safety, but not to a sufficient degree for the Government to be satisfied. I am pleased to announce an additional \$4.5 million for road safety, specifically for the Pacific Highway on the North Coast.

I propose to increase the number of speed camera sites from 10 to 18 along the Pacific Highway by December; increase police patrols on the highway; construct 13 enforcement bays for police to conduct speed checks and random breath tests; and provide two new rest areas, one at Tabbimoble, just north of Maclean, and one at Kundabung, south of Kempsey. Additionally there will be black spot treatments, including arrow markings, audible line markings and improved road surfaces. I have asked the RTA to ensure that as many of those measures as possible be implemented prior to the Christmas holiday period. In conclusion, the current road toll is unacceptable; more people are being killed. I can understand that people would be satisfied if the road toll was reduced to 300 or 400, but we would all agree that no level of road toll is acceptable.

However, it will be pleasing if we can get the road toll below 500 or towards 400. It is very disappointing that many people are killed because of excessive speed. We need to do more to encourage

motorists to drive within the speed limit. All the research shows, unsurprisingly, that motorists who drive within the speed limit are far more likely to drive safely and to negotiate our road network without killing themselves or their fellow citizens.

We intend to proceed with this package, but I do not suggest for a moment that it is the panacea to all the problems of the road network. I will continue to monitor the situation and I will be happy to hear from honourable members about any other measures that the Government should implement. This is a bipartisan issue about which honourable members on both sides of the House well know that I am willing to engage in dialogue. If any honourable members have additional measures that they believe the Government should consider, my door is open.

*[Questions without notice interrupted.]*

### **DISTINGUISHED VISITORS**

**Mr SPEAKER:** Order! I acknowledge the presence in the gallery of the High Commissioner for India, His Excellency Mr Rathore, who is accompanied by the Consul General of India, Mr Ganapathi. I welcome them both to the Parliament of New South Wales.

### **QUESTIONS WITHOUT NOTICE**

*[Questions without notice resumed.]*

### **SYDNEY WATER CUSTOMER INFORMATION BILLING SYSTEM**

**Mr HUMPHERSON:** My question is directed to the Minister for Energy. Will the Minister explain why he failed in his duty of care as the Minister responsible for Sydney Water and ignored progressive warnings—including an alert from the Auditor-General—about overruns on the customer information billing project that have now seen as much as \$60 million wasted, which is enough to connect sewerage to 4,000 homes?

**Mr YEADON:** Last Thursday evening—I am quite clear about the timing—the Chairman and Managing Director of Sydney Water informed me that the Sydney Water Board had the previous day passed a motion to review urgently the customer information billing system. I understand that last Friday the Chairman and Managing Director advised the Treasurer of the review in his role as the shareholding Minister. So on the Thursday evening the Managing Director and Chairman informed me and the following morning there was a meeting with the Treasurer.

**Mr Brogden:** When did they tell the Minister responsible?

**Mr YEADON:** Shut up and listen to the answer. Thursday evening. Do I have to spell it for you?

**Mr SPEAKER:** Order! I advise the Minister for Energy not to respond to interjections from the Leader of the Opposition.

**Mr YEADON:** For the edification of the Leader of the Opposition, who seems incapable of understanding basic English—probably because he is such a boy—I will say it again. On Thursday evening last the Managing Director and Chairman of Sydney Water advised me that the Sydney Water Board the previous day—the Wednesday—had passed a motion to review urgently the customer information billing system. The following day—the Friday morning—the Managing Director and Chairman met with and informed the Treasurer, as the shareholding Minister of Sydney Water. Is that clear?

The Treasurer, as the shareholding Minister, has taken swift and appropriate action, asking the New South Wales Auditor-General to conduct a thorough audit of the system thus far. As the Leader of the Opposition said on Radio 2UE yesterday afternoon, the Auditor-General is both fearless and fair, and it is best to await the findings of the Auditor-General's report. Given that this is a commercial and legal matter yet to be resolved by Sydney Water, it would be inappropriate for me to comment any further.

**Mr SPEAKER:** Order! The Leader of the Opposition will remain silent.

**Mr YEADON:** It must be understood that this project was not simply an internal Sydney Water project but a project involving a contractual relationship with an organisation to provide to Sydney Water a customer billing system. Clear commercial and legal matters will arise from this issue and it is therefore appropriate that we await the outcome of the Auditor-General's report.

### BUSHFIRES

**Mr HICKEY:** My question is directed to the Premier. What is the latest information about bushfires in New South Wales?

**Mr CARR:** The bushfire danger period for the entire eastern seaboard of New South Wales was brought forward to 1 September 2002. The date for some North Coast councils was 1 July, which is midwinter. These are absolutely unprecedented commencement dates. The principal cause is, of course, the drought. Some 92 per cent of the State is in drought, with Australia suffering the worst El Niño cycle since 1915. Natural fire breaks such as creek beds have largely evaporated and temperatures for November, December and January are predicted to be above average. I have just been informed by way of a fire update that the Belrose and Annangrove fires are almost contained but houses are now under threat in Taree.

Today's extreme fire conditions will be typical. There have already been more than 3,300 bushfires in New South Wales since the start of July and firefighters are still fighting some 60 blazes. Last Sunday alone more than 1,300 firefighters from all New South Wales fire agencies were out in the field battling the blazes. We felt the terrible force of these fires only two weeks ago in the Sutherland shire suburb of Engadine. The area was declared a natural disaster area. Less than a fortnight later fires on the North Coast claimed two homes in Grafton. A family of five lost their entire home and contents.

The Deputy Captain of the South Hampton Rural Fire Brigade, John Meyers—a member of the brigade for 15 years—lost his own home while fighting to protect others. Just 10 days later the full ferocity of the Australian bushfire tragically claimed the life of a visitor to Cessnock, Ronald William Gillett of Chatswood. I am sure that all honourable members join me in extending our sincerest condolences to his family. That fire also claimed 13 homes. Many homes were not lost in the main fire front but as a result of ember attack—that is, spot fires from flying embers. Conditions were so severe that the flames where Mr Gillett died were up to 40 metres high. At the peak of the two Cessnock fires 50 Rural Fire Service tankers and about 270 firefighters and 30 New South Wales Fire Brigades engines and 120 Fire Brigades firefighters were on the front line.

*[Interruption]*

What on earth is comical about a bushfire at Cessnock? The Deputy Leader of the Opposition has finally gone totally gaga. He is absolutely barking mad. The calibre of our response is found not just in the firefighting but in the relief effort.

**Mr SPEAKER:** Order! There is far too much audible conversation from both sides of the Chamber. I suggest the frontbench members on my right remain silent.

**Mr CARR:** Look at the Engadine case. The Minister for Community Services and the Attorney General visited the area and announced that all 10 families who lost homes would each receive a \$10,000 Helping Hand payment from the reserves of the Christmas-New Year Bushfire Relief Appeal. Those 10 families received their payments by Saturday 12 October. A recovery committee was quickly formed, bringing together the Department of Community Services [DOCS] and various charities. DOCS officers visited all the affected streets, setting up a disaster recovery centre in Sutherland.

After the fires have been put out and the families helped, there are still the arsonists to be caught. These criminal idiots will be tracked down and punished with the full force of the law. I remind the House that New South Wales Police Task Force Tronto has been reactivated for this fire season. Evidence regarding the causes of these fires is being gathered by police and fire unit investigators and will be forwarded to the Coroner.

The State Coroner has appointed a dedicated coroner, Magistrate Michael Price, who can devote all of his time to these inquiries and expedite proceedings. I turn now to our planning for this fire season. The most conspicuous preparation is the return of the Erickson air cranes last Thursday. They join the more than 100 other aircraft used by the Rural Fire Service. The craft were cleared for operations last Saturday and they were set to work straightaway fighting fires around Cessnock and the Blue Mountains. Each of the choppers has a water dropping capacity of 7,500 litres and they can refill in less than a minute.



The Federal Government is contributing approximately \$3 million, or about half of the total leasing costs. I might say that we have increased the Rural Fire Service budget from \$51 million in 1995 to \$121 million in 2002-03, an increase of 138 per cent. In this financial year's budget we provided a 7 per cent increase, an extra \$8 million. To cap it all off, Rural Fire Service volunteers undertake 500,000 hours of training each year. The result is a well-funded, well-equipped and well-trained fire service.

That much is not controversial. What is controversial from time to time is the issue of hazard reduction. The most up-to-date data shows that firefighters have conducted hundreds of fuel reduction operations around the State in the nine months since last summer's bushfires. The National Parks and Wildlife Service alone has conducted 150 operations covering about 40,000 hectares. Since January 2002, 181 hazard reduction operations have been carried out on the Sydney Basin, consuming 200,000 staff hours. That is almost 7,000 hectares of Sydney bushland burned in strategic locations, on council lands, private properties and national parks. One would think that the Opposition would want to thank the service for that sort of effort, but it has done nothing like it. To the surprise of the House the Opposition immediately started a campaign of denigration against this great public service. Take from a myriad of examples the comments of the Opposition emergency services spokesperson, the member for Oxley.

**Mr Aquilina:** Who?

**Mr CARR:** I do not know who it is. I could not pick him in a police line-up. I would not know who he was. He was interviewed on ABC mid North Coast Port Macquarie on 28 August at 8.48 a.m. to talk about what a Coalition government would do to Rural Fire Service Commissioner, Phil Koperberg. The interviewer, Graham Robinson, asked this person, "Would the Coalition sack Mr Koperberg?" and then came one of the crisp replies that have become bywords for the Opposition frontbench, one of those crisp, decisive, you-know-where-we-stand comments.

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

**Mr CARR:** How refreshing to hear the dulcet tones of the honourable member for Epping! He has been silent for a month; we have not heard from him. In the public media or in Parliament one has not heard from the shadow Minister for Police for a very long time. We wondered what they did and what their polling showed. It seems that he has been locked away like one of those mad Victorian relatives, confined to the east wing, stuck there in the attic and he is allowed to come out after hours to haunt the corridors and frighten the guests feeling their way to the loo. He is like the mad Victorian relative locked away in the east wing. The truth is that the Newspoll showed that when the electorate was asked who it would trust on law and order, 48 per cent said the Carr Labor Government and 18 per cent said the State Coalition—this is on law and order, law enforcement and police management. The honourable member for Epping has been locked away and has been roaming the east wing. Enough of these distractions!

**Mr SPEAKER:** Order! The Chair has always tolerated a degree of interjection by the Leader of the Opposition. However, there are occasions on which he becomes a little excited. This seems to be one of those occasions. I ask the Leader of the Opposition to restrain himself. I call the Deputy Leader of the Opposition to order.

**Mr Brogden:** He is being provocative.

**Mr CARR:** Fancy saying that my gentle humour is provocative. On mid North Coast radio about bushfires the member for Oxley was asked the question, "Would the Coalition sack Mr Koperberg?" Here comes that high velocity, decisive reply. He said, "Well, I would ... if he made his own decision that would be easy." What does that mean? As the record shows, I am a great supporter of multiculturalism, but English is still the common national language. He said:

Well, I would ... if he made his own decision that would be easy. I would have discussions with him and my colleagues and it may be a case that if he has, you know—

No, I do not know—

... made these ties so firm to the Labor Party that it would not be tenable.

What would not be tenable? I do not know. That goes off to the CIA for decoding; it goes off to Bletchley and one gets out the Enigma machine—tap, tap, tap. If Hitler had been relaying the plan for the invasion of France in that sort of language they would never have worked out the codes.

**Mr Hazzard:** Point of order: Since the Premier has indicated that he would like to deal with distractions, perhaps he can tell us how he campaigned in Cunningham and why it was that Cunningham went down the gurgler after he campaigned down there. That is how good the Premier is. As soon as he started talking law and order in Cunningham they voted for the Greens.

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

**Mr CARR:** I am trying to generate a bit of good humour that unites the House and we get this terribly divisive, bitter stuff coming from the Opposition. That comment would be described as bold, unambiguous equivocation from the member for Oxley. The interviewer, no doubt perplexed, said, "So, if he didn't jump he'd be pushed?" The shadow Minister said, "There's a possibility that we would need to consider at the time." All that machine-like precision that clarifies these great issues of personnel.

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

**Mr CARR:** It must have been a quiet news day because the next day Canberra's WIN TV got him. He sort of clarified it by saying:

If there is a change of government, we may need to look at a new Commissioner.

Unbelievable! I am indignant, too. Enough of these distractions! This is their approach to Phil Koperberg, the man charged by the people of New South Wales, appointed by the Fahey Government, running the service under the Fahey Government, and the person—

**Mr SPEAKER:** Order! I call the honourable member for Epping to order for the second time. I call the Deputy Leader of the Opposition to order. The Leader of the Opposition will cease interjecting.

**Mr CARR:** He is the person responsible for the modernisation of the State's bushfire service, yet some muddle-headed shadow Minister is saying, "We may sack him. I don't know. It will depend on the weather. When we take over. We haven't made up our mind. We may, on the one hand, this; on the other hand, that. It will depend on whether he goes first. Then again we might push him."

**Mr SPEAKER:** Order! The Leader of the Opposition will remain silent. I call the honourable member for Lismore to order. I call the honourable member for Wakehurst to order for the second time.

**Mr CARR:** They are talking about the man responsible for modernising the State's bushfire service for overseeing an organisation that is the envy of the world.

**Mr SPEAKER:** Order! I remind the honourable member for Wakehurst that he is on three calls to order. The Leader of the Opposition will cease interjecting.

**Mr CARR:** They seem to want to sack him. Not only will we defend Phil Koperberg and support this great public servant and great Australian, but I can announce that he has this week been appointed for another five-year term.

**Mr SPEAKER:** Order! Bearing in mind that the Chair has appealed to the Leader of the Opposition to exercise some decorum the tolerance of the Chair for his continual interjections is at an end. On occasions the Chair extends a degree of leniency to the Leader of the Opposition. However, today he has exceeded the bounds of good behaviour in the Chamber.

**Mr CARR:** It is funny that one month after towing around that great sign that said, "Labor's 13 excuses to get out of gaol", a poll of the electorate says that 48 per cent of people endorse our package on sentencing and police, compared with 19 per cent for them.

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

**Mr CARR:** It is hardly an exercise in great communication, I would have thought. It is hardly a win in communication. In fact, get the agency to give back the money.

**Mr SPEAKER:** Order! I call the honourable member for East Hills to order.

**Mr CARR:** We would not want to go into a fire season with anyone else in command, and we will not. This is a fire season of immense peril. We are vigilant. We are prepared. But let no-one underestimate the threat opening up before us: it will be a long, tough summer.

### MOUNT MURCHISON STATION

**Mr SLACK-SMITH:** My question is to the Minister for the Environment. Will he explain why he supported a move by the National Parks and Wildlife Service to buy Mount Murchison Station near Wilcannia and declare it a national park when he knew it was within a legitimate petroleum exploration licence and in an area regarded as highly prospective for petroleum? Why was the national park intention kept from the licence holder?

**Mr DEBUS:** The honourable member should read the recent amendments to the National Parks and Wildlife Act that created something called State conservation areas, which are specially set up so that, although the land surface may be appropriately conserved for environmental protection purposes, we can continue to explore for minerals underneath.

**Mr Slack-Smith:** Impossible rules!

**Mr DEBUS:** The honourable member should be aware that I had in mind Mount Murchison when we passed those amendments. It will be entirely possible for us to have the best of both worlds. It will be possible for petroleum exploration to continue while we have a State conservation area, part of a larger national parks reservation.

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

### BEACHES WATER QUALITY

**Mr E. T. PAGE:** My question without notice is to the Minister for the Environment. What is the latest information on the state of our beaches?

**Mr DEBUS:** Today I am releasing the annual Beachwatch and Harbourwatch "State of the Beaches " report, which contains excellent news for people in Sydney, the Hunter and the Illawarra. It will prove beyond doubt that the Government's strategies to clean our waterways are working very well indeed. This summer beach goers will be able to look forward to crystal clear water, because this latest report card on the state of our ocean and harbour beaches shows the best overall water quality results since testing began. These improvements have come despite above average rainfall recorded in Sydney last summer. It is hard to remember, because there has been so little rain since April and we have had terrible circumstances since April, that we had above average rainfall last summer, which is significant for these figures.

Most of the 129 beaches in the Hunter, Illawarra and Sydney region passed national water quality guidelines nearly all of the time. In fact, the number of beaches complying 100 per cent of the time with the national water quality guidelines for swimming has more than doubled during the past two years. The most dramatic improvements occurred at the Cronulla beaches as a result of the Government's \$90 million upgrade of the Cronulla sewage treatment plant in April 2001. The Cronulla beaches now rival the beaches in the electorate of the honourable member for Wakehurst as the cleanest in Sydney. It was only a few years ago that they were among the dirtiest. The most recent results confirm that these beaches are in the best shape ever and that the Government's \$3 billion water package is paying off.

The northside sewage tunnel—much maligned by many opposite—has now, I am informed by the Minister responsible for Sydney Water, prevented five billion litres of sewage from spilling into the harbour. Our stormwater program, costing \$82 million, has stopped more than 7,000 tonnes of litter from polluting our waterways. Obviously, these are significant cuts. They are, in fact, massive cuts in water pollution. We are now seeing the benefits: whales, dolphins and seals in the harbour, a great new growth of oysters and mussels around the harbour edge, and a great array of fish beneath the surface of the harbour. Obviously, the mix of massive infrastructure investment, community education and tougher controls on polluters is now showing extraordinary results.

### ALBURY AND WODONGA AMALGAMATION

**Mr GLACHAN:** My question without notice is to the Minister for Local Government. Why has he allowed Albury ratepayers to pick up the bill of \$40,000 they now face as the cost of conducting a poll on the Premier's ill-conceived and unwanted one city proposal?

**Mr SPEAKER:** Order! The honourable member for Lane Cove should not become so excited.

**Mr WOODS:** The two State governments are committed to working with Albury-Wodonga to remove cross-border anomalies. The next phase is to bring forward our plan. The community of Albury-Wodonga already lives and works together. A working task force has been set up to examine the report prepared by Ian Sinclair with a view to implementing his recommendations. The decision to conduct a poll in the area was made by the local councils, not by the State Government.

### IRRIGATORS WATER SUPPLY

**Mr BLACK:** My question without notice is to the Minister for Land and Water Conservation. How is the Government securing vital water for irrigators in country areas during the drought?

**Mr AQUILINA:** I thank the honourable member for Murray-Darling for his question and for his tireless efforts in these matters. I note that the former member for Murray is in the gallery. I am sure he also would be very interested in this answer. One of the groups suffering most in this crippling drought is the irrigators of the Murray-Darling. Unfortunately, Murray irrigators have all but abandoned plans to plant a summer rice crop this year. Their water allocations are down to 22 per cent, which is made up of 10 per cent for this year with a carry-over of 12 per cent. To get more water Murray irrigators have to enter into a commercial deal with Snowy Hydro. Environmental concerns, commercial considerations, impacts on other farmers and irrigators will have to be taken into account. There was an offer of 50,000 megalitres of water from Snowy Hydro, but at the very high cost of \$158 per megalitre. The offer expired with very few irrigators able to afford the cost.

The Department of Land and Water Conservation is now helping Murray irrigators to negotiate a new deal to buy 160,000 megalitres of water from the Snowy, to be delivered in April. This water will be delivered at the affordable price of about \$25 per megalitre. Irrigators will be able to bring forward next year's Snowy water allocation to April to pre-water and prepare land for winter crops—namely, wheat, corn and other cereals. This will allow farmers and irrigators to plan for next year and still be able to pay bank mortgages. The Department of Land and Water Conservation is negotiating with Snowy Hydro to supply the irrigators with as much water as possible from 1 April. Many people have been working hard to secure this deal, particularly Murray irrigators chairman, Bill Hetherington, and general manager, George Warne. It is an example of government, local communities, water authorities, irrigators and farmers working together to achieve a good result.

While this deal should provide some security for the Murray irrigators, dairy farmers in the valley face immediate hardship. From the Murray Valley 167 dairy farmers supply 20 per cent of the milk for New South Wales. Currently some of them are paying the market price of more than \$180 per megalitre for water to keep their herds alive. If these farmers are forced to sell their cows their future will be in jeopardy. The New South Wales drought co-ordinator, Geoff File, is very much aware of the plight of these farmers. I have sought his urgent assistance to get much-needed help to these farmers to see them through this critical time. In another partnership deal, Murrumbidgee irrigators and the department have negotiated a deal with Snowy Hydro, securing 212,000 megalitres of water—almost half the capacity of Sydney Harbour—to be advanced from this and next years' Snowy allocation. This deal, which will ensure a summer rice crop of about 430,000 tonnes, was secured through the efforts of people such as Dick Thompson, chairman of the Murrumbidgee irrigators, and the Ricegrowers Co-op.

These are just three of the areas where the Government is working actively with water authorities, farmers and irrigators to deal with the crippling drought. We are constantly monitoring dam levels and exploring all avenues to secure further water allocations. Water is being transferred from Split Rock Dam in the north to augment Keepit Dam to ensure supplies are secure in the Namoi Valley. Water is being transferred from Windamere Dam to Burrendong Dam to secure supplies in the Macquarie Valley. Elsewhere the Department of Land and Water Conservation has guaranteed that town water supplies from the major storage dams in New South Wales will be maintained. While heavy restrictions are in place, and may have to be tightened further, we will give a 100 per cent guarantee of those town supplies.

The Department of Land and Water Conservation is assisting 16 local water authorities in developing and implementing drought management plans. The department is working with councils and water authorities in implementing sustainable water restrictions. We have fast-tracked works to get additional water into Copi Hollow in the Menindee Lakes, part of the electorate of the honourable member for Murray-Darling. This will secure Broken Hill's water supply through to 2004. I have just approved funding of \$212,500 for emergency works to connect Mullumbimby in the north to the Rous water system. Mullumbimby's water supply, which was in danger of drying up, will now be secure.

The Government is also fast-tracking a pipeline project connecting Nymboida River to Karangi Dam near Coffs Harbour. The Government is subsidising water carting to four country towns where the water supply has failed—Tibooburra, Milparinka, Coolabah and Tyalgum—at a cost of \$5,000 per town per week. A temporary connection between Coolabah and Girrilambone is expected to bring water to the town next week. These are just some of the actions that the Government has taken over and above the Premier's drought relief measures. All departments involved are working with farmers, rural communities and councils in this battle.

**Questions without notice concluded.**

## **BUSINESS OF THE HOUSE**

### **Urgent Motions: Suspension of Standing and Sessional Orders**

**Mr WHELAN** (Strathfield—Parliamentary Secretary) [3.56 p.m.]: I move:

That standing and sessional orders be suspended to allow the consideration of both the notices of motions for urgent consideration given today, in the order in which they were given.

**The House divided.**

#### **Ayes, 52**

Ms Allan	Mr Hickey	Mr Orkopoulos
Mr Amery	Mr Hunter	Mr E. T. Page
Ms Andrews	Mr Iemma	Mrs Perry
Mr Aquilina	Mrs Lo Po'	Mr Price
Mr Ashton	Mr Lynch	Dr Refshauge
Mr Barr	Mr Markham	Ms Saliba
Mr Bartlett	Mr Martin	Mr Scully
Ms Beamer	Mr McBride	Mr W. D. Smith
Mr Black	Mr McGrane	Mr Torbay
Mr Brown	Mr McManus	Mr Tripodi
Miss Burton	Ms Meagher	Mr Watkins
Mr Campbell	Ms Megarrity	Mr Whelan
Mr Collier	Mr Mills	Mr Woods
Mr Crittenden	Ms Moore	Mr Yeadon
Mr Debus	Mr Moss	
Mr Face	Mr Newell	<i>Tellers,</i>
Mr Greene	Ms Nori	Mr Anderson
Mrs Grusovin	Mr Oakeshott	Mr Thompson

#### **Noes, 31**

Mr Armstrong	Mrs Hopwood	Mr Slack-Smith
Mr Brogden	Mr Humpherson	Mr Souris
Mrs Chikarovski	Dr Kernohan	Mr Stoner
Mr Collins	Mr Kerr	Mr Tink
Mr Cull	Mr Merton	Mr J. H. Turner
Mr Debnam	Mr O'Farrell	Mr R. W. Turner
Mr George	Mr D. L. Page	Mr Webb
Mr Glachan	Mr Piccoli	
Mr Hartcher	Mr Richardson	<i>Tellers,</i>
Mr Hazzard	Ms Seaton	Mr Fraser
Ms Hodgkinson	Mrs Skinner	Mr R. H. L. Smith

#### **Pairs**

Mr Stewart	Mr Maguire
Mr West	Mr Rozzoli

**Question resolved in the affirmative.**

**Motion agreed to.**

## TELSTRA PRIVATISATION

### Urgent Motion

**Mr BLACK** (Murray-Darling) [4.08 p.m.]: I move:

That this House express its opposition to the sale of Telstra.

The Opposition is an absolute disgrace. MIA George—that is, Missing in Action George—does not want to discuss the drought in this Chamber. He is known as MIA George all over western New South Wales.

**Mr Souris:** Point of order: The honourable member for Murray-Darling is referring to the drought; his urgent motion relates to the sale of Telstra. He is incorrect: I have foreshadowed a motion on the drought and I have every intention of speaking to it. He has made a ridiculous claim.

**Mr BLACK:** Once again, MIA George is reaching new depths. This matter is urgent because the leader of the Federal National Party is happily ratting away, getting set to sell out the people of the bush, to sell out the people of regional Australia, to sell out the people of rural New South Wales. Last August a committee was established to ascertain the condition of Telstra services in the bush and to determine whether those services were adequate. A committee of three was set up under the chairmanship of Mr Dick Estens. Mr Dick Estens belongs to the same branch of the National Party, in northern New South Wales, as Been and Gone John Anderson. In addition, Mr Ray Braithwaite—one member of the three-man committee—was the National Party member for Dawson from 1975 to 1996. In every sense that is a stunt designed to make sure that the sale of Telstra eventuates. The committee was established back in August and the report is due on 8 November—a short time indeed. I note that the committee will hold no public hearings and will not travel to regional areas to collect evidence first-hand from people who live in the bush.

To go back in time, in September 2000 the telecommunications service inquiry concluded that telecommunications services for people living in regional and rural Australia were not adequate. The Federal Government made an election promise in 2001 to take no further steps towards the full sale of Telstra until it was fully satisfied that services in rural, regional and remote Australia were adequate. Central to the Federal Government's telecommunications policy is that regional and rural Australia should have equitable access to telecommunications services and the Government should make sure of this equity of access, service and cost. That is currently far from being the case. Let us analyse the attitude to Telstra, as recorded for posterity, of been-and-gone John Anderson. In the *Sydney Morning Herald* of Thursday 1 November last year he was quoted as saying:

I think you want to be honest... it can never be identical [as the cities]

It's the same as health. I choose to live where I choose to live... in the full knowledge that if something goes wrong we're a considerable distance from a doctor and an ambulance. It can never be exactly the same.

The Federal Leader of the National Party is arguing that we should expect conditions for consumers in rural Australia to be less than for those in the cities. Today I visited a specialist on the North Shore. I had to make an STD telephone call from Broken Hill to arrange the visit. Such calls cost far more than calls made by people in the city to arrange for specialist services. Dr Peter Ellis, an excellent doctor, provides a service in Sydney that cannot be duplicated in the bush. We are expected to pay additional costs. This weekend the Local Government Association of New South Wales conference will start in Broken Hill. Telecommunications is on the agenda, and rightly so. People want to know why it costs so much more to make a phone call in the bush. They want to know why in 98 per cent of my electorate of Murray-Darling the only mobile phone service available entails satellite costs.

People want to know why way out in the west in electorates such as Murray-Darling there are no less than three area codes: 08 in the west, 02 in the north and east, and 03 all along the Murray. People in the bush are expected to pay for STD time and again, whereas most calls by city people can be made at local rates. The Prime Minister has leaned more than successfully on the Treasurer, Mr Costello, to pull John Anderson into line. On 20 September last the Prime Minister was reported as saying that continued Government ownership of half of Telstra is absurd. A newspaper report stated:

John Howard also said it was unrealistic for the Government to "micro manage" the telecommunications giant by stopping at increasing the rentals to consumers.

Earlier I referred to the Leader of the National Party. He did not want to discuss Telstra, and I think I know why: John Anderson is doing the ratting and he does not necessarily want to. How does he get out of it? I go back to 4 April 2000. He said:

I can't see how the inquiry could declare that Telstra has delivered.

I know they haven't and I have plenty of war stories.

As far as I am concerned, it is the whole National Party who are opposed to future privatisation.

It should be off the agenda until they deliver services.

On that day he moved an amendment to a Government motion to express the House's support for the right of country people to have significantly upgraded telecommunications, and that further privatisation of Telstra should be deferred until the foregoing was achieved. The Queensland branch of the National Party is supporting New South Wales Country Labor in this matter. The National Farmers Federation, the NFF, referring to the committee of inquiry, was reported in the *Land* of 22 August 2002 as saying:

It is not going to tell us anything we don't already know.

We firmly believe that there are still serious deficiencies in some key areas.

The article went on to state:

But the NFF has left the inquiry in no doubt about its position. It said mobile phone coverage was still inadequate—

We do not have mobile phone coverage in the bush on national highways, which is a disgrace—

that installation and fault repair times still needed improvement and were being measured using a flawed system...

The article went on to give further reasons for the National Farmers Federation not supporting the privatisation of Telstra. What do other people have to say? The Federal Opposition is saying that consumers should be alarmed about the decline in staffing levels and capital spending in Telstra, both of which are affecting the bush. What is the relevant union saying? The Communications Union is saying that the drop in staff and investment is putting the network at risk. What are the three great Federal Independents saying? The member for Calare, Peter Andren, the member for Kennedy, Bob Katter, and the member for New England, Tony Windsor are saying that the inquiry is not genuine, it is a rubber stamp. There will be no public hearings. It is all set up for Telstra to be sold.

Telstra is being set up by John Anderson to be flogged off. The Western Australian Government is saying that it will have its own inquiry because it has no confidence in the inquiry set up by John Anderson. I conclude by saying that this inquiry will be nothing less than a rubber stamp. In New South Wales we need to take every step to make sure that telecommunications are improved in the bush before any further sale of Telstra occurs. [*Time expired.*]

**Mr SOURIS** (Upper Hunter—Leader of the National Party) [4.18 p.m.]: The considered views of the New South Wales National Party were made in writing to the Estens inquiry. The closing date for submissions to the inquiry was a couple of weeks ago. The essence of our remarks in a one-sentence statement is that we, the Coalition, are opposed to the further sale of Telstra until such time as telecommunications in country New South Wales are equivalent to telecommunications in the rest of Australia and there is an undeniable guarantee that any future enhancements to technology will be shared equally by those in country New South Wales.

**Mr MARTIN** (Bathurst) [4.19 p.m.]: The last 15 minutes have been amazing. If there was any doubt about the irrelevance of the National Party to country New South Wales we have just seen it with the debacle and confusion from members on the other side. They obviously do not want to discuss this matter because they are embarrassed. We can see day by day that the National Party in Canberra is caving in to the Liberals. Everyone knows that the Estens inquiry is a sham. I would say that no-one was more surprised than Mr Estens when he was given the job. There is no independence about the process.

Two of the three members of the inquiry panel are card-carrying National Party members. One is a mate of John Anderson and the other was a Federal member from 1975 to 1996. That means that the inquiry will be completed in only three months, without any public hearings involving those at the coalface, the people who are concerned about this. However, the inquiry is taking written submissions. We have just heard a mumbled sentence from the Leader of the National Party that was similar to the dialogue of the honourable member for Oxley: it was a tautological attempt to make ends meet. No-one could understand what he was saying.

An independent accurate assessment of telecommunications services in regional New South Wales cannot be made without proper consultation with affected communities. The Estens inquiry is simply designed to get a favourable result for the Federal Coalition Government so that it can sell the rest of Telstra at the expense of people living in regional and rural Australia. John Howard thinks that the bush has never had it so good so far as regional telecommunications are concerned. If people in the bush were able to dial up and access the Internet site *news.com.au*, they would be able to read what the Prime Minister has said. Dick Estens, the so-called impartial chairman of this inquiry, a mate of those opposite, is on record is saying:

... the Government's gone a long way in the last year or so in getting greater coverage on main highways ...

I've had some dealings with Telstra in the last couple of months and they've always been good.

That is top research by the head of the inquiry! He cannot get himself off the main highways but it is the people in the bush, those off the main highways, who are suffering. To put two and two together, the Government has a National Party-endorsed mandate to sell off the rest of Telstra. One only has to listen to Warren Truss and other members of the National Party to understand that: they are lining up with their little shopping trolleys full of infrastructure projects. The inquiry is a sham. On radio station 2UE, the Leader of the National Party, who was probably sitting in his mansion in Darling Point, said:

Country people need to feel that the National Party is their party—that it stands up for them and does best for them.

If people could have seen the disgraceful exhibition by the Leader of the National Party this afternoon in this debate they would soon realise the folly of that statement. The National Party has lost its way; perhaps it should be sold off rather than the rest of Telstra. I do not think that there would be too many bidders for the National Party. New South Wales Country Labor and 492 individuals and groups have put forward submissions to the supposedly independent Estens inquiry complaining about the standard of regional telecommunications services.

In my region the Bathurst City Council felt compelled to make a submission to the Estens inquiry. It commented about the inability to receive continuous mobile phone reception along the Great Western Highway between Lithgow and Orange. That area caters for a permanent population of about 180,000 people. If they cannot get a decent mobile phone service, what hope do people further out have? Those on the other side of the House know that John Howard holds the whip hand on this issue. John Anderson has caved in and the New South Wales National Party has no credibility and John Anderson certainly has no authority, as demonstrated during the farce over the Namoi water users. Members on this side the House want to send a strong message to Canberra that the people in country New South Wales do not want a further sale of Telstra. If that happens, the consequences will be on the heads of those in the New South Wales Coalition for not having the guts to stand up for people in country New South Wales.

**Mr TORBAY** (Northern Tablelands) [4.23 p.m.]: I am pleased to have the opportunity to speak in the debate on this urgent motion. I want to make it clear what happened this afternoon. Notice was given of two urgent motions. The first was given by a member of the Government in relation to Telstra. We are now debating that motion, which called for the House to express its opposition to the sale of Telstra. I am happy to do so. The second urgent motion, of which the Leader of the National Party gave notice, was in these terms:

That this House:

- (1) notes with concern the severe and widespread impacts of the current drought affecting 98 per cent of New South Wales.
- (2) calls on the New South Wales Government to do more to assist farmers access fodder and water to keep valuable livestock alive and to assist businesses in rural and regional New South Wales to overcome income shortages caused by the drought.

That is also a worthwhile motion and I do not understand why the Coalition voted against debating it. The Coalition voted against debating its own motion. It is no wonder that today's editorial in Dubbo's *Daily Liberal* states:

Nats under threat from their own

At first glance it seems incongruous that a State National Party MP may be an election victim—

The editorial refers to the honourable member for Barwon, who voted to gag debate on the National Party's motion relating to the drought that is affecting people in country New South Wales. The National Party gave notice of the motion and then voted against debating it. Many more editorials will be written about the party that cannot wait to support Sydney-based interests. I cannot believe that the National Party voted against debating



the motion; it is an absolute disgrace. That brings me to the issue of Telstra. I cannot believe the equivocal position of the Coalition in respect of Telstra. It is saying that Telstra should not be sold until things are sorted out, perhaps further down the track. That is the current policy commitment of the Coalition on the matter.

I will tell the House what dedicated local members are doing about the matter. The Federal member for New England, Tony Windsor, surveyed all of his constituents. He obtained an interesting response: more than 5,000 replies. That is a healthy response, and 98 per cent of those who responded said that they did not want the rest of Telstra to be sold. For the information of the National Party and the Federal Coalition, the only vote to beat that vote of 98 per cent was the primary vote for Saddam Hussein. I do not think any other opinion has been so categorically stated by country people: they do not want the remainder of Telstra to be sold. If the National Party is fair dinkum about representing the views of regional communities the first matter it would address would be the drought, but this afternoon it voted against debating that matter. The Leader of the National Party voted to gag himself.

The second important issue that the National Party should address is telecommunications. The privatisation and centralisation of telecommunications services has adversely affected regional communities in many ways under successive governments. Regional communities have strong opinions about that. The independent candidate for the electorate of Tamworth, Peter Draper, is receiving strong support. The independent candidate for the electorate of Barwon, Jack Warnock, is also strongly supported. Both of those candidates are running because they want the local members to return to representing the views of country people in this place rather than rushing to support a city-based metropolitan view, or an instruction from somewhere else that is completely against the interests of their regional communities.

I am delighted to have had discussions with the honourable member for Port Macquarie and the honourable member for Dubbo. They have strong concerns about these matters as they relate to their electorates. I will stand up and be counted for my community. I oppose the sale of Telstra, because that is what my community wants me to do. I am keen to debate matters concerning the drought, because that is what country communities expect from their local members. They do not expect this cowardly proposition of giving notices of motions relating to matters that are important to country communities and then voting against debating them. In the next State Parliament there will be more independent members.

**Mr NEWELL** (Tweed) [4.28 p.m.]: One thing that is obvious in this debate is that a number of members of this House are prepared to put some passion into supporting what they know their constituents expect. That is evident from the contributions by the Country Labor members and the honourable member for Northern Tablelands. Those members stated the expectations of their constituents from the Federal Government: they do not want the remainder of Telstra to be sold. The precursor to the Estens inquiry, the Besley report, was released in September 2000. About 30 per cent of submissions to that inquiry were received from the 6 per cent of Australians who live in rural and remote communities.

That illustrates the importance of the further sale of Telstra to country people. Overwhelmingly, those submissions said that people in country areas want telecommunications services compatible with those received by people in larger metropolitan and urban areas. The Besley report identified three main issues: first, the timely installation, repair and reliability of basic telephone services; second, the provision of mobile phone coverage at affordable prices; and, third, reliable access to the Internet and data speeds generally.

When I travel around my electorate—I do not class it as remote but it contains rural areas—I speak to residents from places such as Bogangar on the coast who complain that half the township does not have reliable Internet access. People from communities such as Uki or Tyalgum have almost given up on the idea of being hooked to the Internet because problems with data speed and so on make it almost impossible to utilise that service. They feel as though they are living in the Third World, receiving nothing from the Federal Government or Telstra. I compliment the Telstra employees, who are doing a fine job with what they have. But they have been hamstrung and hung out to dry by the Federal Government, which seems hell-bent on selling the remainder of Telstra.

When the Federal Government moved to sell the first part of Telstra it established a telecommunications infrastructure fund containing several million dollars, which it presumably hoped would lay a few golden eggs in the bush and satisfy country people. From memory, the bulk of that money went to Tasmania because the Federal Government had to buy the vote of Senator Brian Harradine. The great retired Doug Anthony was appointed chairman of the fund. What did the North Coast receive from that fund? Some \$2 million was spent on a dubious marketing enterprise that no longer exists. That money disappeared down the

gurgler; I do not know where it went and there is no infrastructure to show for it. The Federal Government obviously thought that it should show a little concern for the country, but its efforts amounted to nought and were certainly a waste of money.

There is no doubt that the Estens inquiry was established to reach the marvellous conclusion that services in the bush had been brought up to scratch. That is a little surprising as the report listed Telstra's shortcomings only two years ago and it stretches the imagination to believe—and calls into question the credibility of those who claim—that Telstra has rectified those problems in such a short period. Lgov, the New South Wales local government and shires associations, also made a submission to the inquiry. According to a story that appeared in the *Sydney Morning Herald* on Tuesday this week, the Lgov submission stated that the sale of Telstra:

... would inevitably result in a decline in services to these areas and increased costs as Telstra focuses on more profitable markets.

In the absence of incentives or binding obligations, commercial reality would dictate that Telstra withdraw from unprofitable rural and regional markets.

Lgov knows what will happen if Telstra is sold; it knows that current Telstra services are not up to standard. Telstra must continue to provide services to rural and remote areas. Mobile phone coverage and computer and Internet links are not working satisfactorily at present and more money must be spent to resolve this problem.

**Mr BLACK** (Murray-Darling) [4.33 p.m.], in reply: I shall respond to several points made in this debate. I thank the honourable member for Tweed for acknowledging the Telstra workers. A tremendous Telstra employee from out west by the name of Jack Ruby frequently drops in to my office in Broken Hill to sort out existing communication problems with the School of the Air and to discuss a raft of issues, such as the location of towers and so on. I also thank the honourable member for Bathurst and the honourable member for Northern Tablelands for their general remarks. However, I am absolutely staggered by the contribution—or lack thereof—of the Leader of the National Party. He spoke for only one minute in this debate and said simply that he had put in a submission to a farce of an inquiry that will sell out the bush. What happened to the great old Country Party? It changed its name to the National Party but I suggest that it should change it again to the Notional Party because it has nothing for the bush.

I must address the issue of charges and eligibility, which the honourable member for Bathurst and the honourable member for Northern Tablelands mentioned in particular. On 28 September John Howard said that it was unrealistic for the Government to micro-manage the telecommunications giant by stopping it from increasing line rentals to customers. The Prime Minister is saying that the Federal Government should stop determining the price of Telstra line rentals and so on. Logic then dictates that it will flog off Telstra, ignoring existing cross-subsidies that must continue if telecommunications is to be affordable in the bush. The Federal Labor communications spokesman, Lindsay Tanner, referred to this matter and said:

... the full sale of Telstra will be a financial catastrophe for consumers.

He continued:

What John Howard is now threatening is, not only is he wanting to privatise Telstra and create a huge private monopoly that's delivering essential services, he wants to get rid of the price controls as well ... That is simply outrageous.

That means for ordinary citizens, they will be sluggish in ways even the banks haven't managed because you'll have a big privately owned company that totally dominates an essential service, the telephone and telecommunications, able to charge whatever it likes.

One cannot ignore the proposition that John Anderson established the Estens inquiry simply to manage the sale of the balance of Telstra so that Costello can pay off the national debt. We are not talking about improving or adding to services in the bush; we are talking about retiring national debt. I mentioned earlier some of the great Independents who represent bush electorates. The Federal member for Calare, Mr Peter Andren, is one such member. On 16 October he was quoted as saying that he was concerned that a loss of 20 Telstra jobs in regional New South Wales was a sign of things to come if the company is privatised. He said that the 20 information technology positions, three of which are based in Bathurst, are to be transferred to a mega-centre in Sydney.

Have we not heard all that before? On Friday 27 April the then Federal member for Parkes, Tony Lawler, said that there was no conspiracy regarding the Telstra call centre. John Anderson visited Broken Hill and said that the Federal Government's great support for the bush would continue, but the day after he left

Telstra announced the closure of the Broken Hill call centre. Those jobs were chunked out and moved to Sydney. That is what will happen if the privatisation of Telstra proceeds—there is nothing surer. Jobs will be stripped from the bush—many have been already; I again salute Telstra workers—and parked in the city for the same reason that the banks used in the 1990s when they busily closed 1,100 branches throughout rural and regional Australia. Telstra jobs will be based in Sydney and that will be it. We in New South Wales must stand firm against the full sale of Telstra. The bush does not have adequate telecommunications services now and will not have them for a long time to come. Huge areas have no mobile phone coverage. We must stop the sale of Telstra.

**Motion agreed to.**

## **DROUGHT ASSISTANCE**

### **Urgent Motion**

**Mr SOURIS** (Upper Hunter—Leader of the National Party) [4.39 p.m.]: I move:

That this House:

- (1) notes with concern the severe and widespread impacts of the current drought affecting 98 per cent of New South Wales.
- (2) calls on the Government to do more to assist farmers to access fodder and water to keep valuable breeding stock alive and to assist businesses in rural and regional New South Wales to overcome income shortages caused by the drought.

It is with great concern that I move this motion because 92 per cent of New South Wales is drought-affected and a further 6 per cent is regarded as marginal. Farmers and rural communities are facing a financial and emotional crisis as water runs out, livestock starve, crops fail and business activities in country towns start to dry up. I move the motion because there is a clear obligation on the New South Wales Government to do more to help farmers, businesses and communities to overcome the difficulties they are facing as a result of this extreme drought.

I have pleasure in moving the motion and in leading for the Coalition. Two other Coalition members, the number afforded to the Opposition, will speak to the motion. The Coalition will then take pleasure in voting in favour of the motion. Let it not be said by subsequent speakers for the Government that the National Party in some way voted against the motion. I have moved it, I am speaking to it and I will vote for it. The conditions in rural New South Wales have degenerated to such an extent that they are beyond the control of even the most efficient and well-prepared farmers. This morning Mr Graham McNare from Pilliga expressed on radio 2UE the desperation being felt by many farmers when he said:

But as far as actually feeding the stock, we're just going to run out of puff really and all that money is going to be wasted and the community's going to lose a tremendous asset if we don't do something very quickly.

It is imperative for the future of livestock production in New South Wales that farmers are assisted with their efforts to keep breeding stock alive and that grain growers whose crops have failed are given a helping hand. The Coalition calls on the New South Wales Government to consider and follow the lead of the Victorian Government by providing cash grants to farmers to help them through this terrible time. Only last week I visited the Hay region in the south of the State. I was approached by a number of farmers who told me that the small measure of assistance that is available is inadequate to purchase fodder. There is no assistance for the fodder itself, but in any case it has reached the point now where fodder is too expensive to be procured. Only cash assistance will enable farmers to acquire fodder.

I note that the Victorian Government has allocated \$27.7 million for this purpose, which is equivalent to 1,385 allocations of up to \$20,000 for eligible farmers. Victoria has created a precedent by making available up to \$20,000 to farmers fitting a specific criteria. It is time that the New South Wales Government showed the same compassion and vision by introducing a similar grant for farmers in New South Wales. To reinforce that, earlier today I received a telephone call from Neville and Judy Swain of Carroll, who also contacted my colleague the honourable member for Tamworth. They said that their fodder supplier, who is some distance away, as of yesterday had imposed a 30 per cent increase in the price of fodder. Therefore, it is almost impossible for farmers who are cash-strapped to call upon working capital liquidity to purchase fodder for their livestock.

I am pleased that the Minister for Agriculture is at the table. He should immediately establish a database of available fodder and market prices within the New South Wales Department of Agriculture. NSW

Agriculture's Internet site currently has a list of hay available for sale, but the database should be expanded to include grain and other fodder alternatives. Such a database would allow farmers to benchmark prices for available fodder and to make informed decisions based on the availability of different types of fodder. New South Wales Department of Agriculture staff must be specifically designated to carry out this task. I do not make these statements in an adversarial way, but merely make these suggestions to broaden the availability of assistance generally to our farming community.

The plight of country businesses must also be taken into account by the Sydney Labor Government. The drought has caused severe cash shortages throughout rural New South Wales, leading to a significant downturn for rural businesses. The Australian Bureau of Statistics has estimated that over 40,000 jobs have been lost Australiawide already as a result of the drought. This Government's attempt to assist businesses in country areas falls well short of what is required. More must be done to help contract harvesters, farm machinery dealers, grain traders, general stores and other businesses to remain viable. These businesses provide vital employment and services to country areas and they must not be lost.

Therefore, I believe that similar assistance must be available to help small businesses through the cash shortage caused by the drought. The drought is so severe that several small communities, such as Milparinka and Coolabah, have run out of water. Ratepayers in these communities must not be left to bear the cost of bringing in water to allow them to go about their daily lives. We are talking about an essential utility, something that delineates Australia as a First World country, not a Third World country. The Sydney Labor Party should consider assisting communities without water by establishing a water train to cart water to them, as the Coalition did during the 1994 drought.

The New South Wales Government will no doubt attempt to shift responsibility for drought assistance fully onto the Federal Government. The State Government cannot shift the blame because it has refused to agree to the Federal Government's proposed reforms to the exceptional circumstances program, which would see, amongst other things, cash grants of up to \$60,000 provided to farmers in a more efficient and effective manner. The New South Wales Government has dragged the chain on exceptional circumstances applications. To date it has submitted applications for only 7 per cent of the State. The office of the Minister for Agriculture was quoted on radio today claiming that New South Wales has spent \$20 million on assistance for the drought. That is not even as much as the \$24 million overspent, expended over budget and wasted by Sydney Water on the customer billing system. The Government is being disingenuous in its approach to the drought if it believes that with \$20 million it has done enough to assist farmers affected by a drought that is afflicting 92 per cent of New South Wales. That sum is barely equal to the cost of one of its financial disasters—the cost of waste, mismanagement and budget overrun on one computer project for Sydney Water.

I reiterate that the Coalition has moved the motion, not the Labor Party, and I have pleasure in speaking to it. The honourable member for Lachlan and the honourable member for Barwon will also speak in support of the motion and the entire Coalition will be pleased to vote in favour of the motion. Let us not hear any more nonsense from Government members that in some way the Coalition has voted against its own motion. The Labor Party has moved a Federal-based, politically motivated motion about Telstra that could have been dealt with through other forms of the House without taking precedence in the vital period following question time. That is why the Coalition voted in support of my motion taking precedence. Indeed, I submit that on such a vital issue more than three Opposition speakers should be allowed. The Coalition has moved the motion, not the Labor Party, and we will be pleased to vote in favour of it.

**Mr AMERY** (Mount Druitt—Minister for Agriculture, and Minister for Corrective Services) [4.49 p.m.]: Earlier the Leader of the National party seemed to take a lot of time explaining the vote. I do not intend to comment further, other than to say that it was the intention of the Government to allow both motions for urgent consideration to be debated. The Government was surprised that the Coalition voted against it. What could be wrong with debating two motions in the one afternoon? The Government agrees with the concerns raised by the Leader of the National Party about the impact of the drought. It is not only bad, but getting worse by the day. The Government has responded in the best way it can on a weekly basis, and I commend the Premier for his leadership. Paragraph 2 of the motion calls on the New South Wales Government to do more, and implies a negative picture of the Government's program. The Government accepts the first paragraph of the motion. However, I move:

That the motion be amended by leaving out paragraph (2) with a view to inserting instead the following paragraphs:

- (2) notes the assistance that the New South Wales Government is providing to drought-affected farmers in New South Wales, in particular the assistance to help them access fodder and water to keep valuable livestock alive and to assist businesses in rural and regional New South Wales to overcome income shortages caused by the drought.

- (3) notes that the Government submitted an application for exceptional circumstances assistance for the Bourke and Brewarrina rural lands protection boards on 10 September and calls on the Federal Government to grant this assistance to these areas without delay."

I have no difficulty with the non-political comments of the Leader of the National Party other than the context within which they were made. He implied that something was wrong with our assistance package. The New South Wales drought assistance package, announced over a number of phases, has been worked through stage by stage, step by step, with the New South Wales Farmers Association, the Pastoralists Association of the Western Division and farmer groups. We will continue to do that. Geoff File, our drought co-ordinator, and Richard Sheldrake, my director-general, are working on another proposal with the Premier's Office to determine how we can better respond as the drought changes.

The Leader of the National Party gave the House half-truths when he said that we should follow the lead of the Victorian Government and provide grants of up to \$20,000. But the \$20,000 paid by the Victorian Government as drought assistance is not in addition to the type of assistance provided by the New South Wales Government; rather, it is instead of that assistance, and it is a different concept. Historically, the New South Wales Government, in conjunction with funding from the Federal Government, has assisted farmers in their drought preparation and it will assist them to manage through a drought. Farmers agree with the process.

The Victorian concept is based virtually on a no-questions-asked \$20,000 grant to farmers to spend as they like. Our scheme will ultimately cost much more than the Victorian scheme because New South Wales is much larger than Victoria, we have been providing assistance for longer, and historically droughts last a lot longer in New South Wales than in Victoria. The Victorian system offers \$20,000 and that is the end of it. The New South Wales Government is working with the Farmers Association to ensure that our package is tailored to suit the needs of the farming community, the business community and rural workers. The New South Wales Government assists rural communities across the board—farmers, businesses and workers.

As the Leader of the National Party rightly pointed out, the database contains information about fodder, and more and more information is going onto that database. We are now expanding the information on the NSW Agriculture database in response to people in rural New South Wales seeking access to information about fodder. Any comments that the Leader of the National Party or any other member of the House have made will be taken on board by the State Government. The Leader of the National Party made a cheap shot about exceptional circumstances [EC]. As the former Leader of the National Party and a former Minister for Agriculture would know, national drought policy began to change in the early 1990s under the Coalition Government and continued under the Labor Government.

Drought preparation was emphasised in the national drought policy. Initially, drought policy was 90:10 EC funding. But it became clear that the only assistance farmers would receive under the national drought policy would be under the exceptional circumstances program. If that scheme were applied today only a very small number of farmers would benefit from it. This drought made us realise that it is not good enough to provide assistance to farmers under the EC program alone. Some 92 per cent of the State is drought declared and another 6 per cent is marginal. Our drought assistance packages now cover more than 60 per cent of the State, and new areas are included nearly every month.

The Leader of the National Party accused the Government of trying to sheet this home to the Federal Government, but he missed one point. Exceptional circumstances are not about timing or about us dragging our feet. It is a complicated process to qualify for exceptional circumstances. Not too many areas of the State would comply today, although the Federal Government has accepted *prima facie* that Bourke and Brewarrina qualify for EC. But that is only 6.7 per cent of the State. I have the map to show which areas qualify for EC. The leader of the National Party repeated today that he believes the only contribution the Federal Government should make to drought assistance is to fund and fight about the EC program.

This morning I was told that the Federal Government is providing assistance to three properties in New South Wales, and another half a dozen or so are under consideration. If all the EC applications being prepared are accepted then it will apply to Walgett and Cobar, and to areas west and south-west of Broken Hill, which is less than 40 per cent of New South Wales. I do not believe, and probably the farmers of New South Wales do not believe, that the national Government should be involved in only EC areas. Let us have a debate about EC. Let us do all that. But we are not concentrating on funding EC areas, we are funding the broader drought-affected areas of the State. It would not hurt the Federal Government to provide a few cash assistance programs. Perhaps some of the positive issues raised today by the Leader of the National Party could be funded by the Federal Government, which might also give the State Government some back-up on drought assistance.

It belies reality for the Leader of the National Party to suggest that our assistance package is not good enough. He commended it in the press, National Party members of Parliament around the State commended it, the New South Wales Farmers Association commended it, and numerous other groups have commended it. The package consists of four pages of assistance measures that affect farmers, subsidies, businesses and rural workers. The amount of assistance will alleviate the pain of the drought. No-one out there, unless politically motivated, would say that the State Government is not trying to do everything it can to assist the farmers affected by the drought. We will continue to do that.

**Mr ARMSTRONG** (Lachlan) [4.59 p.m.]: I believe that the drought will occupy our minds for a considerable time. The drought has now passed the usual turn-back period in the spring and we will not get relief until, at the earliest, April, May or June of next year. I would be very pleased if I were wrong. Today I ask the Government to recognise a number of issues. First, the State Government in its budget, passed by the Parliament in the middle of this year, set aside a figure of \$240 million for emergencies such as drought. By its own words, the Government has expended at this stage \$20 million. That leaves \$220 million to go. During the 1994-95 drought the Fahey-Armstrong Government and the Carr Government spent approximately \$230 million. This drought may have a long way to go, and I ask the Minister for Agriculture to acknowledge that the funding is available if needed.

Second, government regulations require a six-month waiting period before a rural lands protection board [RLPB] area is declared a drought area. All honourable members would agree that we are now through the spring and graziers are going into drought without feed to sustain the numbers of livestock that normally graze within those RLPB areas. In many cases, tens of thousands of cattle are wandering aimlessly on the lands, which further exacerbates the situation. I ask the Government to abolish the six-month waiting period. The third issue relates to the town water supply in country towns. As the Leader of the National Party said, many country towns are in difficulty. Earlier today I asked that an audit of the water supply be undertaken. I hope that the Government acknowledges my request.

Further, I draw to the Government's attention the dilemma of rural workers, shearers, piece workers, such as cotton chippers and grape pickers, and horticultural workers and casual labourers. Many of these people are out of work and on the dole. We do not want them to leave the country towns. The country towns need them and specialist operatives, such as mechanics, to maintain the infrastructure. I ask the Government to recognise this problem. I also ask the Government to recognise that many of the problems have occurred earlier than they have in previous droughts because of the lack of irrigation water. In the 1994-95 drought farmers were able to sustain themselves further down the track because more water was available for irrigation. I hark back to the Lachlan Valley. This year 3 per cent of the normal allocation is available for irrigators, plus any carry-over from last year. I ask the Government to reconsider its water policy in the short term in light of the current dilemma. The Lachlan Valley could produce tens of thousands of tonnes of lucerne with more water. I add that the native vegetation policy has made the farming community extremely nervous.

The New South Wales Farmers Association, which the Minister has quoted many times today, is calling for the \$10,000 State grant. Today Mr Mal Peters called upon both the New South Wales Government and the Federal Government to provide the \$10,000 grant, making a total of \$20,000 per farm. Mr Peters makes the point that every dollar spent by farmers is worth \$2.60 to their local community. He also states that agriculture employs 122,000 people in New South Wales and contributes \$7.6 billion to the State's economy and \$33 billion to the Australian economy. The Australian Bureau of Statistics figures show that 40,000 jobs have been lost in rural Australia in recent months.

The Minister places credibility, as I do, on the New South Wales Farmers Association. If the Government wants to hang onto the association's coat-tails, it should adopt its suggestions. If the Minister announces today that he is prepared to go down this path, he will have my personal support as shadow Minister for Agriculture and the support of many farmers who, in most cases through no fault of their own, find themselves cash-strapped as well as fodder-starved. As to drought preparedness, the rural community has gone into this drought probably better equipped than ever before. But the big difference is we have never before suffered a drought affecting such a large percentage of the land mass of New South Wales. There are no reserves of fodder, there is nowhere to drive cattle and there is no prospect of getting feed in the future.

**Mr BLACK** (Murray-Darling) [5.04 p.m.]: Once again I am pleased to speak to this motion on behalf of the Government and to support a truly great Minister for Agriculture. I agree with much of the contribution of the honourable member for Lachlan. I do not extend that to the contribution of the Leader of the National Party. The Government was willing to debate both the proposed motions for urgent consideration on the drought and

on Telstra, but the Leader of the National Party called a division. The issue of exceptional circumstances [EC] has been raised in this debate. Before I address the drought assistance offered by the State Government, I will refer to some of the events that have occurred in western New South Wales. On 10 September applications for EC were lodged by hand in Canberra with the Commonwealth Government. On 19 September a number of statements were made. In one of those statements Warren Truss assured the Commonwealth Parliament that once an EC application was lodged payments would be made immediately to drought-affected farmers and graziers. He said that the payments would continue for six months if the application was unsuccessful or for two years if the application was successful.

Initially, three pastures protection [PP] board areas—Bourke, Brewarrina and Wanaaring—satisfied the rigorous criteria set by the Commonwealth. Later, for one reason or another, Wanaaring did not meet the criteria and two PP board areas, Bourke and Brewarrina, were accepted for EC. I would like to mention the great leader of the PP board in Bourke, the very popular Mayor Wayne O'Mally. Mr O'Mally chairs the PP board at Bourke and is closely associated with the State Government in its drought relief activities. Looking down the track, country businesses will not be able to continue without assistance. I totally agree with the proposition that they must be included for assistance. In fact, country businesses have been hurt before many grazing properties, simply because they do not have any cash flow. Two businesses in Bourke combined have laid off 32 staff members. Not one acre of cotton will be planted in the area, which means there will not be 670 jobs in Bourke this coming season. There is no question it is a disaster for the township.

As the Minister for Agriculture said, as of today's date only three claims for welfare payment have been granted, despite that statement made by Warren Truss on 19 September and the assurances that Warren Truss and John Anderson gave to the people of western New South Wales when they toured there a few weeks ago. One of their meetings was held at a station in the Ivanhoe district. One of the main segments of the Farmhand concert, which will be held this Saturday night, will be broadcast from Ivanhoe. This Government was able to achieve that for western New South Wales. I strongly urge all members to support the Farmhand Foundation. The \$15 million New South Wales package is indicative of the Government's drought assistance. I do not know how much cash or other forms of assistance will be provided to farmers, graziers and businesses in New South Wales. How long is a piece of string? I can say that the programs are on the board.

The State Government is offering, without any strings attached, \$25,000 or more per annum. We have waived the wild dog destruction fees and the Western Lands lease rentals. We have gone a long way down the track towards giving graziers and farmers financial assistance. We are offering \$20,000 per year for various transport subsidies and \$5,000 per year for water cartage for domestic purposes, and the list goes on. We will continue our drought assistance package for as long as required. I conclude on this note: this Government's list of offers is over 30 points long. There is nothing stopping the Commonwealth Government putting its dollars on the table to match ours. So far there has been not one dollar for drought relief from the Commonwealth.

**Mr SLACK-SMITH** (Barwon) [5.09 p.m.]: I am reluctant to be involved in party politics with this Sydney-centric Labor Government. Today the Government said that so far it has spent \$20 million on this devastating drought, which affects 92 per cent—soon to be 98 per cent—of New South Wales. The Government spent \$20 million improving the walkway over the Cahill Expressway. Some people in the Brewarrina area have been carrying drinking water since last October—12 months. I asked the Premier to give those people a hand 12 months ago. All of a sudden the Government is crowing because it has spent \$20 million—out of a possible \$240 million available to the people of New South Wales for a situation such as this—on the drought. That proves beyond any shadow of a doubt how determined the Government is to try to help people outside Sydney, Newcastle and Wollongong!

A couple of days ago I went to a tyre service in a town in my electorate. At this time of year they are usually busy with header tyres, harvester tyres, truck tyres, chaser bin tyres, auger tyres and bulk bin tyres. The three men who work there are doing nothing. There are no jobs in regional New South Wales today—40,000 jobs have been lost because of the drought. Agriculture is the biggest employer in regional inland New South Wales. What happens when they cease to have an income? The towns and the people who live in them suffer just as much as the farmers who are trying to earn a quid. Feed prices are increasing simply because of supply and demand. The value of the stock has been spent on fodder, keeping those stock alive to this point. Many producers do not know where to go now. Their stock are in poor condition. Merino ewes that are lambing twins or triplets are dying, and in many parts of my electorate ewes are producing only one lamb and then walking away and leaving it. Consequently, a lot of places in my electorate will have about 10 per cent lambing instead of about 90 per cent lambing. That will be devastating next year. Sheep numbers are falling dramatically.

Drovers with cattle on are the road, trying to chase feed. There is now no feed and they have nowhere to go. Their cattle are in poor condition. What are they to do? Recently in Moree cows and calves in reasonably poor shape brought \$120—that is for the cow and the calf. There is a feeling of desperation. I am absolutely disgusted that the Government is playing politics. It has said, "Blame the Federal Government." The Minister has \$240 million in his hands, but so far he has spent only \$20 million: the same amount of money the Government spent on a walkway over the Cahill Expressway—not to improve the road, for goodness sake, but on a walkway. As I have said, 92 per cent of New South Wales has been drought declared.

Country towns are suffering. People in the towns—mums and dads—do not know how long they will have their jobs. They will either have to go on unemployment benefits or leave and go somewhere else. Where will they go? Are they going to come to Sydney? Sydney is already overcrowded. The Premier has said that he does not want any more people to move to Sydney. Unfortunately, the population of Sydney is increasing by 50,000 people each year—that is the equivalent to two Tamworths every year. Sydney will get larger and larger. People are desperate, they do not know where to turn and there is no rain in sight. Today there was a huge dust storm throughout most of New South Wales—it was real estate from the west blowing east. [*Time expired.*]

[*Debate interrupted.*]

## **BUSINESS OF THE HOUSE**

### **Routine of Business: Suspension of Standing and Sessional Orders**

#### **Motion by Mr Amery agreed to:**

That standing and sessional orders be suspended to allow the member for Dubbo to speak for up to five minutes on the motion for urgent consideration and for private members' statements to be postponed until the conclusion of the debate on the motion for urgent consideration.

## **DROUGHT ASSISTANCE**

### **Urgent Motion**

[*Debate resumed.*]

**Mr McGRANE** (Dubbo) [5.14 p.m.]: I was chairman of the drought task force that held its first meeting in Dubbo on 29 August. The task force—which comprised a cross-section of all people associated with rural New South Wales—made a number of recommendations to the Government. Those recommendations have, in the main, been implemented. I will not go through all the recommendations of the task force. Suffice it to say that they are what the people in rural areas wanted at that stage. All droughts are different, and this drought is no exception. This drought is ongoing, which means that the Government has to have drought measures under constant review. Honourable members have referred to the stock industry this afternoon—they have spoken about agistment and the need for fodder to be made available to core breeders in western areas, some of which have been affected by drought for more than two years.

Stock was sent away on agistment and it is now coming back. Core breeders on those western properties need fodder to be made available to them. How will graziers in the Western Division finance fodder for their core breeders? Honourable members have referred to the Victorian Government's drought assistance scheme—graziers will receive \$20,000. I have looked at the Victorian scheme and found that there are a lot of limitations. It sounds great, but when one looks at the criteria one sees that many graziers will be deemed ineligible to receive the \$20,000. The Government should introduce a scheme whereby money is made available so people can keep their core breeders alive. The money lent to those people should be tied to the bond rate, which would guarantee that the interest rate is set at a reasonable level. People do not want handouts, but they want access to finance so they can buy fodder to keep their core breeders alive.

It has rained in some areas during the past two months and a reasonable amount of hay has been cut. Therefore, some fodder is available—at a price. However, if people have no money they cannot buy it. People in the west have sent their stock away, they have had to bring their stock back and if they do not have money to keep their stock alive their core breeders will die. When the drought breaks—as day follows night, the drought will break—there will be no stock available to allow these people to get back into production. The honourable member for Barwon referred to communities in his electorate. A similar situation exists in the west: people in towns are being laid off because people on the land have been affected financially by the drought—they are not spending money, they are not paying their bills, et cetera.



The Government should implement a scheme that enables people affected by the drought to keep their core breeders alive. The Government should implement a scheme that enables graziers to feed their stock and gives them access to money. I refer to the grain industry. Harvesting will commence in some areas during the next three or four weeks. At the end of the harvest we will know how the grain industry has been affected in New South Wales. Therefore, the Government should put measures in place so that grain growers can access help with planting their crop for next year. They will need assistance if they are to have a crop and a cash flow in 2003. [*Time expired.*]

**Mr SOURIS** (Upper Hunter—Leader of the National Party) [5.19 p.m.], in reply: We now have a clear indication from the New South Wales Labor Government that it is opposed to any form of cash assistance similar to that applying in Victorian. On behalf of many thousands of farmers, in particular, I say that \$20,000 in assistance would be \$20,000 more than they are presently getting from the current Labor Government in New South Wales. I was disappointed to hear the honourable member for Dubbo also say that he was opposed to any form of cash assistance for drought-stricken farmers because in some way the criteria were not appropriate. What one Labor State Government is doing the New South Wales Labor Government completely and utterly opposes.

I am disappointed also that nobody from the Government responded to village and town water supplies. The high cost of water cartage is impacting heavily on urban and rural ratepayers where that is necessary. I have referred to three villages that are already carting water, and no doubt there will be more. The Minister claims that the Government is assisting farmers. I refer to a constituent of the honourable member for Wagga Wagga from the Holbrook area who is having a problem with the Department of Land and Water Conservation. His property is very dry and he is seeking access to water from Billabong Creek, which is within a kilometre of his property across a culvert, road and reserve. The department has advised him that to process his application it will be necessary to do a land use assessment, which will cost him \$390, together with an application fee of \$383 and an advance fee of \$150—and it will take four months to process the application. I suggest to the Minister for Agriculture, who is at the table, that there is a practical way of assisting this farmer. I dare say that many more farmers throughout the State find themselves in similar situations.

The amount of money that this Government has invested in the drought—a mere \$20 million—is a very disappointing figure indeed. It pales into insignificance when contrasted with the waste and mismanagement of this Government. Between 1995 and 2002 the Carr Labor Government spent \$600 million on advertising. Yet only \$20 million has been spent on this disastrous drought gripping 92 per cent of the State and affecting another 6 per cent. I can give many more examples. The Sydney Conservatorium of Music renovations blow-out alone was \$75 million. The blow-out in Sydney Water's customer billing system was \$24 million. Indeed, the project has had to be abandoned, costing close to \$60 million. That is lost money. There is no new billing system.

I can come up with a few more. EnergyAustralia has written off its investment in PowerTel to the tune of \$13 million. Labor's waste and mismanagement has reached \$11.2 billion. And it thinks it is going to get away with boasting about \$20 million in assistance to drought-stricken communities throughout the State, compared with waste and mismanagement of \$11.2 billion! Many of the projects are single disasters such as blow-outs in computer programs and abandoned computer programs. The little canopy over the Cahill Expressway near the Art Gallery so that people would not have to go down some steps and then up some steps cost \$20 million. And the Government considers that its entire effort on drought assistance has been worthy! What a joke! [*Time expired.*]

**Amendment agreed to.**

**Motion as amended agreed to.**

**Pursuant to resolution private members' statements taken forthwith.**

#### **PRIVATE MEMBERS' STATEMENTS**

---

#### **WINDRIDGE PIG FARM WORKERS COMPENSATION PREMIUMS**

**Mr ARMSTRONG** (Lachlan) [5.27 p.m.]: I raise a matter on behalf of Windridge Pig Farm at Young in my electorate. It has one of the largest intensive pig farming operations in Australia. The proprietor, Mr

Dugald Walker, sent me a copy of a letter he sent to the Regional Co-ordinator of the Premier's Department at Wagga Wagga. It gives a brief history of a former employee who was taken on by the company on 2 November 1999. The employee claimed a back injury on 23 August 2000 and was unable to carry out light duties in the office even for a limited time. The workers compensation premium of the pig farm was increased by \$124,616. The amount will not be refunded even if the court finds against the employee. An anonymous informant advised that the former employee had been moonlighting. Windridge Pig Farm has received several phone calls giving extensive details and is aware of the identity of the informant.

QBE and its solicitors employed an investigator who has videoed the former employee working in a local orchard driving a tractor and prune shaker. He also obtained statements from the owner of the orchard and others. The former employee's claim was rejected by QBE and his employment was terminated on 12 March 2001, based on legal advice. Windridge was sued for unfair dismissal and advised to settle with full costs of \$11,000. The former employee seeks continuation of workers compensation and lump sum injury compensation. The former employee became the proprietor of a second-hand shop and has been videoed unloading furniture at his shop by the investigator and others. QBE, the solicitors and WorkCover appear to have lost interest and no further progress has been made on that front.

The early investigation, statements and information indicate a clandestine employment agency operated by a friend of the former employee. It is operated largely with family members who are recipients of social security payments of some description. Later statements and research have finalised the employment. The organiser has a deformed arm and is on permanent disability pension. However, he was capable of a murder, for which he was incarcerated in the past. Payment details, aliases, cashing of cheques, et cetera, are known. That person has been responsible for the deployment of labour for some years. A further statement from the orchardist who had seen the former employee working provides the essential foundation that would set up all of the parties for cross-examination to clean up the mess.

Approaches have been made to various government agencies including New South Wales WorkCover, the Australian Taxation Office, Kate McKenzie, the head of WorkCover, Minister Della Bosca, upper House member Ian Macdonald and Centrelink to name a few—all without resolving the matter. In March of this year at a court hearing in Sydney five Windridge staff appeared as witnesses. The case came up late in the day and was transferred for hearing in Young or Cowra in November. According to my informant, the attitude of the judge in the cases that the staff sat through contributed to the belief that they had been party to a farce. Given the record of the Workers Compensation Court, it is extremely unlikely that justice would prevail and even less likely that it would obtain redress.

That letter was from an obviously extraordinarily frustrated employer who employs a large number of permanent and casual employees, and is, as I said, a dominant factor in the Australian pig and pork industries. I sent a facsimile to the Minister, the Premier's Department and others within Government detailing this claim and asked them to expedite the matter, because this is an extremely serious matter and one that could be mirrored by many employers across the State. I ask the Parliamentary Secretary to bring this matter to the attention of the appropriate Ministers, particularly the Premier. This matter should be cleared up. It would be in the interests of the Government and the State for this matter to be expedited.

**Mr MARKHAM** (Wollongong—Parliamentary Secretary) [5.31 p.m.]: Tomorrow I will draw the attention of the relevant Minister and the Premier to the comments of the honourable member for Lachlan.

### **CESSNOCK ELECTORATE BUSHFIRES**

**Mr HICKEY** (Cessnock) [5.31 p.m.]: It is with sadness that I advise the House of the great loss suffered by the Cessnock community on Saturday 19 October as fire ravaged communities of Abernethy and Kitchener. The community of Cessnock was dealt a terrible blow during that fire: a life was tragically lost and 13 homes were destroyed in the blaze. I know that the sympathies of the House go out to all who have suffered terrible losses. However, I am proud that our Government stood ready to offer assistance to help families rebuild their lives. These events will have a devastating impact on those families, and I believe that the trauma caused by these tragic events will be felt for some time to come. The Government immediately offered a \$10,000 helping hand payment from the reserves of last year's Christmas-New Year Bushfire Relief Appeal to be made available to families whose homes were destroyed in the fires.

The Minister for Community Services, the Hon. Carmel Tebbutt, recently advised me that six families whose homes were destroyed in the Cessnock bushfires have already received approval for a \$10,000 helping

hand payment. The families, mostly from Abernethy, will have the \$10,000 paid into their accounts when bank details are finalised. So far there have been 73 registrations with the Department of Community Services [DOCS] for support and assistance in relation to emergency accommodation, food, clothing, immediate financial assistance and personal support. The department has even supplied a portaloos for a 90-year-old lady whose backyard toilet was destroyed by fire. The Cessnock disaster plan was enacted and DOCS has taken a lead role in the post-disaster recovery process.

This plan draws government and non-government service providers together to provide quick, appropriate responses to situations such as those that developed in the Cessnock area on the weekend. I applaud all of those volunteers and workers who are a part of this important process to ensure that those in need have access to services. A disaster recovery centre, located in Vincent Street, Cessnock, has been made available for those who are in need and has been provided with the staff required to work with local residents as they sift through their lives in the ruins of their homes. DOCS has provided overnight accommodation for three of the 13 families whose homes were destroyed by fire. The remaining families spent the night with friends or relatives. I congratulate the fire services that were working to contain the fires that ravaged Abernethy and the bushland around Kitchener and the township. The fire service staff and volunteers worked tirelessly all weekend in harsh conditions to try to save property and bushland. When the fire struck the humidity was 4 per cent, posing an extreme risk of fire.

The New South Wales Fire Brigades and the Rural Fire Service based at Cessnock airport jointly commanded the whole operation. More than 500 officers were in attendance during the fire period and of those 400 were volunteers. All of Cessnock's Rural Fire Service brigades were called into action, consisting of 16 brigades utilising 22 appliances. Complementing those appliances were 10 Rural Fire Service units from Lake Macquarie, six Rural Fire Service units from Singleton, as well as strike teams from Port Stephens, Dungog and Sydney. I am humbled to represent a community that has shown so much character. Even today fires are ravaging the communities of West Cessnock, Bellbird, Abermain and Kurri Kurri. The area is covered in a thick blanket of smoke; I have never seen smoke like it. I was there during the devastating 1968 bushfires which went through Millfield and Paxton, but this current fire leaves that one for dead.

I have been touched by looking into the eyes of people who have lost everything, but to be part of helping to rebuild their lives is a wonderful thing. However, we must ask ourselves: Why did such a thing happen? I am appalled when I consider the current investigation being undertaken by fire services investigators and police into the fires, as there is a compelling case that the Abernethy fire was deliberately lit. How could a person do such a thing to a community? It is beyond belief that anyone could be so callous as to deliberately light a fire and put at risk lives and property, including the lives of our firefighters. It is unspeakable that someone could do that. Last Saturday night I was with the families as they sifted through their properties. It was quite devastating. Quite clearly, whoever is responsible for the fires should be taken to task.

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [5.36 p.m.]: I congratulate all those involved in fighting the devastating fires in the Cessnock area. The honourable member for Cessnock, the Deputy Premier and I toured the area at about midday last Sunday. I concur with the comments of the honourable member for Cessnock: people are having to deal with trauma and devastation as a result of what appears to be a deliberately lit fire. Last year the mayor of Cessnock and I caught someone deliberately lighting a fire, which I thought may have highlighted the stupidity of such action. However, there is now compelling evidence that someone deliberately lit this fire—it is now manslaughter, not simply the lighting of a fire.

I congratulate Cessnock City Council, for whom I was able to obtain a certificate of authorisation to conduct a fund-raising appeal. I thank my Department of Gaming and Racing for approving that authorisation by mid-afternoon on the Monday after it was approached. To its credit the council has placed \$50,000 in that appeal account. A private donor, Alcan Aluminium, has given \$20,000, and I thank that very responsible corporation. High winds are likely to occur in and around Cessnock in the next week or so, very early in the bushfire season. Parts of that bushland are still recovering from the fires of last year, especially at Pelaw Main. I have been advised that many people were uninsured. The Government has a very big task ahead of it in coming to terms with these fires so early in the season. The devastation could continue beyond Cessnock.

#### **BELLAMBI NEIGHBOURHOOD CENTRE**

**Mr CAMPBELL** (Keira) [5.38 p.m.]: The Bellambi Neighbourhood Centre operates in my electorate of Keira. In the mid-1980s I was a member of that centre's committee of management. I was invited to chair its

recent annual general meeting. I acknowledge the good work of that organisation. The current chair of the committee, Mary Goodman, is supported very ably by Judy Mallon, its secretary. The treasurer of the committee, Nancy Harney, has held that position for approximately 24 years. The management committee includes, among others, Robin Sheldon, Max Wade, John Goodman, Rick Field and Chris Cottome. They do a sterling job in managing a number of programs.

I pay particular tribute to two long-serving staff members of the Bellambi Neighbourhood Centre: community worker Robyn Alderton and youth worker Joyce Elliott. Both of those women celebrated 20 years in the employ of the management committee and of dedicated service to the local Bellambi community. Twenty years spent in a youth development or a youth worker role is an astounding effort in anyone's language. It is unfortunate that parliamentary committee responsibilities kept me in Sydney on 13 September when a celebratory lunch was held for the two women, but I acknowledge their work this afternoon.

Programs administered by this group of volunteers on behalf of their community include a community development worker function, which is funded by the Department of Community Services [DOCS]. Youth worker Joyce Elliott receives funding partly from DOCS and partly from Wollongong City Council. The position of housing estate worker, which was held until recently by Kerrie Cooper-Smith, who has just resigned, is funded by the Department of Housing. The Links to Learning project, managed by Katrina Van Wijck, is funded by the Department of Education and Training. That education program is important for people who have left school early but are seeking other opportunities.

The Department of Juvenile Justice funds a graffiti reduction program, which is managed by Justine Giltrow. That program has been successful in reducing the amount of vandalism and graffiti in the Bellambi area. A small amount of Federal funding from the Department of Health and Ageing is allocated under the National Drug Strategy for some time-out programs. I acknowledge the work of Steve Cooper and Diane Piagle in this area. All of those workers and the committee are supported by a large group of volunteers who work for and on behalf of their community. I acknowledge them also.

The group has established a community garden on some land adjacent to the neighbourhood centre. Those who make the effort to grow vegetables in the garden can take them home, and the garden has won several garden competitions. The strong breakfast program at Bellambi Neighbourhood Centre is supported by several corporate sponsors as well as licensed clubs in the area. That important program gives a hearty meal to kids who might otherwise go to school, particularly Bellambi Public School, without breakfast. I have worked with the neighbourhood centre committee on some road safety issues and we succeeded in obtaining State funding for some pedestrian facilities. We have also worked together on community safety. We continue to battle with Wollongong City Council on other issues. We are trying hard to get the council to commit to repairing Bellambi pool. That work provides an opportunity to work with the great band of volunteers at the neighbourhood centre and in the broader community.

The neighbourhood centre conducts an annual garden competition and Christmas lights competition in an attempt to raise civic and community pride. Such activities are difficult to promote on a Department of Housing estate comprising about 700 dwellings. It is difficult to instil a sense of community pride, but these volunteers are determined to do just that. They work hard with several agencies and I attend the monthly interagency meetings. The agencies are working hard with the Premier's Department on a community solutions strategy, which I look forward to having funded. I congratulate these workers.

**Mr MARKHAM** (Wollongong—Parliamentary Secretary) [5.43 p.m.]: I also congratulate the Bellambi Neighbourhood Centre committee and echo the remarks of the honourable member for Keira. I was the member for Keira for 11 years. In that time I had a great deal to do with the Bellambi Neighbourhood Centre and some of the programs to which the current member referred. It is great to know that they are progressing in leaps and bounds and providing invaluable services to an extremely disadvantaged community in the Bellambi area. I know Robyn and Joyce, who have worked for the committee for 20 years, and I congratulate them on their work and their long-term service to the Bellambi community.

Organisations such as the Bellambi Neighbourhood Centre make sure that the large Department of Housing ghettos—for that is what they are in some instances—get at least a fair crack of the whip. I assure honourable members that when I first became involved with the neighbourhood centre there were some sad cases and stories. Volunteers work hard to ensure that disadvantaged families get a fair go. The breakfast program, for example, ensures that kids go to school with full bellies and can concentrate on their school work. I congratulate all the volunteers on their efforts.

### KU-RING-GAI ELECTORATE AMBULANCE SERVICES

**Mr O'FARRELL** (Ku-ring-gai) [5.45 p.m.]: I seek tonight to blow the whistle on another attempt by the Carr Government to foist a policy upon my community that will have a detrimental impact on Ku-ring-gai residents. I do this in the hope that the Minister for Health will get the message, call for an urgent review and quash the insane proposal before us. Before I address that specific issue, I point out that earlier this year the State Government sold a number of sites occupied by the Ambulance Service of New South Wales, including the site at St Ives. Since the sale, which was undertaken without any consultation with the local community, several local residents have pointed out that the community assisted, both in cash and in kind, in selecting the site and establishing the ambulance centre. That should have given the community at least a stake in consultations about the future of the centre.

However, this afternoon I raise another issue involving the ambulance centre, which is another example of taking decisions without consulting the community that is served. One primary care ambulance, one paramedic ambulance and one rescue truck are currently available each day and night in St Ives. These units serve the whole of Ku-ring-gai and support other areas of the North Shore when they can. Additional non-emergency crews are available during the day, but their staffing levels are unaffected by what I am about to reveal. A plan is being considered of having only one ambulance and the rescue truck available at night in St Ives. That change is planned to take effect on 23 November. It is important to remember that the rescue truck covers a much larger area for vertical rescues—that is, rescues from cliffs—and its availability cannot be guaranteed for medical work in Ku-ring-gai at any given time. Therefore, the change proposed by the Ambulance Service of New South Wales means halving the dedicated ambulance coverage for Ku-ring-gai at night.

In fairness, I acknowledge that extra ambulances are planned for Naremburn and Ryde stations. However, those increases, although appropriate, are planned only for the daytime; they do nothing to address concern in Ku-ring-gai about the winding back of evening ambulance services. In short, the loss of a night-time ambulance at St Ives will mean reduced overnight coverage across the whole North Shore. The ambulance officers union has not mentioned this issue publicly, which concerns me, but I understand that negotiations are under way. However, I am concerned that if this matter is not in the public domain and the ambulance officers' negotiations fail, the people of Ku-ring-gai will wake up in early November to discover that their ambulance service has been reduced. This will clearly have a detrimental impact on my community.

This is yet another example of policy disconnect on the part of the Government. At a time when the Carr Government through the Minister for Planning is madly intent on increasing the number of people living in high-density to medium-density housing in the Ku-ring-gai municipality, it is not prepared to ensure that State-provided services or infrastructure meet the needs of those communities. That is clear in this case. The Government has approved seven-storey developments at sites near Pymble and Lindfield railway stations but it has not provided elevators at either of those stations. Those elevators will be built somewhere else. That is another example of policy disconnect.

The Government's pursuit of State environmental planning policy [SEPP] 5 is causing enormous damage and concern across Ku-ring-gai. It is a policy designed, at the best level, to increase the number of aged and disabled people living in Ku-ring-gai. Hundreds of developments in the area have been approved and 10, 20, 30 and 40 of them have been built. At the same time as the Government is presiding over increasing the number of aged and disabled people in Ku-ring-gai, it has proposed, under cover of the bureaucracy, to reduce ambulance services. The sorts of people that SEPP 5 is bringing into Ku-ring-gai will require ambulance services. It is a disgrace that the proposal has not been made public and that the community has not been consulted about the impact of it. It is a disgrace that, on the one hand, the Government is trying to increase the density and number of people living in Ku-ring-gai but, on the other hand, it has done nothing to protect those people by providing them with the necessary ambulance services, either normally or in bushfire evacuation situations.

### WHALE WATCHING ASSOCIATION

**Mr BARTLETT** (Port Stephens) [5.50 p.m.]: On Monday 14 October I was invited aboard the Greenpeace ship *Arctic Sunrise* to attend an inaugural meeting of people from all over Australia, including many commercial whale-watching operators, to consider establishing a national whale-watching association. Time does not allow me to place on record the names of everyone present, but those present included Linda Apps, the spokesperson for Greenpeace; Yves Papin and Frank Future from Imagine Cruises, Port Stephens; Eddy May from Hervey Bay in Queensland; Penny Dawson from Cetacea Australia, Port Stephens; Tina Blyth and Dianne

Annabell from Moonshadow Cruises, Port Stephens; Trevor Hassard from Tangalooma Wild Dolphin Resort, Queensland; Bob Westbury from the Port Stephens Tourism Board; and Steve Mitchell from Naturaliste Charters, Western Australia.

The aim of the meeting was to bring together representative of 80 different whale-watching organisations. About five years ago whale watching commenced in Port Stephens and approximately 30,000 to 40,000 people a year now participate in it. Whale watching provides a significant boost to the tourism and accommodation industries and has sustainable long-term benefits. The association will be a united national body representing every whale-watching organisation around Australia. Dolphin watching may or may not be included. One goal of the association will be to set up a web site, which is to be managed by the association. That will enable information of daily sightings to be downloaded and will provide a better record of whale movements than those available at present. The web site will also advertise members of whale-watching organisations and promote tourism. As the various whale-watching organisations are separated by huge distances the web site will allow the industry to promote whale watching to Australia and to the world.

The association will also lobby for whale safety precautions to be taken in Australia. It will work towards protecting the migratory patterns of whales, which leave Antarctica, travel up to Tasmania and then break into groups four and five, one group travelling up the east coast of Australia and the other travelling along the west coast. DNA suggests that whales have followed that pattern for the past 5,000 years. Concerns have been raised about the dangers to whales of netting, habitat change, pollution, sonar operations and oil rigs. There is also concern about whale collisions and deaths, dredging and the El Niño effect, which results in changes to the food chain. Representatives of the association will also be eligible to represent Australia at the next meeting of the International Whaling Commission to be held at Berlin next June.

The organisation will also network with New Zealand and Pacific countries regarding the South Pacific Whale Sanctuary and lobby against the killing of whales. The association will look after the wellbeing of whales and operators of businesses related to whales. Whale research at Hervey Bay has shown that whales prefer longer hulled shapes. Based on the work done by Peter and Penny Dawson from Cetacea Australia, a committee was established to look after the constitution. Another committee, of which I am a member, has the role of budgeting. Eddy May is in charge of promotion and members, while Linda Apps is responsible for communication. Time does not allow me to continue, but I am sure that the House will be interested in this organisation.

#### **SOUTHERN HIGHLANDS ELECTORATE ROAD SAFETY SUMMIT**

**Ms SEATON** (Southern Highlands) [5.55 p.m.]: I bring to the attention of the House some tragic events in my electorate in recent weeks and to some initiatives that I am working on with my community to improve driver education and road safety, particularly for our youngest drivers. My community has recently experienced the loss of nine young people in two separate accidents. We lost six young people from Moss Vale in an accident involving a four-wheel drive vehicle as those people were travelling from the Moss Vale area to Nowra on a fishing trip. Only 10 days later we lost three young people in a car accident near Tahmoor. Three passengers from the car are fighting for their lives in hospital.

I extend my condolences to the families of all of those young people and I am sure all honourable members would join me in extending sympathy to them. I acknowledge Robert and Maureen Smith, Carol Sykes, Stephen and Vicky Esquilant, Lorraine Small and John and Ivonne Balog. They are the parents of Robert Smith from Exeter, Patrick Small from Moss Vale, Hayden Esquilant from Moss Vale, Ben Sykes from Moss Vale and Joel Balog from Moss Vale. Another young man who lost his life was Anthony Singleton, who, although he spent his teenage years in Moss Vale, had moved to Broken Hill with his family.

I also acknowledge the parents of Shane Martin, aged 17, who died in the accident at Picton; Greg and Eve Langham, the parents of 15-year-old Erin from Buxton; and Darren and Bronwyn Harvey, the parents of Andrew, who also lost his life. Andrew's twin brother, Jason, is fighting for his life in hospital, as are two other young people—a 16-year-old girl from Bargo and another young man from Blacktown. Everyone in the community has been trying to find answers and to initiate some positive action to prevent tragedies such as those I have referred to from recurring. At the time of the Kangaroo Valley accident I suggested that a local summit be held in the Southern Highlands area to look at ways to improve driver education for our youngest drivers. Already the area has some good initiatives in place. I acknowledge the work of U Turn the Wheel, a volunteer association run by Rotary in conjunction with Wollondilly and Wingecarribee councils. It provides useful training and education sessions to young people. I also acknowledge the work of safety officers and councillors David McTiernan and Kim Davis.

I acknowledge the advocacy in recent years of individuals in our community like Tony Blake, who has been advocating better driver education for young people. He has used his experience as a Vietnam veteran to try to bring together those aspects of the Anzac spirit involving mateship and looking after each other, which are very relevant to driving situations. I have convened a road safety summit to be held on Thursday 7 November at the Mittagong RSL Club from 10.00 a.m. to 1.00 p.m. I have invited representatives of many of our community groups, State authorities and my local parliamentary colleagues.

I have extended an open invitation to anyone who wants to attend the summit, which will take the form of, first, speakers involved in existing road safety and driver education programs telling us what they do now and giving us their ideas about how to improve or adjust. Second, we are hoping to seek ideas from the floor about how we can do things differently and better, and I would like to hear from the young people in our community, particularly those who intend to learn to drive. Because we have so little public transport in our area, parents have little choice but to let young people get their licences and take to the road at an early stage, particularly if they want local employment. It is a two-edged sword: we want to ensure they can obtain jobs and get to and from them safely. I commend the summit to anyone who wants to contribute to driver safety in the Southern Highlands area.

### **BLACKTOWN ARTS MUSEUM**

**Mr GIBSON** (Blacktown) [6.00 p.m.]: Blacktown has a population of more than 262,000 people. It is a diverse cultural area and a great example of multiculturalism. The bulk of the population could not be described in one category because of the mix of ages across the electorate; it is made up of people of all ages. For many years the people of Blacktown have placed great importance on sport, and rightly so. It has often been said that we have a football field on every corner. That is fine because they have served our young population well. Our sporting facilities are second to none and they are much appreciated. However, Blacktown has had a great need for an arts centre. Over the years people have asked me, "Why should people from Blacktown have to go to Penrith or travel into the city to appreciate and enjoy the arts?" For a long time we have worked to change the opinion of council so that the problem can be rectified.

I give a big thank you and a pat on the back to Councillor Leo Kelly from Blacktown City Council. For a long time Leo has been working to do something for the arts in Blacktown. Finally, he talked council into doing something. On 3 October the Arts Museum at Blacktown was opened. The opening was attended by one of the largest crowds in living memory to have attended any opening function at Blacktown. Not everyone could get into the hall, the museum or even the car park. The new Arts Museum is in the old Anglican Church building in Flushcombe Road. Councillor Leo Kelly deserves credit for having the foresight to pursue this project. The people of Blacktown will derive great enjoyment and appreciation from the arts for a long time.

We were pleased to have the Hon. Bob Debus, the Attorney General, and Minister Assisting the Premier on the Arts to open the centre. The former Anglican Church, which is heritage listed, is a great venue that we have strived to maintain over the years. It is good to know that we have not put the bulldozer through all of our historical buildings and that a part of our history is still standing. The Arts Museum has provided the people of Blacktown with a contemporary multidisciplinary arts venue. Local artists and the people of Blacktown will have the opportunity not only to look at and appreciate the arts, but also to display their works. The launch jointly acknowledged the completion of stage one of the centre's capital works program, which included the gallery space, foyer, office and exterior landscaping, as well as the opening of the centre's inaugural exhibition—ORIGINALities: Indigenous Connections to Place and Identity in Blacktown.

The Dharug people and their leader, who opened the facility with the Hon. Bob Debus, gave us a big pat on the back. The Blacktown Arts Centre's performance space, artist studio facilities and cafe comprise the next stage of capital development which is due to commence in early 2003. The efforts of Blacktown City Council combined with funding from the State Government made the facility, which is much needed and appreciated by the people of Blacktown and Western Sydney, a reality. It is good to know that the State Government putting money into the arts in Western Sydney.

### **SOUTHERN CROSS UNIVERSITY GRADUATION CEREMONY**

**Mr GEORGE** (Lismore) [6.05 p.m.]: On Saturday 28 September I attended a graduation ceremony at Southern Cross University, Lismore, of which the families and friends of the graduates, as well as the university, can be proud. Graduates do not succeed without personal sacrifice and a considerable commitment of time and energy. In most cases it also involves sacrifices by loved ones and families. I congratulate all the graduates and

the Southern Cross University on the ceremony. The ceremony was also the inaugural graduation for the newly elected Chair of the Council and the Chancellor, the Hon. Justice John Robert Arthur Dowd, AO, QSJM, LLB (Syd), and the Deputy-Chair of the Council and the Deputy-Chancellor, a well-known local person, Liz Rummery, who is also the chairperson of the Northern Rivers Area Health Service.

One of the highlights of the day was the conferring of an honorary doctorate by the university on Dr Lionel Edward Phelps, AM, BA MEd (Syd), DUUniv (NE), FACE. Dr Phelps has contributed a great deal to the structure of education in New South Wales, especially on the North Coast of New South Wales. The Vice-Chancellor of the university, Professor John Rickard, summed up Dr Phelps' contribution to education in the following terms:

Lionel Phelps was born at Turramurra in Sydney and was educated at Gosford High School and Barker College. After matriculating from secondary school he attended Sydney University and completed a Bachelor of Arts and a Master of Education.

His teaching career has covered positions at many schools in New South Wales and he was promoted to the Principal of Batlow Central School and Inspector of Schools for the Nowra Region. His career in education culminated in him being appointed as Assistant Director and then Director of Education for the North Coast Region. Lionel held this position for six years until his retirement in 1988. Prior to his retirement he was awarded a Fullbright Study Award.

Lionel has held the following positions:

- ❖ Member of Council, Northern Rivers College of Advanced Education;
- ❖ Chair, Centre of Professional Development in Education at Southern Cross University and formerly the University of New England;
- ❖ Deputy Chancellor, the University of New England;
- ❖ Member, Ministerial Steering Committee, Coffs Harbour Education Campus;
- ❖ Chair, Board of Governors, Coffs Harbour Education Campus;
- ❖ Chair, Interim Council, Southern Cross University;
- ❖ Deputy Chancellor, Southern Cross University;
- ❖ Chancellor of Southern Cross University.

Lionel is Secretary of the National Rotary Bowelscan Committee; member of the Northern Rivers Chapter of First Fleeters; and member of Lismore Council Rainforest and Botanic Gardens Committee.

Lionel was made a Fellow of the Australian College of Education for his work in the professional development of teachers, and he was given the Paul Harris Fellow Award by Rotary International in recognition of his exemplary contribution to the community. A Doctor of the University was conferred on Lionel by the University of New England in 1993. Lionel was made a Member of the Order of Australia for his contribution to education and the community in 2000.

For relaxation, Lionel and his wife Lenore operate a macadamia plantation and shetland pony stud.

Lionel Edward Phelps, you have made a unique contribution to Southern Cross University and the North Coast Region, and you are a very worthy recipient for the award of Doctor of the University.

I would like to place on record as the member for Lismore the electorate's thanks. I am sure I also speak for the honourable member for Coffs Harbour, who was unable to attend the award ceremony. Dr Lionel Phelps has made a significant contribution to education in the north of the State and throughout New South Wales. I am sure that his efforts are appreciated by every member of this House.

### SYLVANIA WATERS ATHLETICS TRACK

**Mr COLLIER** (Miranda) [6.10 p.m.]: Sylvania Waters athletics track is a major regional sporting facility in the Sutherland shire. Every year the track is used by more than 35,000 school students and more than 400 Little Athletes on weekends, as well as by senior athletes and casual walkers and runners. The track has been used seven days per week for many years. In 1999 the track had deteriorated to the point where it would have to be closed for safety reasons. Mrs Heather Mitchell, President of the Port Hacking Little Athletics Association, brought the poor and dangerous state of the track to my attention. I was pleased to be able to help. The *St George and Sutherland Shire Leader*, in an article on 1 February 2000, stated:

Sutherland Shire's athletics headquarters at Sylvania Waters has been saved from closure by a \$300,000 grant from the State government.



The local council also contributed \$300,000 to the project, and the new track was opened by the then Minister for Sport, the Hon. John Watkins, and the mayor on 1 September 2001. The *St George and Sutherland Shire Leader* newspaper on 4 September 2001 wrote:

A \$600,000 resurfacing of the Sylvania Waters athletics track has given the Sutherland shire one of the best facilities of its kind in the state.

Parents, Little Athletes, administrators and local schools were absolutely delighted, and I was delighted to be able to assist the community. As a local member it is always pleasing to receive recognition for one's efforts. In the *St George and Sutherland Shire Leader* of 1 February 2000 Mrs Mitchell, President of the Port Hacking Little Athletics Association, acknowledged my spending two hours inspecting the track with her, lobbying the Government and organising an interview with Mr Watkins at Gympie. At the opening of the track Mr Watkins referred to the meeting and on 1 September 2001 told the *St George and Sutherland Shire Leader* newspaper:

Mr Collier and Mrs Heather Mitchell ... persuaded me the track upgrade should be a priority.

Subsequently I received a letter dated 3 March 2000 from Sutherland Shire Council. Mr John Rayner, General Manager, said:

Dear Mr Collier

Council is very appreciative of your efforts in procuring funding for the upgrading of the Sylvania Waters Athletics Track. The \$300,000 provided by the Government under the Regional Facilities Grant Program will be matched by Council to provide what will be an outstanding athletics facility for the region ...

Again thank you for your support.

Although we as members of Parliament do not expect thanks, it is pleasing at times to be given recognition and thanks. Honourable members could imagine my surprise when I was handed a pamphlet by a shire resident which showed that another person was claiming credit for the Sylvania Waters upgrade.

**Mr McManus:** Who?

**Mr COLLIER:** I will get to that. I am appalled, as I know other members would be, to find that someone who has done nothing about a project claims credit for its success. It is wrong to claim credit for another person's achievements, and it is particularly wrong when it is another member of Parliament. That is precisely what the honourable member for Cronulla has done. He has distributed a newsletter claiming credit for a host of regional facilities in the shire. On page three of his newsletter it states: "Wins, wins, and more wins. Working with the community, Malcolm Kerr has delivered"—wait for it—"a \$300,000 upgrade of Sylvania Waters athletics track." That is not what council, the *St George and Sutherland Shire Leader* or the constituent who gave me the pamphlet said. This type of behaviour gives politicians a bad name. It is an insult to his constituents.

The constituents of the honourable member for Cronulla read the *St George and Sutherland Shire Leader* and they have long memories. They know that on 12 April the Minister for Transport, the Hon. Carl Scully, committed the Government to duplicating the Cronulla railway line. He announced a \$1.4 million feasibility study, which is now under way. Mr Kerr claims to have "secured a commitment to duplicate the Cronulla railway line." I do not know who he got the commitment from. I do not know whether he has talked to the Minister about it. He has never talked to me. That is one of his many achievements that has suddenly come to light. Further in the brochure he claims:

Following my objections the Minister for Planning has now announced Rocla has withdrawn its sandmining proposal and there will be a study into the Kurnell Peninsula during which time no further developments will be approved.

I hope that the honourable member for Cronulla prevailed not only upon Rocla but also on the Holt company to stop mining on the peninsula. He had the opportunity to do so when he recently attended Kevin Schreiber's \$1,000 per table fundraiser at Miranda where the Holt sandmining company bought one table. The honourable member for Cronulla even has a questionnaire in the pamphlet. I hope he asked Kevin Schreiber to fill it in, because Kevin Schreiber, the king of overdevelopment, has questions to answer about overdevelopment in the shire. The honourable member for Cronulla should do his homework, read the *St George and Sutherland Shire Leader* and not claim credit for other people's achievements.

### POPLARS PRIVATE HOSPITAL REDEVELOPMENT

**Mr TINK** (Epping) [6.15 p.m.]: I raise the issue of Poplars Private Hospital in Epping. This hospital has been in existence for 80 years—for many of those years as a community hospital. More recently the hospital was sold to the Doran group, which I understand is based in Newcastle. The Doran group has made an application to significantly develop the site, bringing to an end the hospital use of the land. The Donald Tulloch building, a newer wing of the hospital, is to be converted into 37 units with the remainder of the hospital proposed to be demolished for further multiunit housing and strata subdivision. This proposal has caused great concern in the local area on a number of grounds.

The local community is concerned about the way in which Hornsby council, the relevant council, advertised the proposal. It was advertised in the local paper and other notifications as a development application with respect to 64-66 Norfolk Road, Epping, for the erection of a multiunit development, the conversion of the existing Donald Tulloch wing and the demolition of all other structures. No reference was made to the Poplars hospital, which is the popular name of the whole site. My strong view—which I put to council and which I hope is adopted—is that when a major development is proposed on a site that has a common and popular name known by all, the advertisement of the development should be in the common name.

I understand that council has readvertised to make sure that everyone who wants a say is able to express their view. A public meeting was organised by the Epping Civic Trust. I pay tribute to the president of the trust, Graham Lovell, for his involvement in this matter. The meeting, which was well attended, took place on 15 October 2002. Apart from the advertising issue, there are two other fundamental issues. First, members of the community are concerned—and I share their concern—that the plans propose significant overdevelopment of the site. The site is located in the east Epping heritage conservation area. In my view, the current proposal and diagrams which the council has now exhibited are not consistent with that heritage conservation area. Second, the more fundamental issue is the future of the hospital. In the *Northern District Times* of 9 October Mr Doran, the head of the company that lodged the development application, was quoted as saying that the development application was for the purpose of clarifying the zoning of the area. He was also quoted as saying that the board of directors will vote on whether to continue with plans to convert the existing hospital. He said:

As yet there has been no decision made on the future of the hospital. We may decide to extend the hospital or build residential units.

But at the moment our primary goal is to clarify the zoning of that area because at the moment we are not even able to operate the hospital on that site.

Although the hospital has been operating for 80 years, the zoning is unclear and may well be residential, but any institution that has been operating for 80 years must have significant existing rights. If Mr Doran wants zoning clarification, I will do everything I can to make sure that the zoning is clarified as "Special Purposes—Hospital". Hornsby Council is invited to go away and consider it in light of those comment. We can all approach the Minister to have this hospital zoned as it should be, and that is "Special Purposes—Hospital". It is important that this institution remain in operation. The company running it has indicated that it does have a future. It is not a case simply of closing the place down; there is a commercial use for it. If the primary concern is about zoning, according to comments by the chief executive, we will have the zoning changed to ensure that it is for hospital purposes only.

### PORT MACQUARIE NEIGHBOURHOOD CENTRE

**Mr OAKESHOTT** (Port Macquarie1) [6.20 p.m.]: Tonight I express the concerns of the Port Macquarie community about the much loved and well used Port Macquarie Neighbourhood Centre and its potential imminent closure due to insurance issues. The neighbourhood centre provides many services to the community of Port Macquarie and in many ways provides a unique support service to our community. For example, the centre provides children's services such as before school care to 20 children in our local area daily, it provides after school care to 80 children daily, and it provides daily vacation care for up to 60 children. As well, the Info Shop provided assistance to more than 13,000 people during 2001-02.

The Mid North Coast Tenants Advice Service has provided assistance and advocacy to more than 2,000 people during 2001-02. The Gambling Counselling Service, which was only recently refunded, has provided one-on-one assistance to 746 clients during 2001-02. As well, the neighbourhood centre provides umbrella services to many other organisations and services such as the Volunteer Referral Centre, the Traffic Offenders Program, and the Toy and Leisure Library. The Camden Haven Neighbourhood Centre has links with the Port Macquarie Neighbourhood Centre and is provided with free tax assistance and legal help through the centre. These programs are important and vital to our local community.

Unfortunately, all those services are under threat due to the major priority issue of insurance. The Port Macquarie Neighbourhood Centre was informed at 9.15 a.m. yesterday by Aradlay Insurance Brokers that its current underwriters were not prepared to offer the organisation insurance coverage for 2002-03. The organisation wanted coverage to include property, theft, professional indemnity and public liability. Unfortunately, they cannot get any of that cover. Current coverage will cease at 4.00 p.m. tomorrow, but the insurance company, because it was notified within 14 days, is prepared to extend coverage until 4.00 p.m. on Thursday 14 November 2002. The insurance broker also stated that no other underwriter that had been approached was prepared to offer the Port Macquarie Neighbourhood Centre public liability coverage, and that there was no hope in the broker's mind of securing any in the future. That message reached everyone connected with the neighbourhood centre, and today great concern was expressed by parents and others about the threat to the service.

It is a sad indictment on the state of play in New South Wales and Australia today that a neighbourhood centre, one of the key providers of community service in Port Macquarie, is about to close down due to its inability to get insurance coverage. I hope that the State Government and all levels of government, in the period up to November, when the centre's insurance coverage runs out, do everything in their power, including considering any necessary regulatory, statutory or legislative changes, to ensure that the Port Macquarie Neighbourhood Centre and similar centres stay open to provide the much-needed and much-loved services they offer to local communities. It is vitally important that services such as these remain in our communities. I hope that governments at all levels recognise that and do all they can to fix the problem.

**Private members' statements noted.**

**BUSINESS OF THE HOUSE**

**Routine of Business: Suspension of Standing and Sessional Orders**

**Mr WHELAN** (Strathfield—Parliamentary Secretary) [6.25 p.m.]: I move:

That standing and sessional orders be suspended to provide for:

- (1) consideration of the matter of public importance standing in the name of the member for Bligh to be postponed until a later day.
- (2) the introduction and progress up to and including the Minister's second reading speech of the Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Bill, notice of which was given this day for tomorrow, at this sitting.

I have discussed the matter of public importance with the honourable member for Bligh, who agrees that the matter should go over to next week. The other matter is self-explanatory.

**Motion agreed to.**

**BANK HOLIDAYS LEGISLATION AMENDMENT BILL**

**Second Reading**

**Debate resumed from 27 September.**

**Mr HARTCHER** (Gosford—Deputy Leader of the Opposition) [6.27 p.m.]: The Bank Holidays Legislation Amendment Bill, recently introduced by the Government and given its second reading, relates to the power to be given to the Director-General of Industrial Relations to approve applications by banks to trade on Saturdays or Sundays. That is a power under the Banks and Bank Holidays Act relating to the operation of banks. Banks, under the Constitution, are a Federal responsibility. Banks are controlled by the Commonwealth through the Commonwealth Banking Act of 1959, as amended. Originally banks traded on Saturdays; they have never traded on Sundays. I note that the article that accompanied the Government's announcement of these proposed changes, which was given to the *Sunday Telegraph* in February 2002, said:

Major banks in Sydney will open on Saturdays for the first time in 90 years by the end of this year.

That is incorrect. Whoever gave the material to the *Sunday Telegraph* simply worked on the basis that the Banks and Bank Holidays Act was passed in 1912 and therefore it is 90 years since 1912. What they did not do was

check the Act and see that it was amended in 1962 to provide for banks to be closed on Saturdays. So banks were in fact open on Saturdays from 1912 to 1962, a period of 50 years. In 1962, the then Heffron Labor Government, as part of its arrangement with the union movement to try to close Saturday morning shopping, agreed that banks should close on Saturday mornings.

That was the general thrust of the Labor Council and the State Labor Party in those days: to try to force everybody into restricted trading hours. I am sure the honourable member for Strathfield, who is in the Chamber, well remembers the 1965 election, at which shopping hours was a huge issue. The outgoing Renshaw Labor Government was vigorously prosecuting any poor shopkeeper who sold a chocolate bar after 5 o'clock in the afternoon. It was a crazy time. When we look back on it we wonder how it happened, and why it was allowed to happen. It certainly cost the Labor Party a huge number of votes in the 1965 election. And it was all done at the behest of what was then called the Shop Employees Union, which simply did not want anyone to work other than standardised hours.

Times have changed. But the one casualty of that push by the union movement to make shop assistants work only 9 to 5 Mondays to Fridays was the banks. They had to be closed on Saturday mornings. The building societies were not caught by the Banks and Bank Holidays Act and were able to stay open on Saturday morning. In the 1960s, 1970s and 1980s there were dozens of building societies in this State—NSW Permanent Building Society, the Permanent Building Society of Australia, St George Permanent Building Society. By opening on Saturday mornings they took a great deal of trade in the finance industry. They offered the convenience of Saturday morning banking. It was not technically banking under the Banks and Bank Holidays Act. People even had cheque accounts with the building societies after a while, but not in the early stages. People were able to deposit and withdraw money from their building societies, which benefited greatly.

The Greiner Government was the first Government to move to deregulate shopping hours across the board. One of the many achievements by that Government between 1988 and 1991 was that shopping hours were virtually deregulated so that shops could open six days a week, Monday to Saturday. They could open between 10.00 and 4.00 on Sundays in certain areas and subject to certain consents granted by the Director-General of Industrial Relations. Since the deregulation of shopping hours the Australian Bankers Association has applied for the same deregulation to be extended to banks. This has been opposed by the Finance Sector Union, previously the Bank Employees Association. I am pleased to acknowledge that the honourable member for Rockdale was State secretary of the Bank Employees Association. He is a fine member of Parliament and I am sure he was a fine secretary. That union merged with other unions covering the general credit industry and has now become the Finance Sector Union. The Government found it difficult to forge ahead with the opening of banks on Saturdays until it could get some form of agreement with the Finance Sector Union.

It is so typical that the Government does not worry about the consumers, the employers, the people who have their money invested or deposited with banks; it worries about whether the union, which may or may not be affiliated with the Australian Labor Party and which is affiliated with the New South Wales Labor Council, is happy—not the union members but the union bosses, because the union bosses control the votes at the annual conference. It always comes down to who has the votes at the annual conference. They are the ones who get what they want. The State has been held up for some years by the Government trying to come to some arrangement with the Finance Sector Union. I presume that the union is now happy, because the banks have agreed that nobody will be obliged to work on Saturday morning or Sunday if approval is given by the director-general for Sunday trading. All work will be voluntary and paid for at an agreed penalty rate. The employees will benefit considerably from weekend trading because they will have the opportunity to earn extra money from the extra work.

One would hope that these decisions would be made in the interests of the community and employees and that they would not be agonisingly prolonged due to the desire to keep faith with a few trade union heavies. The announcement by the Premier back in February was given to the *Sunday Telegraph* as a soft Sunday story to show the community that the Government was still working. It is now the end of October. It has taken from February to October, eight months, just to introduce a simple piece of legislation to achieve what the Premier was promising last February.

I will not go into the various matters that were canvassed by the Parliamentary Secretary in the second reading speech other than to say that weekend trading worked very effectively with the Olympic Games. It was clearly important that Sydney be a 24-hour city during the Olympic period—one of the great success stories of Australian life. Just as everything else was open continuously, so the banks were open. This proved that the banks provide a service like any other retail service and need to be available to the public. The world has changed from where it was in 1962 with the Heffron Labor Government trying to close everything down. We have moved into a far more open and available process.

This is not the only Government promise on banking that people have waited to see delivered. The then Minister for Fair Trading introduced an exposure draft of a bill called the Consumer Credit (New South Wales) Amendment (Comparison Rates) Bill 2000 whereby he promised to make the disclosure of comparison rates mandatory. That was done with a great deal of fanfare, and stories were given to newspapers. Mr Watkins, the member for Ryde, presented himself as the consumers' friend. He said that consumer credit would be protected and that organisations providing consumer credit would be made to fully explain their rates so that they could be compared. Of course, the exposure draft remains just that—an exposure draft. It has gone nowhere. The Government has not moved to honour the commitment that it made in 2000. The Minister has not done anything to ensure that the promise that he made repeatedly at many press conferences and in speeches is honoured.

So it is no surprise how long it has taken for this bill, which on the face of it is simple legislation—just to open the banks on weekends like everything else is open on weekends—to come before the Parliament. No credit can be given to the Government. It has dragged its feet for the most unworthy motives of keeping happy the trade union leadership of the Finance Sector Union. Consumers, and the credit industry and employees have been the losers due to the prolonged and unnecessary delay. The New South Wales Coalition does not oppose the bill. We believe that these services should be made available to the people. We respect the fact that employees will work only on a voluntary basis.

The banks that open on Saturday or Sunday will be those in major commercial centres. People will not open a bank branch in an area where nothing else is open and there is no reason for people to go there. They will be open in major shopping centres such as the big Westfield developments. Erina Fair in my electorate of Gosford has a number of bank branches. Everything else is open on the weekend; why should banks not be open? There has been no valid reason. Accordingly, I will not go through the detail of the bill. Any matters that the Coalition wishes to raise in greater detail will be dealt with when the bill is before the Legislative Council. My colleague the Hon. Michael Gallacher, who has carriage of industrial relations matters in the Legislative Council, will address this bill. The Opposition has no objection to its passage through the Legislative Assembly.

**Motion agreed to.**

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

*[Madam Acting-Speaker (Ms Beamer) left the chair at 6.41 p.m. The House resumed at 7.30 p.m.]*

## **CRIMES (SENTENCING PROCEDURE) AMENDMENT (STANDARD MINIMUM SENTENCING) BILL**

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

### **Second Reading**

**Mr DEBUS** (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [7.30 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Bill. On 4 September 2002 the Premier announced the release of a consultation draft of the bill for public debate. A number of well-considered and constructive submissions on the draft bill were submitted during the consultation period. All submissions have been closely considered by senior lawyers providing advice to me on the bill, including the Solicitor General and the Crown Advocate. I am pleased to say that a number of recommendations made in submissions on the consultation draft of the bill have been incorporated in the bill. I thank all those organisations and individuals who took the opportunity to make a submission.

At the outset I wish to make it perfectly clear that the scheme of sentencing being introduced by the Government today is not mandatory sentencing. The scheme being introduced by the Government today provides further guidance and structure to judicial discretion. These reforms are primarily aimed at promoting consistency and transparency in sentencing and also promoting public understanding of the sentencing process. By preserving judicial discretion we ensure that the criminal justice system is able to recognise and assess the facts of an individual case. This is the mark of a criminal justice system in a civilised society. By preserving judicial discretion we ensure that when, in an individual case, extenuating circumstances call for considerations of mercy, considerations of mercy may be given.

In great contrast, the mandatory sentencing scheme proposed by the Opposition is a system that imposes the same penalty on all offenders, no questions asked. What the Leader of the Opposition proposes is not justice. As I have said in the House before, what he proposes is sentencing delivered by a slot machine. The Leader of the Opposition peddles a legal system in which the facts of any case simply do not matter, where sentences will be decided more often behind closed doors by the prosecutors, and not in open court by a judge. He wants to make judicial discretion a crime. Studies have also shown that mandatory sentencing laws have a disproportionate effect on both young offenders and indigenous people.

The Leader of the Opposition insists on pursuing those shallow and sensationalist proposals in full knowledge that they go against the weight of well-respected and considered legal and sociological opinion both in Australia and around the world. A report from the Law Council of Australia in September 2001 concluded that mandatory sentencing laws imposed unacceptable restrictions on judicial discretion, were an ill-conceived means of addressing crime rates and have resulted in unjust sentences when applied in other jurisdictions. The Commonwealth Senate Legal and Constitutional References Committee recently stated:

... mandatory minimum sentencing is not appropriate in a modern democracy that values human rights, and it contravenes the Convention on the Rights of the Child.

These views are confirmed from numerous other international sources. The injustice that will flow from the Leader of the Opposition's proposals for mandatory sentencing is well demonstrated by taking some examples. Under the mandatory sentencing proposals of the Leader of the Opposition an offender with a long criminal record who cold-bloodedly plots and plans his crime will receive the same sentence as a young impetuous offender. The Leader of the Opposition proposes a system whereby the victim, subjected to prolonged physical or sexual abuse who finally snaps and turns on their abuser and kills them, or the loving elderly husband who assists in the mercy killing of his terminally ill wife will receive the same sentence as an armed robber who kills in cold-blood in the course of carrying out his evil crime. The potential for unjust and grotesque results is self-evident.

The Leader of the Opposition dishonestly seeks to suggest that obscene results will never occur in cases such as mercy killings because the offender will not be charged with murder, but with manslaughter. In making such a suggestion he once again demonstrates his complete ignorance of the operation and practise of the criminal law. If a person kills another with an intent to kill that person or to inflict grievous bodily harm upon that person, in almost every such case the person will be charged with murder. The battered wife who, after years of physical abuse at the hands of her husband, is provoked into killing him, will in almost every case be charged with murder, not manslaughter. Under our system of criminal justice invariably it is left to a jury, not the prosecutor, to decide whether the killing was a reasonable response in the circumstances and whether provocation at law is established to reduce the charge from murder to manslaughter.

The law imposes very strict criteria that must be met before provocation is established. If the battered wife is unable to meet the strict legal test of provocation, she will be convicted of murder. Under the Leader of the Opposition's mandatory sentencing regime she will be sentenced to 15 years gaol and, in his words, "no questions asked", with absolutely no mitigation. The Leader of the Opposition proposes a system under which no offender will ever have an incentive to plead guilty. This will mean that there will be more trials and these trials will be longer, meaning additional costs to the criminal justice system. This will also mean that victims of crime will be unnecessarily subjected to the ordeal of testifying and being cross-examined at a trial.

The trauma for victims does not stop there. Under the Coalition's proposals there will be increased numbers of outright acquittals as a result of the reluctance of juries to convict. It has been the experience in other jurisdictions that juries, and indeed judicial officers, have been found regularly to nullify laws and penalties that seem to them to be unjust, thereby completely subverting mandatory sentencing laws. It will turn trials into games of all or nothing. The Leader of the Opposition states that his proposals would make sentencing more consistent. The truth is that mandatory sentencing does not promote greater consistency by abolishing judicial discretion; discretion is simply given to others outside the court and beyond the public view—namely, to prosecutors. That is to say, mandatory sentencing laws will lead to a less transparent criminal justice system.

The Government's bill establishes a new sentencing scheme in new division 1A, part 4, of the Crimes (Sentencing Procedure) Act 1999—the principal Act—by setting standard non-parole periods for a number of specified serious offences set out in a table in the bill. Under the bill the court is to set the standard non-parole period as the non-parole period for the offence unless the court determines that there are reasons for setting a non-parole period that is longer or shorter than the standard non-parole period for the offence. The bill also constitutes a New South Wales Sentencing Council to advise the Attorney General in connection with sentencing matters. As I have said, the reforms in the bill are aimed primarily at promoting consistency and transparency in sentencing and promoting public understanding of the sentencing process.

A fair, just and equitable criminal justice system requires that sentences imposed on offenders be appropriate to the offence and the offender, that they protect the community and help rehabilitate offenders to prevent them from offending in the future. The imposition of a just sentence in the individual case requires the exercise of a complex judicial discretion. The sentencing of offenders is an extremely complex and sophisticated judicial exercise. The High Court has described the various purposes and the necessary complexity of the sentencing exercise in the following terms:

The purposes of criminal punishment are various: protection of society, deterrence of the offender and of others who might be tempted to offend, retribution and reform. The purposes overlap and none of them can be considered in isolation from the others when determining what is an appropriate sentence in a particular case. They are guideposts to the appropriate sentence but sometimes they point in different directions."

That is a quote from the judgment in *Veen v The Queen (No. 2)* from page 465 of 164 Commonwealth Law Reports by Chief Justice Mason and Justices Brennan and Dawson and also from the judgement of Justice Toohey at page 476. By introducing a regime of standard non-parole periods for a specified number of serious offences the Government will ensure not only greater consistency in sentencing but also that proper regard is given to the community expectation that punishment is imposed that is commensurate with the gravity of the crime. In conjunction with this proposed legislation the Government will continue to support the use of guideline judgments given by the Court of Criminal Appeal. Guideline judgments are another extremely useful tool in achieving consistency in sentencing and in taking into account community expectations as to the appropriate penalty to be imposed. The legislative and constitutional validity of guideline judgments in New South Wales was recently affirmed by the Court of Criminal Appeal in *R v Whyte*, New South Wales Court of Criminal Appeal 2002, page 343.

The issuing of guideline judgments has had, with respect to a number of offences, a significant impact in achieving both increases in the penalties imposed by the courts as well as overall consistency in sentencing. In particular, guideline judgments with respect to the offences of armed robbery, dangerous driving causing death or grievous bodily harm, and break, enter and steal have had a very positive impact in these areas. It is proposed that the guideline judgments already promulgated by the Court of Criminal Appeal should continue to be used by the courts when sentencing for these offences. Guideline judgments will also continue to play an important role with respect to offences that are not part of the standard non-parole period scheme. For example, I recently filed applications in the Court of Criminal Appeal for guideline judgments with respect to the offence of assault police and also in relation to taking account of other offences in sentencing. The court is to hear those applications shortly. I have also filed an application for a guideline judgment with respect to the offence of driving with a high-range prescribed concentration of alcohol. A hearing date for that application is expected to be set shortly.

I will now consider in detail some of the bill's more important provisions. The bill inserts a new section 3A into the principal Act, which sets out the purposes for which a court may impose a sentence on an offender. These purposes are to ensure that the offender is adequately punished for the offence; to prevent crime by deterring the offender and other persons from committing similar offences; to protect the community from the offender; to promote the rehabilitation of the offender; to make the offender accountable for his or her actions; to denounce the conduct of the offender; and to recognise the harm done to the victim of the crime and the community. The bill also recasts existing section 21A of the principal Act with a new section that sets out clearly identified and well-recognised aggravating and mitigating factors to be taken into account by sentencing courts in determining the appropriate sentence for an offence, if those circumstances are relevant and known to the court.

The court is also required to take into account any other objective or subjective factor that affects the relative seriousness of the offence. The requirement in proposed section 21A for a court to take into account aggravating and mitigating factors and other matters applies in sentencing for all offences, not just to offences that are subject to a standard non-parole period under proposed division 1A, part 4 of the principal Act. The identification of aggravating and mitigating factors in proposed subsections 21A (2) and (3) restate the application of such factors to the sentencing exercise as they presently apply at common law. This is made clear by proposed subsection 21A (1), which provides that the court is to take into account the aggravating and mitigating factors referred to in subsections (2) and (3) of section 21A "which are relevant and known to the court". For example, the aggravating factor under proposed subsection 21A (2) (d) that "the offender has a record of previous convictions" is to be taken into account if that factor is relevant to the sentencing exercise.

In the case of *Veen (No. 2)* in the High Court the majority stated how the antecedent criminal history of an offender can be relevant to sentencing. The majority stated that such a history can be relevant when it

illuminates the moral culpability of the offender in the instant case or shows a dangerous propensity or a need to impose condign punishment to deter the offender and other offenders from committing similar offences. Proposed section 21A (4) provides that a sentencing court is not to have regard to any aggravating or mitigating factor specified in the section if it would be contrary to any Act or rule of law to do so. This provision makes it clear, for example, that a rule of law such as that expressed in *The Queen v De Simoni*, 1981, 147 Commonwealth Law Reports, page 383, is not affected. In the case of *De Simoni* the High Court held that a sentencing court may not take into account circumstances of aggravation that would have warranted a conviction for a more serious offence for which the offender was not charged. The *De Simoni* principle is further preserved by the operation of the concluding words of proposed section 21A (2).

Proposed section 21A (5) makes it clear that the fact that a specified aggravating or mitigating factor is relevant and known to the court does not require the court to automatically increase or reduce the sentence. Not all subjective factors present in a particular case will automatically result in the reduction or increase of a sentence. For example, the courts have consistently held that issues of youth, mental disability or cultural background will not in every case lead to a reduction of a sentence by way of mitigation. It is a well-accepted principle of sentencing that in the case of youth, general deterrence and public denunciation usually play a subordinate role to the need to have regard to individual treatment aimed at rehabilitation. However, as the Court of Criminal Appeal recently reaffirmed in *Regina v AEM (Snr)*, *Regina v KEM*, *Regina v MM* (2002) New South Wales Court of Criminal Appeal Reports at page 58, there is a point at which the seriousness of the crime committed by a youth is of such a nature, is so great, that that principle must, in the public interest, give way.

As the High Court stated in the case of *Veen* (No. 2) the various purposes of punishment are guideposts to the appropriate sentence. These guideposts sometimes point in different directions. For example, the existence of a causal relationship between the commission of an offence and an offender's mental disability does not automatically produce the result that the offender will receive a lesser sentence. The presence of a mental disability in an offender may, in a particular case, be given little weight because of the overriding need to protect the community. This principle has been affirmed in a series of decisions of the Court of Criminal Appeal in New South Wales in *Regina v James Peter Engert* (1995) 84 Australian Criminal Reports at page 67, *Regina v Wright* (1997) 97 Australian Criminal Reports at page 48 and *Regina v Mitchell* (1999) 108 Australian Criminal Reports at page 85.

The bill replaces existing section 44 of the principal Act with a new section that requires the sentencing court to set a non-parole period for the sentence before setting the balance of the term of the sentence—that is, the period during which the offender may be released on parole. The balance of the term of the sentence must not exceed one-third of the non-parole period for the sentence, unless the court decides that there are special circumstances for it being more. Current section 44 requires the court to set the total sentence and then fix the non-parole period. The replacement of the existing section is a necessary consequence of the introduction of the scheme of standard non-parole sentencing. The effect of proposed section 44 is to maintain, by a different method of calculation, the existing presumptive ratio between the non-parole period of a sentence and the period during which the offender may be released on parole.

The bill inserts a new division 1A—sections 54A to 54D—into part 4 of the principal Act. The proposed division provides for standard non-parole periods for a number of serious offences listed in the table to the division. Proposed section 54A provides that the standard non-parole period for an offence is the non-parole period set out opposite the offence in the table. The offences specified in that table include murder, wounding with intent to do bodily harm or resist arrest, certain assault offences involving injury to police officers, certain sexual assault offences, sexual intercourse with a child under 10 years of age, certain robbery and break and enter offences, car-jacking, certain offences involving commercial quantities of prohibited drugs and unauthorised possession or use of a firearm.

The standard non-parole periods set out in the table to the bill have been set taking into account the seriousness of the offence, the maximum penalty for the offence and current sentencing trends for the offence as shown by sentencing statistics compiled by the Judicial Commission of New South Wales. The community expectation that an appropriate penalty will be imposed having regard to the objective seriousness of the offence has also been taken into account in setting standard non-parole periods. The bill provides in section 54A (2) that the standard non-parole period for an offence represents the non-parole period for an offence in the middle of the range of objective seriousness for such an offence. The standard non-parole period provides a reference point or benchmark within the sentencing spectrum for offences that are above or below the middle of the range of objective seriousness for such an offence.

The concept of a sentencing spectrum is well known to sentencing judges and criminal law practitioners. The first important point of reference which must be considered in the sentencing exercise is the



maximum penalty for an offence. The maximum penalty is said to be reserved for the "worst type of case falling within the relevant prohibition": *Regina v Tait and Bartley* (1979) 46 Federal Law Reports at page 386, the decision of Justices Brennan, Deane and Gallop at page 398. However, as the High Court observed in *Veen* (No. 2) at page 478, this does not mean that "a lesser penalty must be imposed if it be possible to envisage a worse case ...". At the other end of the sentencing spectrum lie cases which might be described as the least serious or trivial.

The new sentencing scheme proposed in the bill introduces a further important reference point, being a point in the middle of the range of objective seriousness for the particular offence. The identification of a further reference point within the sentencing spectrum will provide further guidance and structure to the exercise of the sentencing discretion. Every sentencing exercise necessarily involves the identification by the court of where the offence lies in the spectrum of objective seriousness. In *Ibbs v The Queen* (1987) 163 Criminal Law Reports at page 447 the High Court referred at pages 451 and 452 to the need for a sentencing judge to identify where in the spectrum of objective seriousness an offence lies. Chief Justice Spigelman recently restated this principle in *Thorneloe v Filipowski* (2001) 52 New South Wales Law Reports, page 60 at page 69. The Chief Justice referred again to the principle in the case of Whyte when His Honour stated:

However, in this State the principle of proportionality identified in *Veen v The Queen* (1978-1979 143 CLR 458 esp at 490; *Veen v The Queen* [No.2] (1987-1988) 164 CLR 465 esp at 472-3, 476 has long been held to permit, indeed to require, that a sentence should be proportionate to the objective gravity of the offence. This necessarily requires a sentencing judge to consider, at some stage in the reasoning process, the sentence that is appropriate for the particular circumstances of the crime without reference to the subjective case of the particular offender.

This principle was also enunciated by Justice Howie of the New South Wales Supreme Court in *R v Moon* (2000) New South Wales Court of Criminal Appeal Reports, page 534 at [67]-[68]. His Honour stated that after first having regard to the maximum penalty for the offence, a sentencing judge must then "consider where in the range of the conduct covered by the statutory offence, the particular criminal conduct committed by the offender falls". Proposed section 54B (2) provides that a court sentencing an offender to imprisonment for an offence set out in the table to the proposed division is to set the standard non-parole period as the non-parole period for the offence unless the court determines that there are reasons for setting a non-parole period which is longer or shorter than the standard non-parole period. Under proposed section 54B (3) the reasons for which the court may set a non-parole period longer or shorter than the standard non-parole period are only those matters referred to in proposed section 21A.

The court must make a record of its reasons for increasing or reducing the standard non-parole period, and must identify in the record of its reasons each factor to which it had regard—proposed section 54B (4). Under the bill the sentencing process remains one of synthesis of all the relevant factors in the circumstances of the case. The requirement for a court to identify each factor that it takes into account does not require the court to assign a numerical value to such a factor. That is, proposed section 54B does not require a court to adopt a mathematical or multi-staged approach to sentencing. Proposed section 54C requires a court that imposes a non-custodial sentence for an offence set out in the table to the proposed division to make a record of its reasons for doing so. The court must identify in the record of its reasons each mitigating factor that it took into account in coming to that decision.

Proposed section 54D provides that standard non-parole periods do not apply to the sentencing of an offender to imprisonment for life or for any other indeterminate period, or to detention under the Mental Health (Criminal Procedure) Act 1990. The Government recognises, however, that the question of the application of traditional sentencing principles to sentencing dispositions and detention under the Mental Health (Criminal Procedure) Act 1990 is a complex one. Accordingly, I have referred the question of whether the proposed standard non-parole period sentencing scheme should apply to sentencing dispositions and detention under that Act to the Mental Health (Criminal Procedure) Act Interdepartmental Committee, which is convened by the Criminal Law Review Division of my department.

Under proposed section 54D (2) standard non-parole periods do not apply if the offence for which the offender is sentenced is dealt with summarily. By way of consequential amendment, the bill excludes offences that are subject to standard non-parole periods from section 45 of the principal Act. That section enables a court sentencing an offender to imprisonment to decline to set a non-parole period. That is, the offender will serve the entire sentence in detention with no period of parole. The proposed amendment avoids the possibility that an offender sentenced under section 45 for an offence subject to a standard non-parole period would be subject to a shorter total sentence than an offender who was sentenced for the same offence under proposed section 44. The bill also inserts a new part 8B, sections 100I–100L, into the principal Act. The proposed part constitutes a New South Wales Sentencing Council.

The Sentencing Council is to have the following functions: advising and consulting with the Attorney General in relation to offences suitable for standard non-parole periods and their proposed length; advising and consulting with the Attorney General in relation to offences suitable for guideline judgments and the submissions to be made by the Attorney General on an application for a guideline judgment; monitoring and reporting annually to the Attorney General on sentencing trends and practices, including the operation of standard non-parole periods and guideline judgments; and, at the request of the Attorney General, preparing research papers or reports on particular subjects in connection with sentencing.

The Sentencing Council is to consist of 10 members appointed by the Attorney General, of whom one is to be a retired judicial officer, one is to have expertise or experience in law enforcement, and three are to have expertise or experience in criminal law or sentencing—including one person who has expertise or experience in the area of prosecution and one person who has expertise or experience in the area of defence—one is to be a person who has expertise or experience in Aboriginal justice matters and four are to be persons representing the general community, of whom two are to have expertise or experience in matters associated with victims of crime.

The bill inserts a new schedule 1A into the principal Act. Proposed schedule 1A contains provisions relating to the membership and procedure of the Sentencing Council. The Government is confident that this new Sentencing Council will provide an invaluable opportunity for the wider community to make a major contribution to the development of sentencing law and practice in New South Wales. It is not proposed at this time to include "attempt" offences, other than "attempt murder" offences, within the standard non-parole sentencing scheme. However, I propose to refer the question of whether "attempt" offences should be included in the scheme to the Sentencing Council for its consideration when it is constituted.

A new section 106 of the principal Act requires the Attorney General to review the amendments proposed by the bill relating to standard non-parole periods as soon as possible after two years and to report the results of the review to Parliament. The bill inserts a new section 101A in the principal Act that provides that a failure to comply with a provision of the principal Act may be considered by an appeal court in any appeal against sentence even if the Act declares that the failure to comply does not invalidate the sentence. The proposed section ensures that the courts are not relieved of the obligation to comply with the principal Act with respect to standard non-parole periods or other matters, but protects the validity of any sentence until such time as the matter is considered by an appeal court.

The bill also amends provisions of the principal Act and the Children (Criminal Proceedings) Act 1987 dealing with the suspension of a sentence of imprisonment. These amendments are consequential to the substitution of section 44 of the principal Act by the proposed Act. The bill also increases the maximum penalties for the offences of sexual intercourse with a child under 10 years of age, and attempted sexual intercourse with a child under 10 years of age—sections 66A and 66B of the Crimes Act 1900—from 20 years to 25 years imprisonment. These are abhorrent offences which call for the strongest denunciation by way of punishment. We must do all within our powers to protect young children from the evils perpetrated by sexual predators. The Government, therefore, believes that it is appropriate to increase the maximum penalties for these offences to reflect community values and expectations with respect to the protection of young children.

The Government further considers that it is appropriate to include the offence under section 66A in the standard non-parole sentencing scheme. That offence is, therefore, included in the table to the bill. A comprehensive review of child sexual assault legislation in New South Wales recently undertaken by the Criminal Law Review Division of my department revealed a number of inconsistencies and anomalies in maximum penalties for child sexual assault offences. For example, the offences of sexual intercourse and attempted sexual intercourse with a child under 10 years carry a maximum penalty of 20 years imprisonment. However, the offence of homosexual intercourse with a child under 10 years carries a maximum penalty of 25 years, whereas the offence of attempted homosexual intercourse with a child under 10 years carries a maximum penalty of only 14 years imprisonment.

The amendments to the Crimes Act 1900 proposed in the bill rationalise the maximum penalties for these offences by providing the same maximum penalty of 25 years imprisonment for sexual intercourse and attempted sexual intercourse with a child under 10 years regardless of whether the assault was homosexual in nature. In line with this rationalisation, the gender-specific and anachronistic offences of homosexual intercourse and attempted homosexual intercourse with a child under 10 years—sections 78H and 78I of the Crimes Act—will be repealed. This will mean that all sexual assault offences against children under 10 years of age will be brought under the same non-gender specific provisions. As I have said, the bill seeks to meet the

community's legitimate expectation that the courts should impose sentences that are appropriate to the gravity of the offences. I commend the bill to the House.

**Debate adjourned on motion by Mr Hartcher.**

## **DRUG COURT AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 25 September.**

**Mr HARTCHER** (Gosford—Deputy Leader of the Opposition) [8.07 p.m.]: The Drug Court Amendment Bill will amend the Drug Court Act 1998, which was experimental legislation designed to establish the Drug Court and divert offenders who embark on criminal conduct by treating their drug dependency rather than focussing on their crime. The Coalition did not oppose the legislation when it was introduced in 1998. It accepted that the Drug Court at Parramatta was a trial. It supports the idea that, when possible, the focus should be on treating drug offenders rather than on trying to rehabilitate them. The Drug Court should deal with non-violent offenders only.

We do not support the Drug Court dealing with those who commit crimes of violence. Often that is a fine line because drug-related offences are attempts to get money to sustain a drug habit, and they may involve threats of violence or, unfortunately, actual violence. Our position is clear: we will support the court only when it deals with non-violent offenders. Notwithstanding that, we have been concerned about the success rate of the court. The published statistics have not inspired a great deal of confidence in the Drug Court process. If we were to make an objective assessment of the cost of the rehabilitation and its success rate it would not seem to be particularly remarkable. In fact, we are disappointed with it. We hope there is an improvement.

It is still early. At this stage it is not appropriate to try to dismantle the process. We believe the experiment should be persevered with. In the past, the Coalition has commented on the various inadequacies of the Drug Court. Some of those inadequacies are addressed by the bill. We support and welcome the increased powers of the court, particularly the court's power to terminate programs where it is clear that offenders are not benefiting and to ensure they serve any sentence of imprisonment imposed in the District Court, and the various other amendments set out in the legislation. I do not intend to go through the format of the bill; that is a matter for the Minister in his second reading speech.

We are concerned about policy. The Government must clearly understand that every crime matters. The Attorney General has just introduced a bill which is the Government's response to the Coalition's proposals on minimum sentencing. Over the past 12 months the Coalition has set the agenda on law and order in this State, be it police or criminal justice issues. It is interesting to watch the Government's antics in trying to keep up with the Coalition. If we recommend that beat policing be introduced to a particular area, within one month, two months or three months the Premier or the Minister for Police says there will be beat police in that area. If the Coalition complains that there are no general duties police at Woy Woy police station, within six weeks the Minister for Police says the Government will assign general duties police there. If the Coalition says there are not enough police officers at The Entrance, within a few weeks the Premier is there saying that the Government will assign more police to the area.

The Government makes promises but does not deliver. It takes the same approach with the issue of criminal justice sentencing. The bill the Attorney has just introduced into Parliament is a catch-up to the Coalition's proposals. We will deal with that bill in due course. As to diversionary programs, of which the Drug Court is one, at the end of the day the community needs to be protected. The main objective of the legal system is not to look after offenders. If the Government believes that the community will accept a focus on offenders, it is sadly mistaken. The Coalition's position is clear: Our aim is to protect the community. We will not support any program that simply slaps offenders on the wrist and says, "Naughty boy, go off and do a drug course and that will be the end of the matter."

The Coalition sends a clear message to the Drug Court, and I place it on the public record. If the Coalition is successful in the March 2003 election, and I believe it will be, we will expect the Drug Court to lift its game. We are not satisfied with its record to date. We endorse the concept of the Drug Court and we accept that the amendments in the bill may offer some improvement, but we will not be led down a path of treating criminals who use drugs only as sick people. Certainly they are sick, but they are also criminals. If society is to

be protected from them, the court must consider their crimes as well as their sickness. To allow the situation to continually slide and not deal properly with these people, as I suspect the Government would if it were not for the Opposition nipping at its heels all the time, would be a betrayal of the community.

The amendment that enables the Drug Court to terminate the program if it is satisfied that further participation poses an unacceptable risk should not be necessary. Such a provision should have been in the original bill. When offenders are not benefiting from the program and using it as a mask—and a number of offenders seek refuge in the diversionary program to escape the more serious consequences of their crime—the Drug Court should be proactive and ensure that those people are brought to justice. The Government does not make any great claims about the Drug Court. It does not leak special stories to the papers or conduct special programs to advertise the court simply because the court has not had any great record of success.

The Coalition supports the concept of the Drug Court, but we expect it to lift its game. While we do not oppose the amendments, we reserve the right to scrutinise them more closely in another place if necessary. We send the message that we are not sympathetic to criminals being regarded as sick people. Certainly they are sick, but they are also criminals. We expect the primary focus of law and order in our society to be on community protection, and we will fight for that. If the Drug Court is to continue in years to come we ask it to show that the community support it has received so far is justified.

**Mr DEBUS** (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [8.16 p.m.], in reply: The Government takes drug-related offending extremely seriously. It is a complex problem that does not in any way lend itself to one-size-fits-all solutions. The Drug Court addresses the source of drug-related crime offending by endeavouring to rehabilitate offenders through an intensive program that serves to protect the community by reducing the number of offences committed to finance drug use. It also plays a critical role in seeking—and in many cases achieving—to improve the health and quality of life of program participants. I should emphasise that this program seeks, above all, to protect the community but to rehabilitate offenders as it does so. It acknowledges that there is not a necessary contradiction between those two aims, a contradiction that the Deputy Leader of the Opposition seems to regard as inevitable.

The results of the Bureau of Crime Statistics and Research evaluation of the Drug Court were positive. The bureau found that the Drug Court program was a cheaper alternative to gaol, it reduced the amount of crime and improved the health of offenders, thereby lightening the burden on the health system. I remind the House that the New South Wales Drug Court concentrates on serious offenders, most of whom have years of drug use and criminal behaviour behind them. That leads, of course, to the circumstance in which it is not easy to compare the record of our Drug Court with the records of those in North America particularly, where drug courts are inclined to focus on criminals who are at the less serious end of the offending spectrum. I note that at page 4, an apparent attachment to a document called "Sentencing—A Coalition Perspective", published as recently as 19 September 2001, the Deputy Leader of the Opposition describes the Drug Court in the following terms:

New South Wales is trialling with great initial success a Drug Court.

He then went on to talk about a focus on rehabilitation for drug addiction with imprisonment as a final resort. The honourable member for Gosford cannot stay consistent even for a few months in his attitude to these kinds of matters. No doubt he is, as he normally does, responding to a recent report to him from the market researcher Mr Textor. The bill demonstrates the Government's commitment to evidence-based policy in drug misuse and drug-related crime by implementing the recommendations made by the Bureau of Crime Statistics and Research after a rigorous evaluation.

The bill also implements a number of recommendations of the senior working party convened by the Attorney General's Department to report on future Drug Court activity. It encompasses a number of reforms that will increase the effectiveness of the program. The bill provides the Drug Court with the power to deal appropriately with offenders who are not complying with the requirements of its program. It means that the court will now have the power to impose a consecutive sentence of imprisonment for summary offences committed whilst on the program and to terminate an offender's participation for lack of progress or due to the unacceptable risk to the community of further offending.

In addition, the amendments will allow the Drug Court to recognise and reward substantial compliance with the program in circumstances where the participant has demonstrated a marked improvement but where graduation criteria have not been attained. The bill acknowledges the time frame required for detoxification and

assessment by extending the maximum period an offender can be committed to a correctional centre from seven days to 21 days. It also sets out the conditions of the program that the court may impose on participants relating to conduct, counselling, supervision and drug testing.

The amendments ensure that individuals who accommodate program participants have consented in writing to accommodating them—an appropriate safeguard. The bill has been informed by the practical experience of the Drug Court as the pilot has emerged. It is appropriate at this point to thank the presiding judges of the court: Judge Gaye Murrell, who was the head of the court until recently; and Acting Senior Judge Neil Milson, whose commitment to the court's success is evident to all who know him. Both have been vital to the success of the court to date. It would be inconsiderate of me to not thank the many other staff who make the court the vital program that it is: staff from my department, Legal Aid, court staff and health professionals, all of whom invest a great deal of personal effort and emotion in ensuring that this unique court operates in a sensitive and accountable manner. The amendments implement changes that will further improve the effectiveness and efficiency of the Drug Court. I commend the bill to the House.

**Motion agreed to.**

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

## **LOCAL GOVERNMENT AMENDMENT (NATIONAL COMPETITION POLICY REVIEW) BILL**

### **Second Reading**

**Debate resumed from 27 September.**

**Mr WEBB** (Monaro) [8.23 p.m.]: The Opposition supports the Local Government Amendment (National Competition Policy Review) Bill, which seeks to amend the Local Government Act 1993 in accordance with the national competition policy review of the Act. The Local Government Act 1993 is the principal Act regulating local and county councils. It provides local councils with certain powers to regulate the activities of businesses and individuals, in addition to providing councils with wide powers to undertake services in their local communities. The bill adjusts the way in which national competition policy requirements apply to local government. Those adjustments will be required from time to time as practical issues emerge in relation to the implementation of national competition policy.

However, I make it clear at the outset that the legislation must ensure that there is an appropriate balance between public expectations of accountability and commercial expectations of a level playing field. It is also worth noting that while councils need to adjust their affairs to operate in a more competitive environment, they do not receive any direct share of competition payments. Consequently, local councils have suffered all the pain associated with becoming more competitive without the associated gains. That is contrary to arrangements made in other States such as Queensland, where councils receive a guaranteed share of the competition payments by virtue of an agreement with the State Government.

The Treasurer, Michael Egan, refuses to release the purse strings and pass on a share of national competition policy payments to local government, so it is ironic that we are now debating a bill relating to a national competition policy review. National competition policy is a package of measures that generally aim to encourage competition. The underlying premise is that greater competition will usually lead to the creation of incentives for improved economic performance. The elements of the national competition policy are outlined in the Competition Principles Agreement signed by the Commonwealth, State and Territory governments in April 1995. That agreement commits all State and Territory governments to undertake a review and, where appropriate, a reform of all State legislation that restricts competition.

The concept of competitive neutrality is central to national competition policy. The objective of competitive neutrality is to remove any net competitive advantages or disadvantages that may be available to significant business activities conducted by government agencies. The policy aims to achieve competitive neutrality between public and private sector businesses and is part of a continuum of measures to foster greater efficiency in the operation of the public sector. As I said earlier the bill amends the Local Government Act 1993 in accordance with the national competition review of the Act.

The first amendment relates to bulk tendering. The object of the amendment is to provide greater market entry by allowing councils to access bulk purchasing arrangements of certain organisations subject to

probity requirements applying to those organisations. Section 55 of the Act currently allows councils to avoid the normal tendering requirements if goods and services are bought through a bulk contract arranged by the State Contracts Control Board [SCCB] or the equivalent Commonwealth agency. That has the potential to be anti-competitive as it prevents competitors entering the market for council contracts.

As I understand it, the amendment proposed in the bill is consistent with the recommendation of the review committee that the Local Government Act be amended to insert a regulation-making power so that the list of organisations included in the Act be extended to include additional organisations, with conditions attached. That ensures accountability with respect to the expenditure of public money. The organisations would also have to deliver the service and comply with probity standards commensurate with those already in the Act and the regulation.

The second amendment proposed in the bill removes the requirement that a person operating an undertaker's business or a mortuary must hold a council approval to operate such a business. At present section 68 of the Local Government Act requires that council approval be gained to operate an undertaker's business and/or to operate a mortuary. The two approvals are connected, as access to an approved mortuary is a requirement for an approval to carry on an undertaker's business. To obtain council approval to operate an undertaker's business or a mortuary, applicants must comply with certain standards relating to adequate public health conditions outlined in schedule 4 of the Local Government (Orders) Regulation 1999. Standards also apply to undertakers and mortuary operators under the Public Health Regulation 1991 in regard to the handling of bodies and the use of physical facilities in which bodies may be held, transported or protected.

The Opposition believes that the proposed amendment will remove the duplicating and restrictive effect of the existing regulatory framework. The review committee has identified that access to an approved mortuary as a requirement for an approval to carry on an undertaker's business is a problem in border areas of the State. As there is no similar regime of regulation in adjoining States, this issue cannot be solved through "mutual recognition" schemes. However, activities in other States appear to operate satisfactorily without local Government licensing. This is clearly a restraint on competition. It is also apparent that applicants may have already avoided the practice of requiring a separate business approval since the amendments to the Environmental Planning and Assessment Act commenced on 1 July 1998.

The third set of amendments proposed by the bill relate to restrictions on the use of council revenue. Schedule 1 (5) allows money that has been received by a council as rents or profits or other proceeds from community land to be not only used on community land acquisition and management, as is currently the case, but used for any purpose. The rationale for this amendment is that the cost of providing community land far outweighs the relatively small amounts of income received through rent. The Opposition supports proposed schedule 1 (7) to the bill that allows a dividend payment to be deducted from money currently required to be used for the specific purpose of water supply or sewerage services, and transferred to a council's general fund and used for any purpose under the Act, or any other Act.

Section 60 and other sections contained in division 2 of part 3 of the Act in general provide certain powers to the Minister for Land and Water Conservation to control and direct councils in respect of the provision of water supply, sewerage and stormwater drainage works and facilities. However, not all councils carry out these functions. For example, in the areas of Sydney and Hunter Water councils are not responsible for the provision of water supply and sewerage infrastructure. It is councils outside these areas that are subject to section 60 and related provisions. The proposed amendment will mean that a council may make a deduction from the money currently required to be used for the specific purpose of water supply or sewerage services only if it complies with certain guidelines published by the Minister for Land and Water Conservation with the agreement of the Minister for Local Government.

The Opposition supports the proposed amendment to bring into line section 60 of the principal Act in accordance with national competition policy and, in particular, competitive neutrality. This is concerned with increasing the efficiency of monopoly providers and ensuring that the same kinds of businesses operate under the same rules. The amendment will largely ensure that councils providing water services under the Local Government Act will not be at a disadvantage compared with other bodies such as Sydney Water when providing the same services. The fourth set of amendments in the bill relate to establishing a more competitive fee-setting structure. The aim of these amendments is to introduce greater flexibility in setting fees for business and contestable activities, while maintaining accountability and transparency in decision making. The Act allows councils to set fees for certain services such as receiving an application for approval or issuing a certificate. However, the current structure for setting fees does not allow councils to respond to market forces, and allows competitors access to council fees information. The proposed amendments enable councils to set their fees in a more competitive manner.

The final amendment proposed in the bill changes the definition in the Act of "domestic waste" to clarify that "domestic waste" applies to household garbage including recyclables but does not include household effluent waste. The anti-competitive nature of the domestic waste management charge can be justified on the basis of the need of the community to provide an effective low-cost service. However, the same justification does not apply to effluent waste, which may be the subject of commercial sewerage works. The Opposition supports the bill before the House, which serves an administrative purpose to adjust the Local Government Act 1993 to bring it into line with the recommendations of the national competition policy review into the Local Government Act.

The Local Government and Shires Association has noted that, due to a tension between national competition policy—which promotes a more business-like approach for councils—and the accountability constraints on local government in the Local Government Act 1993, the various reforms outlined in the bill are required. A number of country councils have indicated that a "public benefits test" should be applied to national competition policy decisions more thoroughly, using commonsense. Local government, especially in rural areas, will often "enter the market" with a business activity, such as a swimming pool, for community service reasons.

Judging from the submissions from a number of rural councils to the National Competition Review Committee, it is important that local sustainability be encouraged, such as by offering incentives to businesses to locate in rural areas, even if such policies do not comply with the rigid application of "economic rationalism". It is also mandatory that there is an appropriate balance between public expectations of accountability and commercial expectations of a "level playing field". The Opposition supports the bill, which is designed to amend the Local Government Act 1993 in accordance with the national competition review of the Act. I commend the bill to the House.

**Mr CAMPBELL** (Keira) [8.36 p.m.]: I support the bill. It continues the process that the Government has put in place in introducing many reforms in the area of local government, for example, changes to pecuniary interest and electoral provisions, anticorruption measures and changes to make it more easy for local councils to remove graffiti. This bill is another element in the Government's continued push for reform and modernisation of local government and the Local Government Act. The bill is about ensuring that the Act complies with national competition policy principles: in other words, improving the efficiency, accountability and effectiveness of our State's 172 local government authorities. The overview of the bill states:

The object of this Bill is to amend the *Local Government Act 1993* (**the Principal Act**) as follows, in connection with national competition policy reforms:

- (a) to enable persons prescribed by the regulations to specify contracts for the purchase of goods, materials or services that will be exempt from the tendering provisions of the Principal Act,
- (b) to remove the requirement that a person operating an undertaker's business or a mortuary must hold a council approval,
- (c) to remove the restrictions on councils on their use of rents and other proceeds derived from community land,
- (d) to allow certain deductions (in the nature of a return on capital invested payments (dividend)) to be made from money required to be used only for restricted purposes and to allow those deductions to be applied towards any purpose allowed for the expenditure of money by councils by the Principal Act or any other Act,
- (e) to provide for a more flexible procedure for the setting of fees for the services of a council that relate to certain business activities,
- (f) to amend the definition of **domestic waste** in the Principal Act to make it clear that domestic waste includes waste that may be recycled, but does not include sewage.

National competition policy is often misunderstood. Indeed, I can understand why it is so often misunderstood as a principle and as a means of reform. However, in regard to this bill, it is simply ensuring a fair deal both for the community and for councils, ensuring that councils do not suffer competitive disadvantages when carrying out their functions but still ensuring the community's interests are met. The review of the Local Government Act was undertaken by a committee representing all of the key stakeholder agencies such as New South Wales Treasury and the Department of Local Government. A reference group of industry organisations such as Lgov, or the old Local Government and Shires Association, and the Municipal Employees Union also provided advice to that committee. So there has been consultation and discussion with industry. The way the Government consults with industry groups at times when it needs to make changes, particularly in regard to local government, is one of its hallmarks.

The objective of competitive neutrality is to remove any net competitive advantages or disadvantages that may be available to significant business activities conducted by government agencies. In other words,

government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership, and that includes local government. As I have pointed out, the bill contains a number of measures to address potentially anti-competitive elements in the Local Government Act. One measure deals with arrangements for bulk tendering contracts entered into by councils. At present councils are exempt from normal tendering requirements when purchases are made through a bulk contract arranged by the State Contracts Control Board or the equivalent Commonwealth agency. The review committee reported that the current restriction on organisations that can provide bulk purchasing is anti-competitive.

The bill provides for a regulation-making power to allow the list of prescribed organisations that enjoy the exemption from tendering requirements to be extended to include any other organisation subject to such conditions as may be required. Conditions will be put in place to ensure that such organisations comply with probity standards commensurate with those already in the Act and its regulations. The bill also seeks to amend the definition of "domestic waste" in the dictionary to the Act in order to clarify that it applies only to household garbage and recyclables and not to household effluent waste. Domestic waste management is provided by councils. The anti-competitive nature of the annual charge for those services is justified by community interest in the provision of an effective low-cost waste removal service.

Indeed, these days the collection of domestic waste and recyclables is a key responsibility of local governments and one of the key challenges for each local government authority. Unlike domestic waste management, household effluent management services may be provided by commercial sewerage works and are thus a contestable activity. The amendment of the definition ensures that anti-competitive provisions are retained only when they can be adequately justified in the interests of the community. The bill is a sensible approach to competitive neutrality. It is designed to help councils but at the same time it protects the rights of ratepayers. I commend the bill to the House.

**Mr PRICE** (Maitland) [8.42 p.m.]: I support the bill. The bill seeks to amend the Local Government Act to address certain provisions of the Act that are inconsistent with the principles of national competition policy. By doing so, it promotes greater accountability by councils in the way they carry out their business functions, and in the service of their communities. Competition policy is not about the pursuit of competition as an end in itself. The objective of national competition policy is to remove restrictions on competition that are found not to be in the interests of the community, for example, legislation that restricts entry into markets or constrains competitive behaviour with markets.

The bill addresses those areas that are appropriate for reform. Anti-competitive provisions are retained if the benefits to the community as a whole outweigh the costs, or where the objects of the Act cannot be achieved without them. The amendments proposed in the bill manage the need for local government to balance competitiveness with accountability. The national competition policy review of the Local Government Act was conducted by a committee comprising senior officers from the Department of Local Government, the Cabinet Office and New South Wales Treasury, and it received suggestions from a reference group involving senior officers from Lgov NSW, the Institute of Municipal Management, the Municipal Employees Union, New South Wales Branch, and the Environmental Health and Building Surveyors Association.

I acknowledge the hard work of the committee, and the valuable input of the reference group in preparing the report of the review. This bill is based upon the recommendations made in that report. Councils acting under the Local Government Act 1993 can have an impact on the competitiveness of business activities in two main ways. In the first instance, councils have a role in regulating the business of others, through the provision of approval to operate a business. In the second instance, councils have an impact on competitive neutrality in relation to their own business activities; that is, in the way in which council businesses operate and interact with their competitors in the private sector.

The objective of competitive neutrality is to remove any net competitive advantages or disadvantages that may be available to significant business activities conducted by government agencies. Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. The bill contains a raft of measures to address potentially anti-competitive elements in the Local Government Act. One measure deals with arrangements for bulk tendering contracts entered into by councils. At present, councils are exempt from the normal tendering requirements when purchases are made through a bulk contract arranged by the State Contracts Control Board or the equivalent Commonwealth agency.

The review committee reported that the current restriction on the organisations that can provide bulk purchasing is anti-competitive. The bill provides for a regulation-making power to be inserted into the Act to



allow the list of prescribed organisations that enjoy the exemption from tendering requirements to be extended to include any other organisation subject to such conditions as may be required. Conditions will be put in place to ensure that organisations in this position comply with probity and transparency standards commensurate with those already in the Act and its regulations.

I now move to the issue of fees and charges for business activities. Under current provisions in the Local Government Act, councils are required to set fees and charges for the provision of services in a particular way. The fee must be included in the council's annual management plan, which is then open for public consultation. However, this system of setting fees as part of the management planning process limits a council's ability to adjust its fees in response to market trends or to introduce new fees. These restrictions obviously do not apply to private businesses. In addition, the requirement for inclusion of fees in the management plan gives the council's competitors detailed information about council's fee-setting policy, placing the council at a competitive disadvantage.

The bill proposes amendments to facilitate increased flexibility in the setting of fees. The new model allows a council to adopt and explain a pricing methodology in its management plan, but does not require the actual price for each activity to be disclosed in the management plan. This provides greater confidentiality for councils while allowing them greater flexibility to adjust fees or set new fees. The new fee-setting model will apply only to activities that are contestable. There will be no change to the way in which fees are set for activities undertaken as a community service, where there is a council monopoly on service provision, or where the activity is a regulatory activity not subject to competition.

In addition, annual charges or special rates for water supply and the like will continue to be set and applied according to the current provisions. The Local Government Act places strict controls on the use of certain council revenue. Revenue raised from the rent, profits or other proceeds of community land must be spent on community land acquisition and maintenance. These amendments will lift the restrictions that apply to revenue from community land, as the rental income from community land will always be far outweighed by the cost of community land management. Money that has been received as a result of the levying of a special rate or charge may not be used for a purpose other than that for which it was levied. This applies to water supply and sewerage charges among others. Those fees and charges were dealt with by the honourable member for Wollongong so I will not reiterate them, save to say that it is extremely important that the definition be clarified absolutely so that the term "domestic waste" is applied only to household garbage and recyclables and not to household effluent waste, for fairly obvious reasons.

The Local Government Act presently requires that any person operating an undertaker's business and/or a mortuary must gain council approval. Because access to an approved mortuary is a requirement for an approval to carry out an undertaker's business, the approvals are effectively connected. Other Australian jurisdictions do not require business approvals for the funeral industry, and the industry in New South Wales is subject to stringent regulation through the Public Health Act and the Local Government (Orders) Regulation to ensure the public's occupational health and safety.

The review committee found that the current requirement to obtain prior approval to operate an undertaker's business or a mortuary facility is anti-competitive and cannot be justified on other grounds given the regulation of health and safety matters by the Local Government (Orders) Regulation and public health legislation. The Local Government (Orders) Regulation will ensure that councils retain the power to enforce building standards established for mortuaries on the grounds of public health and safety.

This bill addresses the sections of the Local Government Act that have the potential for anti-competitive effects. However, it balances the need for competitiveness with the need to promote the best interests of the community. Anti-competitive provisions are retained when the benefits to the community as a whole outweigh the costs or when the objectives of the Act cannot be achieved without them. Councils, companies engaging in business with councils, and the community will all benefit from this enhanced competition and accountability in relation to local government.

**Mr BARTLETT** (Port Stephens) [8.50 p.m.]: I join other Government members in supporting the Local Government Amendment (National Competition Policy Review) Bill, which is a bill for an Act to make miscellaneous amendments to the Local Government Act 1993 in connection with national competition policy reform and for other purposes. National competition policy is attempting to establish a level playing field by not giving those in the public service additional advantages and visibly disadvantaging private industry. This Government has amended the Local Government Act with regard to electoral provisions, pecuniary interests and graffiti. Graffiti is also mentioned in this bill.

The committee that considered this issue comprised officers of the New South Wales Treasury and the Department of Local Government, municipal employees and many others. The review made recommendations that the Government will enact through this bill. I will not canvass the many issues raised by the honourable member for Wollongong and the honourable member for Maitland. One amendment refers to income from community land. Council land is divided into operational land, which a council may use to generate income; and community land, which is used by the community. It is possible to change community land to operational land but it is a fairly long process that requires community support.

This bill provides that income derived from community land need not necessarily be reinvested in community land. The 172 councils in this State have community land portfolios for which they make management plans on behalf of the community. Until now the income that they derived from leases or any other such operations on those parcels of land had to be reinvested in community land. This bill removes that imposition: Councils may decide to spend that income on community land or for other purposes prescribed by the Act.

Under section 112 of the principal Act a proposed fee must be set out in a council's draft management plan for the year in which the fee is to apply. A council formulates a management plan that is put on draft exhibition for community comment. The plan then returns to the council, which makes a decision based on that community input. This establishes a fee for the year. In the past it has been impossible to change that procedure, and thus the fee, during the year. Private enterprise can do that. The bill is attempting to increase flexibility so that councils can decide at a full and open meeting—the plan does not have to be exhibited again—to vary fees in certain areas as proposed under schedule 1 (10) of the Act. This will apply to the operation of an abattoir, the delivery of certain water supply or sewerage services, and private works done under section 67 of the principal Act.

The Government has changed the Act several times with regard to graffiti. We initially removed the time limit on graffiti removal work so that councils can act within 24 or 48 hours. We then amended the Act to allow the council to remove any graffiti that can be seen from a public place. This bill will allow graffiti removal work to be done under section 67A of the principal Act. A council will be able to set a fee for graffiti removal in its management plan that is accepted and adopted but may then change that fee at a later date. The Government is trying to be fair to everyone. I commend the bill to the House.

**Mr WOODS** (Clarence—Minister for Local Government, Minister for Regional Development, and Minister for Rural Affairs) [8.56 p.m.], in reply: I thank all honourable members who have participated in this debate. These amendments are the sensible outcomes of a comprehensive review undertaken as part of our commitment to national competition principles. They achieve an appropriate balance between councils' needs when carrying out their functions in the communities they serve. I thank members of the committee, which comprised representatives from my department, New South Wales Treasury and the Cabinet Office. The committee also drew on a reference group comprising representatives of the industry, Lgov NSW, the Local Government Managers Association, and the Environmental Health and Building Surveyors Association. It was a comprehensive review and I believe these amendments reflect the sensible discussions of the two groups. I commend the bill to the House.

**Motion agreed to.**

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

## **LAW ENFORCEMENT AND NATIONAL SECURITY (ASSUMED IDENTITIES) AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 27 September.**

**Mr TINK** (Epping) [8.57 p.m.]: The Opposition supports the Law Enforcement and National Security (Assumed Identities) Amendment Bill, the purpose of which is to prescribe the Australian Taxation Office as an authorised agency to enable it to use the powers provided under the Law Enforcement and National Security (Assumed Identities) Act, especially the power to authorise the chief executive officer of the tax office to grant approval for the acquisition and use of assumed identities by an officer of that office for the purpose of the officer's official duties. I understand that these powers are to be used principally in the excise area. They have

been exercised in the past by the Australian Customs Service, which has ceded to the Australian Taxation Office the power to run covert operations. Tax office officials who are involved in this type of work also need to be able to assume identities. It is important for the purposes of effective law enforcement to run covert operations to combat major fraud against Commonwealth revenue, and it is equally important to ensure the physical safety of those officers involved in that work.

This bill dovetails with laws passed by the Federal Government allowing the greater use of assumed identities by a range of law enforcement officers and entities such as ICAC. It need hardly be said that these powers are more important than ever in the context of the increased terrorist threat which, regrettably, we face in this country. Today the Premier referred to discussions he will be having tomorrow with the Prime Minister and other Premiers in relation to beefing up Commonwealth security efforts and security efforts by States in conjunction with the Commonwealth to meet the security and terrorist threat.

This bill is a small part of that process. When it comes to major organised crime and terrorism, the financing of those activities is a critical part of the way in which they are operated. The crackdown on illicit financing, through excise investigations and related investigations, is of critical importance to a range of security threats to this State and country. They commence with the avoidance of tax, then progress to the use of black money to fund projects that, until a few weeks ago, were thought to be unthinkable in this country. Unfortunately, they are now realistic threats. The Opposition supports the bill, which is an important technical measure to close a loophole in the protection of those who put themselves at risk to protect our country. Accordingly, I commend the bill.

**Mr MOSS** (Canterbury—Parliamentary Secretary) [9.01 p.m.], in reply: I thank the honourable member for Epping for his contribution to the debate. This is a simple bill to enable the Australian Taxation Office to use documents issued under assumed identities to investigate excise fraud effectively and safely. I commend the bill to the House.

**Motion agreed to.**

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

## **RURAL LANDS PROTECTION AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 25 September.**

**Mr ARMSTRONG** (Lachlan) [9.02 p.m.]: I speak to the Rural Lands Protection Amendment Bill on behalf of the Opposition. The Opposition does not oppose the proposals contained in the bill. Having said that, I shall refer to pertinent parts of it. The Opposition notes that the bill contains measures to allow the State council to call special meetings in between State conferences. This commonsense proposal will facilitate the management of rural lands protection boards, which are self-funding. They are probably the least non-politicised voice on land management in New South Wales. Indeed, they are the managers of the largest land mass in New South Wales; they are the largest landowners. They are also the custodians of major corridors of flora and fauna in the State. Historically, rural lands protection boards are part of travelling stock routes. During the current drought they play a vital role in providing relief. Irrespective of their traditional roles, they contain habitat and are a wonderful valuable asset in preserving the fauna of this State.

Members of rural lands protection boards are fine custodians of our land assets. The boards have expressed concern over the need to clarify their power to recover outstanding rates left owing by an outgoing tenant or owner of land. Under the current Act the occupier of the land is liable to pay rates to the board. In other words, if for some reason a landowner has leased his land or gifted the occupation of the land to another person, and if the person vacates that land or if there is any change in ownership, the rural lands protection board must collect the rates from someone who may have been there only a short time, perhaps only four or five months to grow one crop. In the case of riverland, three owners may have had the right to occupy the land in a period of 18 months. The cost of billing people who may not pay their rates is excessive and often the rural lands protection boards have had to write off that money or chase the owner of the land, who is reluctant to pay the debt because he or she has not made an arrangement with the tenant.

This bill clarifies that issue. The titled owner of the land will be responsible for the payment of rural lands protection board rates. I call upon the Government to publicise that provision, particularly amongst the

legal fraternity of this State, so that where a lease or gift is executed for a short or intermittent period the legal fraternity ensures that, in negotiations, owners are fully aware of their responsibilities and lessees are aware of their responsibilities to the owners. The bill will provide boards with greater flexibility in setting fees for the use of travelling stock reserves and public roads for grazing and walking stock. At present the board must charge a drover the exact fee that is set by the regulation for a permit to use a travelling stock reserve or public road. The amendment will enable the boards to set a fee that is lower than the maximum amount set in the regulation if the board so chooses.

From time to time, particularly in good times and to reduce excessive fodder, rural lands protection boards may decide to lease a portion or the whole of a stock reserve to a local land-holder for an extended period or a land-holder who wishes stock to remain there for a period. Rent is charged, which helps pay their costs. This responsible practice also assists in eliminating or reducing the risk of fire. However, the fees for such leasing or agistment arrangements are not prescribed. Indeed, often rural lands protection boards would like to lease land to an adjoining landowner for feral animal control and so on, but the fees are too excessive. This bill will allow the boards to have flexibility in determining how much to charge per head, per day or per week. That is a commonsense business arrangement.

I ask the Parliamentary Secretary to note a problem that has arisen in the past few days as a result of the current drought. Many shires are questioning their responsibilities with respect to public liability for stock that may be grazing within their districts. Shires have responsibility and outright ownership of roads within their districts. Shires have certain responsibilities under the Local Government Act for the control of all roads within their districts, whereas only rural lands protection boards can issue permits for travelling stock to travel upon roads, particularly stock routes. However, the Motor Traffic Act clearly states that livestock shall have a right of way over all others.

A person riding horses, driving horses or livestock, walking livestock, grazing livestock, or taking stock to or from a market walking down the road has the right of way over all other traffic. Cars, trucks and buses must give way to them, as they do. If there were an accident involving stock grazing on a public road within a shire with a Rural Lands Protection Board permit, who is responsible if the accident were proven to be connected with the roadway or the surrounding? Is it the local government or the Rural Lands Protection Board? Local government owns the road and has the capacity to shut the road, but the Rural Lands Protection Board has the capacity to license stock to be in that area. In the past few days I have sought determination from both the Roads and Traffic Authority and the Rural Lands Protection Board. But in each case they have said they will get back to me because they are not too sure of the answer. I have some knowledge of the history of the workings of travelling stock, and I suspect that neither side knows.

We need clarification from the Government. One of these days I suspect that a test case will be run because this problem has not been previously addressed. Some shires are saying that no stock can enter the shire. In the past couple of weeks two shires in the Central West have given notice in the local papers that they are considering closing the roads. Another shire has said that if a person has a public liability policy to cover stock on the road and that person is prepared to show the policy to the general manager then the council may consider allowing stock into the shire. But how does one determine an adequate policy? Is it \$5 million or \$20 million? It has been suggested that the policy might have to be \$20 million. However, an argument has been put forward that \$5 million might be enough. I raise this matter responsibly in the hope that the Minister will address it. I look forward to discussing it with the Minister or anyone else in government who may be able to clear it up.

The legislation also deals with plague locusts. Usually, plague locusts come from the north to the south. There may be an outbreak of locusts on the Queensland border. A rural land protection board south of that area may want the locusts sprayed or dealt with in their infancy, which is quite responsible. That board would then order the protection board afflicted with the plague locusts to take action. Who is responsible for paying for the control of plague locusts ordered by one protection board in another protection board area? The legislation will clarify that point. It is considered to be more equitable if all boards in a district that play host to such insects contribute towards the cost of eradication procedures carried out by the State. If a board decides it wants plague locusts controlled it will contribute to their eradication under this legislation. The bill makes commonsense changes to the procedures to the election or appointment of directors. The Opposition has no problems with that, and welcomes it. I do not wish to delay the passage of the legislation. The Opposition does not oppose it, but I would ask that the dilemma between protection boards and shires about grazing, agisting and walking of stock be clarified in the interests of everyone.

**Mr MARTIN** (Bathurst) [9.13 p.m.]: I am sure the Minister for Agriculture will deal with the important matters raised by the honourable member for Lachlan. I am pleased to support the proposed amendments to the Rural Lands Protection Act 1998. The legislation will be amended to enable the State council to conduct a postal ballot of boards about urgent issues that arise between annual conferences of boards, clarify that current owners of land are liable for rates left owing by a former owner or tenant, enable boards to charge a lower fee than the maximum fee set in the regulation for permits for the use of travelling stock reserves and clarify that the Minister may seek contributions for pest insect eradication work undertaken in the State from any board rather than just from the board district where the work was done.

The proposal will also require that the proceeds of penalties paid for penalty notices written by police officers under the Act are paid to the State council and that the State council is to account to the boards for the proceeds by way of reductions in the boards annual contributions to the State council. That administrative procedure will be appreciated by the board. Further, the proposal will provide for minor matters relating to the election, appointment and term of directors. In particular, the amendments will enable the Minister to appoint persons to act as directors where a vacancy occurs during any period during which the holding of an election has been postponed. The proposal will further provide for minor matters relating to the enrolment of electors such as requiring the electors roll to contain postal addresses rather than residential addresses and removing the requirement that authorised officers must choose who is to be enrolled in respect of a holding where the landholders have failed to nominate electors for that holding.

As the honourable member for Lachlan said, the 48 rural land protection boards in this State have key responsibilities, particularly in animal health. The rural land protection boards are often the first line of defence against animal diseases. They provide the front-line animal health regulatory service that is not only important for the control of endemic animal diseases but is also vital in the event of exotic diseases, such as foot and mouth disease. Recently, we had a simulation exercise on how a foot-and-mouth disease outbreak might be handled in this State. Obviously, the structure of the 48 boards around the State that have existed for generations are a key component and fit nicely into facilitating the organisation of control in the event of the outbreak of an exotic disease, such as foot-and-mouth disease. We hope that it will not happen. We have had only one outbreak of foot-and-mouth disease in this country in the last century. We know the devastation it can cause.

As we know from recent events on our doorstep, we must be prepared for any sort of emergency, particularly to protect our rural industries. The animal health role of the boards will be helped enormously by two recent announcements of the Premier at the Country Labor Conference in Cooma in September. The Government will spend \$5.4 million to install electronic livestock identification readers across the State, and the Government will spend a further \$3.5 million on a massive upgrading of the computer system currently used by the boards. Funding for the livestock identification system will be provided over the next three financial years: \$2.6 million in 2003-04, \$2.4 million in 2004-05 and \$0.2 million in 2005-06. Funding will be used to install electronic livestock identification reading devices at saleyards, abattoirs and other key locations across the State.

The installation of these identification readers will help to combat stock theft and minimise possible disease outbreaks. This initiative represents a major contribution to the development of the New South Wales component of the National Livestock Identification Scheme. There has been much talk about it, but the sooner it becomes a reality the better. The Government is certainly taking the lead in that regard. Under the National Livestock Identification Scheme individual cattle will be fitted with radio frequency identification devices that will be read by equipment to be installed across the State at key locations as a direct result of this action by the Government. Individual animal identification devices can be placed either internally in the rumen of the beast or located in the ear of the animal. This electronic identification system represents a significant improvement on the current transaction tracking system for monitoring and trace-back of stock diseases and residues.

When adopted across New South Wales the system will greatly improve disease and residue control. It will help protect the enormous value of the livestock industry in our State. The system will also bring commercial benefits to producers. For example, the Australian Quarantine and Inspection Service [AQIS] has determined that cattle producers who wish to sell cattle to the European Union [EU] market must adopt the scheme to satisfy EU requirements. The world market is a very competitive one. We must have these systems in place so that Australian producers are not disadvantaged and are able to meet the sometimes onerous standards placed on our markets, particularly by the European Union. International politics can sometimes work to the detriment of our producers. But with these systems in place, the international market will have one less reason to put a barrier in the way of Australians.

The United Kingdom's recent experience with foot and mouth disease demonstrates the great importance of being able to trace all movements of any susceptible livestock. This is also important in the

Japanese market—an important export market for Australia. A couple of reportings of mad cow disease in Japan have caused panic in the Japanese market. More often, Japanese buying Australian livestock and meat insist that we are able to trace each animal back to its source. They want to be able to ensure their market that they have the best protections and that the beef, lamb or other livestock produce is disease free. They want more than a commitment from the producing nations. We must have these systems in place so that we can demonstrate without doubt the source of the animal. The markets will then have confidence that they are getting produce that is free of disease.

After a great deal of lobbying by Country Labor, the announcement by the Premier of the system is appreciated throughout the industry. Perhaps it is overdue, but the Government has acted. The decision to put the system in place has been made, and it will be of great benefit to the industry. Another initiative announced by the Premier at the Country Labor conference in Cooma was financial support for a new computer system for the rural lands protection boards [RLPBs]. The 48 boards across the State have been grappling with individual computer systems. They have had great difficulty getting a co-ordinated system. They probably have had differences of opinion as to how the system should work. Many of them have stand-alone systems, which has been a hindrance particularly in co-ordinating work and setting up databases. A new computer system is vitally important, particularly in strategies to help combat exotic diseases.

The \$3.5 million in funding to the State's 48 rural lands protection boards will enable new computers to be made available to our hard-working RLPB administrative staff, veterinarians and rangers. It will also allow the State council to set up a specialist five-person information technology [IT] team, which will be based in Orange in the central west of New South Wales. It is therefore essential that the boards have an effective and efficient computer system. For years they have been crying out for it. They have made a number of representations to Country Labor, and we have made strong representations to the Minister for Agriculture and the Treasurer. Our representations have led to the \$3.5 million funding allocation.

Currently the State's 48 boards have had a variety of computer systems, many of which are inadequate for today's working environment. In addition to the \$3.5 million being provided by the State Government, the boards will contribute approximately \$3.4 million, or \$340,000 per annum. The many benefits of the computer upgrade include more efficient and effective reporting to government, including a greater capacity to respond to the threat of emergencies, such as foot and mouth disease and mad cow disease. The new RLPB information technology platform will enable the New South Wales Government and the State's livestock industries to reap the full benefits from the implementation of mandatory livestock identification and tracing based on the National Livestock Identification Scheme, which is also being funded with \$5.4 million by the State Government.

New integrated rural lands protection board software applications will provide better information for decision making by the board. That initiative is in response to the strong message that has been coming from the organisations. Significant cost savings will be made through the establishment of contracts for boards to purchase their IT hardware and telecommunications. Various government agencies will work with the boards to make sure it happens. A standard configuration of computers across the board system will mean that support and solutions in the event of a breakdown can be provided quickly. When responding to exotic disease outbreaks the initial reaction time is crucial. The information that this new and integrated computer system will provide, particularly for an accurate database, will be vital.

The computer upgrade will allow faster and more efficient use of the Internet through the establishment of a broadband connection. I hope that my National Party colleagues in this House will consider strongly the moves by the Federal Government to sell Telstra. Such a sale would not assist the boards in this situation. The boards will be able to access information, such as State council policy documents, over the Internet far more quickly. The ability to interact with ratepayers over the Internet through the payment of rates, the purchase of goods and services and the distribution of newsletters will once again benefit the members of these boards. Ratepayers will have greater access to board field staff, whose time will have been freed up from the inefficiencies of current systems. In all, the IT strategy will lead to a more efficient, effective and relevant rural lands protection board system.

These two initiatives in particular, the livestock identification system and the new integrated IT system across the 48 boards, will make the boards much more efficient. Their relevance is not in question. For generations the 48 operations have played a vital role in our rural industries. They have many hard-working members who give up their time to work on the boards. Recently the boards held elections throughout the State and these people from the rural industries want to be part of the system. They are working to help their own industry become more efficient, but they need the help of technology and funding. These two key areas, which have now been delivered by the Government, will make their work much easier.

The groups greatly appreciate these initiatives. For example, the State council very much welcomes the Government's initiatives, particularly the information technology system. They have been wrestling with their computer systems for some time. Rowan Moore, chairman of the State council, said that the announcement by the Premier that the New South Wales Government would provide these funds is most gratifying. They have lobbied hard and held a number of meetings with Country Labor. We have made strong representation through Treasury and with the great assistance of the Minister for Agriculture to make sure that they now have the ability to put this system in place. It will serve the rural industries of the State for many years to come. I commend the Rural Lands Protection Amendment Bill to the House.

**Mr WEBB** (Monaro) [9.28 p.m.]: I also support the Rural Lands Protection Amendment Bill. I echo the words of previous speakers in this debate. My memory of the role played by the rural lands protection boards goes back to very early years on a grazing property when the pastures protection boards were in operation. Those boards are vital to country New South Wales and have remained relevant over the years. This amendment bill will bring the rural lands protection boards into the twenty-first century and enable them to carry out the important roles for which they have been set up.

The comments by the previous speaker about the National Livestock Identification Scheme and the important information technology [IT] upgrade for rural lands protection boards certainly are among the areas that need attention. The Coalition supported the State council of Rural Lands Protection Boards in its call for the important upgrade that will integrate the network right across the State to enable the boards to come on board with IT and to carry out their functions on a local and statewide basis to the best of their ability. Probably more importantly, the upgrade will enable them to track potential disease and other problems throughout the livestock industry as part of their role as the custodians of those lands under their jurisdiction right across the State. The announcement by the Government of funding for that important work was absolutely vital.

The Coalition is also pleased that the Government has supported the call by the State council of Rural Lands Protection Boards and by the Opposition in this House, by means of various notices of motion, to take on board the National Livestock Identification Scheme. That scheme plays an important role in managing livestock and in tracking, identifying and controlling disease. That is particularly so in relation to the control of severe infectious diseases, in which the boards play a vital role. The changes will assist the boards to carry out their role of controlling wild animals, controlling the transmission of diseases by feral pigs, and reducing the impact of feral dogs on sheep and cattle flocks.

The amendments in the bill will enable the 48 rural lands protection boards across the State to remain viable and to act promptly in carrying out their roles. Hopefully, that viability will be accompanied by the ability of rural lands protection boards to attract sufficient numbers of veterinarians to rural communities and convince them to remain in those areas for some time so that they can gain the necessary experience, establish a rapport with landowners, and gain knowledge of the idiosyncrasies of livestock trading within their boards' areas. In that way disease control and primary production industries will be supported by the important role played by rural lands protection boards in the State.

In his contribution the honourable member for Lachlan made a number of interesting comments about the role of rural lands protection boards in grazing permits for the long paddock. That is particularly relevant in this time of unprecedented drought across the State. I support his call for ways to be found for graziers and those transporting livestock to use the travelling stock routes. The stock had been removed from those roads and reserves, which have historically played an important role not only in the survival of livestock but also in the protection of native vegetation. A regulated process would enable those stock to travel safely from one area to another and to make use of some of the herbiage and water reserves along the way. Some of the questions asked by the honourable member for Lachlan need answers—and soon.

An interesting aspect of the bill clarifies the situation with regard to the recovery of monies for works carried out in respect of local locust plague eradication in adjoining or adjacent districts. I wonder whether those same provisions would apply to controlling wingless grasshoppers and the spraying of hatchlings in my area. The damage caused to rural areas by those wingless grasshoppers is becoming a great problem. I would be interested in following up the concerns of the rural lands protection boards in the Cooma district.

The ability of rural lands protection boards to remain relevant and viable is demonstrated by the elections of new people to many of the boards. Those boards are able to work with one another in all of their functions; they are able to work with the State council in the important upgrade of their IT network. The amendments set out in the bill, which we support, should enable rural lands protection boards to continue to

carry out their important role of protecting the rural lands under their care, and enable them to exercise greater discretion in the way in which they implement and enforce their policies, where necessary. I commend the bill to the House.

**Mr BLACK** (Murray-Darling) [9.36 p.m.]: At the outset I acknowledge the previous speakers, the honourable member for Bathurst and the honourable member for Monaro. It is fair to say that after the shenanigans of the debate this afternoon there is now a real outbreak of goodwill across the table and both sides of the House are apparently in agreement on this important bill. As has been said, there are 48 rural lands protection boards [RLPBs] in New South Wales. If I refer to them as PP board during the remainder of my speech it will be because most of us out there in the wild west still refer to the RLPBs as PP boards. That is something that history will not change; it is just the way we are. Each board is primarily funded by the ratepayers within its district, with additional funding being provided by the State Government in specific areas. New South Wales—rightly or wrongly in this time of drought—is the only State in Australia to have a board system. The boards play a key role in animal health, pest animal control, drought management and management of exotic disease outbreaks.

Rural lands protection boards are a front-line animal health and insect pest control agency for agriculture in New South Wales. They work closely with NSW Agriculture, New South Wales National Parks and Wildlife Service and State Forests in those activities. To do so each board employs a veterinary surgeon, with the exception of some New South Wales Western Division boards that have a smaller rate basis and share a vet. This matter has been of considerable concern to the Minister, and rightly so, for some time. In earlier debates it has been noted that something like 70 per cent of those now studying veterinary science at Sydney University, the only university in New South Wales which admits students into veterinary science, are female. I guess there is nothing wrong with that, but the problem is that history has shown that the ladies do not necessarily want to deal with big animals. The point is that some vets prefer to deal with fluffy little animals on the North Shore rather than work for a PP board out in the west with significant beasties.

The RLPBs are often the first line of defence against animal diseases. The front-line animal health service they provide is not only important for the control of endemic animal diseases, it is also vital in the event of an outbreak of an exotic disease such as foot and mouth disease. The animal health role of RLPBs will be helped enormously by two recent announcements from the Premier at the Country Labor Conference in Cooma in September 2002. That matter has been referred to by the honourable member for Bathurst in an earlier contribution. First, the State Government will spend \$5.4 million between 2003 and 2006 to install electronic livestock identification registers across the State.

This is a significant boost for the boards. It will enable boards, through a common system, to track livestock across New South Wales—I have been given to understand that other States are looking at following up in this matter—so that we have some control with respect to stock going from New South Wales to Victoria and South Australia. It is no secret that much of the stock theft in western New South Wales has been in the border areas. I repeat that it has been a concern for some time. This system of identification should enable a much stricter regime to be put in place to prevent stock theft.

The second matter that the honourable member for Bathurst referred to was that the Carr Labor Government will spend a further \$3.5 million on a massive upgrading of the computer system currently being used by the boards. I acknowledge the chairman of the State council, Mr Rowan Moore, and I will come back to one of his statements in a moment. A leading pastures protection board chairman is the Mayor of Bourke, Mr Wayne O'Mally. He is a really top operator; I have a great deal of faith in him. I also have to salute the Minister, the Hon. Richard Amery. A number of us worked very hard indeed to induce—I believe that is the right word—the Treasurer to provide the necessary money. As a result Rowan Moore sent me an incredibly lovely letter. I note that his media release of 16 September states:

Mr Moore thanked Mr Carr, Minister for Agriculture Richard Amery MP, and Country Labor, for their support in the matter.

Mr Moore also acknowledged the significance of the Premier's announcement on assistance for the introduction of the National Livestock Identification Scheme in NSW.

These were major issues in most country areas of New South Wales. It is a huge step in the right direction that has been achieved with a lot of support from Country Labor, the boards and the State council—all led by the Minister, the Hon. Richard Amery. Under the National Livestock Identification Scheme individual cattle will be fitted with radio frequency identification devices, as mentioned by the honourable member for Bathurst, which will be read by the equipment to be installed across the State at key locations.



On environmental issues, collectively the boards administer 600,000 hectares of travelling stock routes [TSRs]. I am sure that members from both sides of the Chamber will acknowledge the important role played by pastures protection boards in relation to public watering places. In some cases travelling stock routes provide wildlife corridors that enable native animals to migrate between certain areas. I am not referring to kangaroos; they just go through them. Often the TSRs provide shelter not only for protected species but also for threatened species. In many instances the survival of such species is dependent on the relatively sheltered TSR environments. This applies towards the east coast, not in western New South Wales.

Rural lands protection boards work closely with NSW Agriculture during all phases of a drought. Earlier I referred to the role of pastures protection boards in relation to drought. The system in New South Wales is unique in that drought declaration is based on material prepared by the boards. No other State operates in this way. In fact, in Queensland material for exceptional circumstances funding can be prepared single property by single property, because in western Queensland some of the properties are really huge—although some New South Wales properties are also pretty big. In Victoria the areas for exceptional circumstances funding are based on shire boundaries. I will be interested to hear from the Opposition what it believes is appropriate in this regard.

Some suggestions are coming through from the grassroots in the pastures protection boards that applications for assistance for exceptional circumstances and other funding might be better prepared based upon shire boundaries rather than board areas, simply because the board areas cut across too many boundaries in so far as their administration *sensu stricto* is concerned. I have received representations from the Balranald pastures protection board. It would not come as a surprise that many of the boards are experiencing a cash flow problem simply because the ratepayers are finding it exceedingly difficult to pay board rates. I have discussed this with the Minister, who has struggled with the problem of how we assist one board as opposed to another.

I can indicate to the House that in western New South Wales we will continue to work towards the survival of the work output of the boards. They provide regular seasonal condition reports that form the basis of the drought declarations issued by the Minister for Agriculture. This has been a matter of vexatious debate. Because of the stringent conditions imposed by the Commonwealth Government in so far as obtaining exceptional circumstances funding is concerned, we are told that the Cobar Pastures Protection Board area, as a single entity, did not meet in its entirety exceptional circumstances funding conditions. The Cobar board area is large, and it has had only four inches of rain in the last two years. If that is not drought I do not know what it is.

Incidentally, I remind the House that closely adjacent to that area is the great community of Ivanhoe, which will be featured this coming Saturday night on Farmhand. I would urge all members to watch the program and to make a donation if they feel so inclined. The boards have also hosted several drought inspections by the Premier, the Minister for Agriculture and other Ministers. These visits and meetings provide important feedback on the impact of the drought on individual farming households and on the effectiveness of drought assistance measures. The boards administer the Rural Lands Protection Act 1998, which sets out those species that land-holders must control as pest animals. They include wild rabbits, feral pigs, wild dogs and three species of locusts.

Most of the front-line work to control pest animals in New South Wales is undertaken and funded by public and private landowners with the assistance of their rural lands protection board. At this time I refer to the essential work carried out by the Wild Dog Destruction Board, nominations for which, as I understand, have been ticked off only on the last few days. The essential composition of the board will not be changed. It will have representatives of five of the pastures protection boards on the outskirts, as it were, of New South Wales plus Geoff Wise, the Western Lands Commissioner from Dubbo. Their job is to maintain one of the great structures of New South Wales, the wild dog fence, which stretches for many hundreds of miles and which has employed many people over many years.

In practice, the rural lands protection boards operate by assisting land-holders to meet their pest animal control obligations. They use regulatory measures only as a last resort. Board staff work with land-holders and other local stakeholders to develop vertebrate pest management plans. They also help develop and participate in co-operative management programs for pest and feral animals on private and government-owned land. For example, boards work closely with the National Parks and Wildlife Service and State Forests to plan for and implement co-operative programs for strategic fox management. I will not say that there have not been disputes between the National Parks and Wildlife Service and pastures protection boards from time to time: that would be a nonsense. There will always be debate about feral animals in national parks that in times of drought move out to neighbouring properties and cause untold destruction. None of us can close our eyes and say that it is a perfect world; it is not.

Nevertheless, the boards attempt to work closely with the National Parks and Wildlife Service. It is estimated that around \$6 million is spent on pest and feral animal control each year. As I have said, in addition there is the expenditure by the Wild Dog Destruction Board. The service that the boards provide in terms of pest control resources and co-ordination of a control program is vital to benefit both agricultural and environmental outcomes. The boards employ approximately 70 full-time rangers on pest animal control and they are well placed to continue the important works that need to be carried out in relation to pest control across the State. The State council's pest animal and insect control committee is its representative body in terms of pest animal policy, planning and management for rural lands protection boards.

In consultation with the boards the committee directs policy and procedures in line with the rural lands protection legislation and considers the advice from the New South Wales Pest Animal Council. Boards in the Western Division will soon implement specific feral pig and fox control strategies following the Government's announcement to fund a \$1 million drought initiative to control pest animals preying on livestock. When we are discussing this important matter of feral pigs we need to be honest. The number of feral pigs in the Wanaaring district has increased massively. I am told by reliable sources that in excess of 1,000 feral pigs are drinking off one water tank. No doubt the increase in pig numbers is a direct result of Melbourne shooters no longer visiting the area and controlling feral pig numbers. I conclude by saying that it is great to see this outbreak of enthusiasm and goodwill across the table. The performance by members tonight has been much better than it was this afternoon.

**Mr McGRANE** (Dubbo) [9.51 p.m.]: Along with all honourable members who have contributed to this debate I support the amendments in the Rural Lands Protection Amendment Bill. Many speakers have referred to the boards as the PP boards, as they were known previously. Long ago I had many dealings with the old PP boards. When I was Gilgandra Shire President there were three such boards in my area. Frankly, they were a bit of a pain, because they all had different policies. In that reasonably small shire three PP boards were administering the Stock Act, the Pest Control Act and other Acts at the one time. The common view was that those Acts should be administered by local councils. At the time I agreed with that view.

However, I have now done a somersault. I believe that the rural lands protection boards are a necessary part of the scene in rural New South Wales. The boards are quiet achievers. In times of trouble associated with animals or the rural environment the boards come to the fore. Earlier honourable members spoke about the stock identification program that is to be funded by the Government. That program, which is long overdue, will be administered through the rural lands protection boards. The complex implementation of that program emphasises the need for a body that specialises in dealing with problems associated with protecting livestock and with the eradication of weeds. In New South Wales weeds and the theft of livestock are major problems.

There are 48 rural lands protection boards across New South Wales. The bill will bring a new enthusiasm to those organisations. Enthusiasm was also evident during the recent elections when more people nominated for positions on those boards than ever before. The various rural lands protection boards have been given a new lease of life by the Government's funding arrangements. The Government has also given the boards more administration powers than they have had in the past. Rural lands protection boards are the unique specialist organisations that are needed to implement the stock identification scheme. We all live in great fear of exotic diseases coming into Australia. To cope with those problems, we need the expertise and knowledge of those in the Department of Agriculture and those at the coalface, that is, the rural lands protection boards personnel.

As I said, the bill gives a new lease of life to the 48 rural lands protection boards throughout New South Wales. It is good to know that they are administered by people with specialised knowledge. The boards are lean and mean. They do not have many fancy overheads and are run under tight monetary controls. Earlier the honourable member for Bathurst announced the upgrading of the organisation's computer system. That will enable the boards the ability to act as one; they will have similar accounting and identification systems. That has been lacking in the past. I commend the bill to the House.

**Mr HICKEY** (Cessnock) [9.55 p.m.]: The bill amends the Rural Lands Protection Act 1998. It was good to hear so many members speaking positively about the amendments to the Act. In New South Wales there are 48 rural lands protection boards. Each board is primarily funded by ratepayers within its district, with additional funding provided by the State Government in specific areas. New South Wales is the only State to have that board system. The boards play a key role in animal health, pest animal control, drought management and management of exotic disease outbreaks. The proposed amendments enable the State council to conduct postal ballots on urgent issues that arise between the annual conferences of the boards. As the honourable member for Dubbo said, rural lands protection boards are important.

The bill clarifies the fact that a current owner of land is liable for rates left owing by a former owner or tenant. The bill proposes to allow boards to charge a lower fee than the maximum fee set for regulation of permits for the use of travelling stock reserves. Another amendment provides for the Minister to seek contributions from any board for pest insect eradication work, rather than from the board in the district in which the work was done. The bill requires that penalties for penalty notice offences written by police officers under the Act are to be paid to the person nominated by the State council. The State council is to account to the boards for the proceeds by reducing the boards' annual contributions to the State council.

The bill also provides for minor matters relating to the election and appointment of directors. In particular, the amendments will enable the Minister to appoint persons to act as directors when a vacancy occurs during any period in which the holding of an election has been postponed. The bill provides for minor matters relating to the enrolment of electors, such as requiring the electors' roll to contain postal addresses rather than residential addresses. It is clear that the protection boards are making a contribution to pest animal control in key areas. In my electorate the feral fox baiting programs undertaken by the boards in State Forest areas are achieving remarkable results in eradicating foxes. I have seen the tanks that the honourable member for Murray-Darling mentioned. He said that one tank can support 1,000 feral boars. It is awful to think of 1,000 feral boars, which can cause grave destruction throughout an area, gathered around a single tank. Rural lands protection boards should take action regarding that single tank to which the honourable member referred.

The boards administer the Rural Lands Protection Act 1998, which establishes those species that landholders must control as pest animals and provides the regulatory regime to ensure that this occurs. Pest species include wild rabbits, feral pigs, wild dogs and three species of locusts, which are quite unique. Most of the front-line work to control pest animals is undertaken by public and private landowners with assistance from their rural lands protection boards. Farmers also do considerable work in this area and should be congratulated on their efforts. Farmers around Wagga Wagga, especially olive growers, work hard to eradicate pest insects. The honourable member for Wagga Wagga remains vigilant and constantly sprays his olive grove for insects, including those three species of locusts. He has often spoken to me about the problems caused by infestations in his area.

It is estimated that the board system invests about \$6 million in pest and feral animal control each year. We get great value for money when we consider the benefits derived from boards helping farmers to eradicate pests. The honourable member for Wagga Wagga spoke recently about kangaroos and the problems they cause, especially during drought. He stays in constant contact with his rural lands protection board in attempting to control these pests. His views contrast with those of other honourable members. The honourable member for Bligh, for instance, believes kangaroos are lovely; she does not understand the destruction they cause. The honourable member for Wagga Wagga should talk to her about that issue.

Travelling stock reserves are interesting in the context of rural lands protection boards and their administration of them. These reserves have existed for 150 years since Crown land in New South Wales was set aside to walk stock between properties and to markets. These areas are now dedicated travelling stock routes and reserves and their management is vested by legislation in the 48 rural lands protection boards. Travelling stock reserves are a unique part of the working, living history of rural New South Wales. These reserves cover 600,000 hectares of the State and traverse a range of vegetation, soil types and climatic zones. They are often on more productive land because they follow watercourses in order to water stock easily. Travelling stock reserves were established historically for walking, grazing and watering stock. This practice has stood us in good stead as farmers can use those reserves in times of drought. It is very dry at present and travelling stock reserves can benefit farmers.

Both State council and individual rural lands protection boards have been proactive in striking a balance with regard to travelling stock reserves. Environmental policy has been adopted to protect rural lands by promoting sustainable management. The State council has employed a travelling stock reserves manager and all boards receive assistance with developing policies and practices that reflect their broadening environmental responsibilities as prescribed in the Rural Lands Protection Act 1998. This includes co-ordinating and overseeing the finalisation of travelling stock reserves management plans in all the lands protection boards. Boards are represented on working parties and committees to influence state environmental policies and ensure that they are more appropriate to the boards and their rural ratepayers. Rural areas derive enormous benefits from travelling stock reserves. I commend the bill to the House.

**Mr NEWELL** (Tweed) [10.07 p.m.]: The Rural Lands Protection Amendment Bill has important ramifications for the operation of rural lands protection boards. Several honourable members, who have

obviously been associated with the boards for some time, referred to them affectionately as pastures protection [PP] boards. I grew up with the PP boards so I may follow the example of previous speakers and use that lingo too. I have some important comments to make about the bill. Although the Tweed is not troubled by any of the three species of locusts that the honourable member for Cessnock mentioned—we are extremely fortunate—we have feral pigs, foxes, wild dogs and diseases that the rural lands protection board is attempting to eradicate in order to protect rural industries.

The animal health and insect control Acts for which the boards have responsibility provide front-line animal health and insect control powers for agriculture agencies. In the North Coast area that I represent we need to concentrate on slightly different controls. Nevertheless, the rural lands protection boards play a significant role and work closely with NSW Agriculture, the National Parks and Wildlife Service and State Forests in attempting to control pests. The veterinary surgeons they employ are constantly called upon by primary producers to identify diseases, and they play an important role in assisting those animal industries to maintain a disease-free status.

Rural lands protection boards are often the first line of defence against animal diseases. The front-line animal health service they provide is important for control of endemic animal diseases and is vital in the event of outbreaks of exotic diseases such as foot and mouth disease. The role of the boards will be helped enormously by two recent announcements of the Premier at the New South Wales Country Labor Conference in Cooma in September. Many people who do not have animals on their small acreages often complain that they are expected to pay rural lands protection board rates. I, too, have a small rural property, and foxes and wild dogs have to be controlled because of my proximity to a State forest or a national park. Domestic dogs that are not controlled can cause problems to neighbouring properties. Wild dogs band together and attack livestock, pregnant cattle in particular. Even though owners of smaller properties pay rates to rural lands protection boards, they also benefit from inspections carried out by board officers in an effort to control disease.

The Premier announced that the State Government will allocate \$5.4 million between 2003 and 2006 to install electronic livestock identification readers across the State. Second, he stated that the Carr Labor Government will spend a further \$3.5 million on a massive upgrading of the computer system currently being used by the boards to bring them up to the required standard. Under the National Livestock Identification Scheme and as a direct result of the Premier's announcement, individual cattle will be fitted with radio frequency identification devices, which will be read by equipment to be installed across the State at key locations. That has important ramifications for tracing back exotic diseases. It also has implications in identification of stock following stock theft. The sooner the system is up and running the happier many cattle producers in coastal areas will be. Many properties tend to be nurseries producing vealers, which are easily loaded onto vehicles and moved around. They are ideal targets for stock theft. It is hoped that this system will reduce the incidence of stock theft.

Collectively, the boards administer 600,000 hectares of travelling stock routes across New South Wales. They have a responsibility to address environmental issues on stock routes because, as a quirk of history, stock routes contain considerable fauna and flora, which is important to the maintenance of species that would otherwise have been lost. Stock reserves are treasure troves and I commend the rural lands protection boards in their attempt to protect those species through an environmental policy. Travelling stock routes provide wildlife corridors that enable native animals to migrate between certain areas. They have attributes worthy of preservation in that they provide shelter for protected and threatened species. Indeed, in many instances the survival of some species is dependent upon the environment of those sheltered travelling stock routes. I referred earlier to pest management, a vital role of rural lands protection boards. The boards administer the Rural Lands Protection Act 1988, which sets out those species that land-holders must control.

Wild rabbits, feral pigs, wild dogs and three species of locusts abound in my electorate. I am not unduly worried about the locusts, but rabbits, pigs and wild dogs are of great concern. Front-line work to control pest animals in New South Wales is undertaken and funded by public and private landowners with the assistance of the rural lands protection boards. In practice, the boards operate by assisting landowners to meet their pest animal control obligations and use their regulatory measures as a last resort. Board staff work with land-holders and other stakeholders to develop a vertebrate pest management plan. They also develop and participate in co-operative management programs for pest and feral animals on private and government-owned land.

The boards work closely with the National Parks and Wildlife Service and State Forests to plan and implement co-operative programs for strategic fox management. It is estimated that the board spends around \$6 million on pest and feral animal control each year in that area. Although the 48 rural lands protection boards

are unique to New South Wales, they have a particular function. A number of landowners have expressed regret at having to pay board rates without seeing end results, but the insurance the boards are able to provide in the event of an outbreak of exotic disease, such as foot and mouth disease, is priceless. To have the infrastructure in place to ensure control, restriction and elimination of exotic diseases is an insurance the State must be prepared to pay for and live with. I commend the bill to the House.

**Debate adjourned on motion by Mr Campbell.**

### **BILLS RETURNED**

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

Agricultural Industry Services Amendment (Interstate Arrangements) Bill  
Farm Debt Mediation Amendment Bill  
Parliamentary Electorates and Elections Amendment (Party Registration) Bill  
Surveying Bill  
Totalizator Agency Board Privatisation Amendment Bill

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

Coastal Protection Amendment Bill

**Consideration of amendments deferred.**

**The House adjourned at 10.22 p.m.**

---