

LEGISLATIVE ASSEMBLY

Wednesday 28 May 2003

Mr Speaker (The Hon. John Joseph Aquilina) took the chair at 10.00 a.m.

Mr Speaker offered the Prayer.

BILL RETURNED

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

Crimes Amendment (Sexual Offences) Bill

Consideration of amendments deferred.

HEALTH LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 30 April.

Mr TRIPODI (Fairfield—Parliamentary Secretary) [10.02 a.m.]: I support the Health Legislation Amendment Bill. It gives me great pleasure to speak to amendments relating to the prescription of drugs in the treatment of drug-dependent persons and the proposed new penalties in combating the illegal possession of anabolic steroids. The current provisions of part 4 of the Poisons and Therapeutic Goods Act 1966 regulate the prescription of methadone and buprenorphine. The amendments will give the Director-General of the Department for Health the power to revoke an approval or amend the conditions to which an approval is subject without obtaining the advice of the medical committee, which is the committee established under the Act to provide expert medical advice to the director-general.

The committee is made up of medical practitioner nominees from the Australian Medical Association [AMA], the Royal Australian College of Physicians and the Minister. The director-general's power to revoke an authority or amend the conditions to which it is subject without reference to the medical committee is to be limited to situations in which the circumstances require immediate action to protect the life or health of an individual. The ability of the director-general to quickly initiate this type of action is considered to be essential and the proposal has the support of the medical services committee. Under the current provisions of the Act, authorities authorising the prescription or supply of drugs of addiction must specify the quantity of the drug that may be prescribed or supplied. However, in the initial stages of addiction treatment, the amount of a drug required by a patient changes, usually increasing rapidly over a short time.

The treating medical practitioner is the person best placed to determine the appropriate quantity for each patient. The amendment inserts the term "maximum quantity" in the Act in order to minimise unnecessary paperwork and delays that can impact on the effectiveness of treatment, thereby allowing the treating practitioner to exercise his or her clinical judgment. However, the Act will retain appropriate safeguards to prevent the abuse of authorities by requiring the authority to stipulate the maximum quantity of a drug that can be prescribed. The amendments will also allow the medical committee to access information and records held by the Health Care Complaints Commission and the New South Wales Medical Board. It is proposed to amend the Act to allow the committee to obtain documentation that is relevant to its inquiries from the New South Wales Medical Board and the Health Care Complaints Commission to enable the committee to appropriately investigate breaches of the legislation and approvals given under the Act.

The provision of such a power is considered critical in ensuring a speedy response to situations in which public safety is involved, and will prevent the duplication of effort on the part of the various regulatory authorities involved in this area. The power will be restricted as to who may exercise it and the circumstances in which it will apply. The exercise of the power will be confined to the medical committee and persons operating under delegation to the committee. Further, the power will be available only in circumstances in which the committee is investigating a breach of the legislation or any approvals under part 4 of the Act. The amendments

also will provide regulators with a more effective tool in the oversight of practitioners and methadone clinics. Enforcement and monitoring of compliance with the provisions of the legislation are conducted through clinical audits undertaken by approved prescribers and by inspectors through the powers of entry and seizure contained in section 43 of the Act.

It is necessary to amend the Act in relation to inspectors' powers. Reliance on the power of entry in section 43 has highlighted a number of shortcomings. The terms of section 43 operate "for the purpose of ascertaining whether the provisions of this Act or the regulations are being complied with." However, under part 4 of the Act, the activities of prescribers are actually regulated by approvals and conditions imposed on those approvals. While the approvals and authorities are given under the terms of the Act, it is considered important to put beyond doubt that the power of entry will operate in this situation, and will apply not only to the Act and regulations but also to any approval, authority or licence given pursuant to the Act or regulations and any conditions thereunder. Members of the House can be assured that all the relevant agencies were consulted during the drafting of the amendments to the Poisons and Therapeutic Goods Act, including the Attorney General's Department, the Office of the New South Wales Privacy Commissioner and the Health Care Complaints Commission. They have all indicated support for the proposals.

Privacy NSW had no objection in principle to giving New South Wales health inspectors appropriate power to monitor and enforce provisions of part 4 division 2 of the Act by seizing records of practitioners and obtaining access to complaint and disciplinary records. The amendments also introduce a tougher inspection regime in relation to the prescribing of restricted substances such as anabolic steroids. Unfortunately, there is a high level of usage of steroids for non-prescribed purposes in the New South Wales community. It is estimated there may be as many as 40,000 people in the State who have used or are using anabolic steroids. The penalties for illegal possession will be increased from six months to two years imprisonment, along with a fine of up to \$6,000.

The benefit of this legislation is that it brings an increase in the level of transparency of private methadone clinics. The provision of proper surveillance inside methadone clinics has been a significant issue in my electorate and in many other neighbouring electorates in Western Sydney. Methadone clinics essentially have been able to resist inquiries by the New South Wales Department of Health. This legislative reform empowers the regulator to make necessary inquiries so that members of Parliament and the authorities involved are in a position to assure the public that what happens in methadone clinics is what is supposed to happen, that the purposes of methadone programs are being pursued, and that there is alignment between the services and the objectives of the program.

While many of us have reservations about the effectiveness of methadone, this legislation will increase the capacity of the New South Wales Department of Health to not just monitor the activities of the clinics but to ensure that the program's performance can be properly measured through achievements in its administration. In the past it has been very difficult to ask questions such as: How much methadone is being prescribed to clients? The introduction of a maximum prescription regulation will allow us to better assess whether too much methadone is being prescribed to clients. It has been a major issue in the clinic in Barbara Street, Fairfield in that many patients have expressed to me their concern about the doses of methadone being prescribed for them. Essentially, this legislation only begins the process of exposing what is happening in methadone clinics. It is a great step forward.

I am happy about the powers given to the director-general and the department to direct inspectors and investigators to enter methadone clinics, to seize records and to undertake investigations. In this way we will be better informed about exactly what is happening in clinics. The statutory requirement in the legislation removes the necessity of trying to include all regulations in the licence. In turn, the regulatory authority will have much increased powers to investigate complaints. Ultimately, it will make the methadone prescribing industry more accountable.

The community will finally be able to look at what is occurring in these clinics, whether they meet the standards that society and the community expect, and whether the programs provided are in the interests of clients. My concern at Fairfield has been that my constituents who attend the clinic have not received, and are not receiving, the best possible treatment available in the industry. These initiatives are a great step towards achieving that. I congratulate the Government and the Minister on this initiative, and I commend the bill to the House.

Ms D'AMORE (Drummoyne) [10.11 a.m.]: It gives me great pleasure to speak in support of this bill on changes to medical indemnity insurance. The amendment to the Health Care Liability Act 2001 removes any

ambiguity that may be caused by the words "professional" and "medical" in describing the indemnity insurance that is required by doctors practising in the public health system. To date there have been no problems related ambiguity, but the change ensures that such ambiguity will not arise in the future. The amendment also makes clear that a medical practitioner's practice does not need to carry medical indemnity insurance in respect of medical services provided to public patients where the services are exempt under the Health Care Liability Act 2001. If the practice is exempt, the Government's Treasury Managed Fund will provide indemnity cover.

The Carr Government's efforts on medical indemnity insurance are vastly superior to that of the Commonwealth Government. During 2001 and into 2002 the Carr Government introduced tort law reform in the form of the Health Care Liability Act 2001. That legislation has shifted the burden of indemnity cover for visiting medical officers treating public patients, if they elect to be covered by the Government's Treasury Managed Fund. The current budget allocates an additional \$30 million to provide indemnity cover to all New South Wales doctors working in public hospitals. This coverage will be extended to doctors treating private patients in New South Wales public hospitals in specified rural areas from 1 July, an initiative that is, I am sure, welcomed by rural and remote communities.

In contrast, the Commonwealth Government appears to have no real solution to the crisis as it affects private practitioners generally, whether they are general practitioners or specialists. Many are still threatening to resign. This was clearly stated by those who attended a substantial meeting of doctors held in Melbourne recently. A visit to one's local general practitioner will discover doctors in New South Wales speaking in similar terms. The Commonwealth Ministers do not understand the magnitude of the medical indemnity crisis; they are not listening. As with their proposals on Medicare, there are no real solutions, only talk, and ultimately the community will foot the bill. I commend the bill to the House.

Mrs PERRY (Auburn) [10.14 a.m.]: The proposed amendment to the Smoke-free Environment Act 2000 is designed to address an anomaly arising from the fact that section 11 of the Act failed to include premises regulated under the Casino Control Act, but only included premises under the Liquor Act and the Registered Clubs Act. The amendment simply seeks to apply to the bar and gaming areas of the casino precinct the exemptions that currently apply to pubs and clubs. The amendment is necessary to ensure that the Act operates consistently across pubs, clubs and the Star City Casino. It does not represent a change in government policy.

The amendment is part of wider and more comprehensive anti-smoking reforms being undertaken by the New South Wales Government. When the Smoke-free Environment Act was introduced, it banned smoking in all enclosed public places. The exceptions were dining areas in hotels and clubs for a 12-month period. In September 2001 smoking in dining areas in pubs and clubs was banned. Subsequently, an industry working group was established to assist with the implementation of the Smoke-free Environment Act. The working group comprised representatives from the Australian Hotels Association, the Liquor, Hospitality and Miscellaneous Employees Union, Star City, Clubs NSW, the Department of Health, the Department of Gaming and Racing, WorkCover, and the Restaurant and Caterers Association.

In late 2002 the working group reached agreement with the Government that a phased approach to introducing non-smoking areas in licensed premises was appropriate. This would allow time for proprietors and patrons to become accustomed to the changes. The agreement means that smoking will be banned at counter areas by July 2003, and that hotels and clubs will have to provide additional non-smoking areas in bars. It was also agreed that by July 2004, where there was more than one bar room in a pub or club, at least one such room is to be smoke-free. It has been agreed that these voluntary measures will be replaced by legislation.

The Government will continue to work in co-operation with industry to expand the number of non-smoking areas in licensed premises. We applaud establishments that make their venues totally smoke-free. However, we recognise that, in the short term, it will not be possible for an immediate transition at all locations. That is why the working group established a phased approach. In summary, the proposed amendment does not represent a change in government policy but aims to introduce consistency in the way the Act is applied. This is only fair: it seeks to provide a level playing field and not undo the progress we have made to date. I commend the bill to the House.

Mr O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [10.18 a.m.]: The bill seeks to amend six Acts relating to the health portfolio. The Opposition is convinced that each of the amendments—namely those to the Health Services Act 1997, the Mental Health Act 1990, the New South Wales Institute of Psychiatry Act 1964, the Poisons and Therapeutic Goods Act 1966, the Royal Society for the Welfare of

Mothers and Babies' Incorporation Act 1919 and the Smoke-free Environment Act 2000—is appropriate to ensure that the Acts are kept up to date and operate as the community expects. The Opposition will support these changes through the House.

Miss BURTON (Kogarah—Parliamentary Secretary), on behalf of Mr Iemma [10.18 a.m.], in reply: I thank honourable members representing the electorates of Drummoyne, Auburn and Fairfield, and the Deputy Leader of the Opposition for their contributions to the debate. The bill incorporates a number of proposed amendments to statutory instruments within the health portfolio. The amendments ensure that the various Acts are kept up to date and function effectively. The proposed amendments seek to ensure that the legislation functions effectively. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

HUMAN TISSUE AND ANATOMY LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 21 May.

Ms BURNEY (Canterbury) [10.20 a.m.]: I particularly want to contribute to the debate on this bill, as I have seen and felt the deep distress and pain that families have experienced because of the very practices and procedures this bill seeks to prevent. The bill was passed in this House in the last session of Parliament but lapsed into dissolution due to workload. The bill implements the recommendations of the report arising from the Post-mortem and Anatomical Examination Practices of the Institute of Forensic Medicine, known as the Walker report. Fundamentally, the bill puts into place procedures that will require permission for the removal from a deceased person of any body tissue, including organs, for a coronial or a non-coronial post-mortem examination and the requirement for written consent of the deceased person prior to their passing, or the next of kin, before human tissue from a post-mortem can be used for therapeutic, medical or scientific purposes.

Written consent will be required also to use tissue removed during medical, surgical or dental procedures. For consistency the bill also tidies up procedures for organ donation, non-coronial post-mortem examinations, and a number of other things. As a result of this bill, non-coronial post-mortem examinations cannot take place unless authorisation is provided. The bill clarifies also both the purpose for which a coronial post-mortem can be conducted and the purpose for which tissue removed during a coronial autopsy may be used. I would like to share with the House the stories of two young people and the experiences of their families that will demonstrate just how significant this bill is. I knew both of those young people and from an Aboriginal cultural perspective I consider them my niece and nephew.

Marlu Bellere died in February 1996. The Bellere family was not asked about the removal of any tissue, nor was there any explanation to them about what procedures had been performed. No documentation was produced and there was no mention of whether Marlu's body was intact. In April, the family received the Coroner's report, and one can imagine their anguish when it was revealed that they had said goodbye to Marlu, but his brain was not part of that farewell. Marlu's brain had to be subsequently cremated, many months after his funeral. When I spoke to Marlu's mother today about this bill, she was so relieved that her family's experience would not be repeated. She said to me that people should be given proper explanations, in plain English, with written consent and proper respect and sensitivity shown to the family and, more importantly, to the person whom the family is farewelling.

The second story I would like to share is about my niece, Tina Parnell. Tina died just before Christmas in 2001; she was 19 years old. Tina had spent 72 hours on life-support after a tragic overdose of heroin. After Tina's death the lack of empowerment that Tina's family had in relation to Tina's body parts was a shock. A strenuous argument, in which I was involved, with the Coroner's office was necessary so that Tina could be interred whole, as the Coroner bluntly said that he had the right, if he so wished, to remove body parts. The end result was that the funeral was delayed and Tina's family must live with the terrible stress that they still do not know for sure whether Tina was put to rest whole. Tina's mother, Cheryl, one of my best friends, still wrestles with this question daily. When I spoke to Cheryl this morning to seek permission to talk about her daughter, she too showed enormous relief that the Government was doing something about empowering families in relation to the burial of family members, and giving dignity to those the family is farewelling.

When we are born, there is one certainty that we all live with: we will all die. Death is said to be the great equaliser. Burial is particularly important to all people. Some religious and cultural groups must observe strict cultural and religious rites that require the body of the deceased to be treated in a certain manner and to be buried whole. Individuals who hold those beliefs may object to the conduct of a post-mortem examination and, if a post-mortem is carried out, may wish for the return of all body tissue, even small pieces in blocks and slides. These concerns only arise in Coroner's cases, where consent is not required to a post-mortem examination. The proposed bill also addresses cultural sensitivities by allowing the next of kin of a deceased person to authorise another person to exercise his or her functions under the bill.

The proposed provision recognises the kinship and other familial relationships that exist in cultural groups such as Aboriginal and Torres Strait Islander cultures. For example, in the case of the 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 those important cultural differences, for all races of people and their faith beliefs. That provision helps to alleviate some of the anxiety and anguish, and provides some relief to families such as the families of Tina and Marlu. I commend the bill to the House.

Mr O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [10.26 a.m.]: The Human Tissue and Anatomy Legislation Amendment Bill seeks to amend the Human Tissue Act 1983, the Anatomy Act 1977 and the Coroners Act 1980 and replaces the Human Tissue Amendment Bill introduced into this place by the former Minister for Health in 2001. Mr Speaker, as a continuing member of this House you would know that the bill owes its origins to revelations in the United Kingdom in 2000. It was further refined and the introduction of the bill was delayed because of an inquiry into procedures at the Coroner's Court in Sydney and recommendations that have been accepted by the Government.

The issues raised by the honourable member for Canterbury are of concern not only to indigenous Australians but to all Australians. This bill deals with one of the more sensitive areas of legislation that this Parliament could deal with. The Opposition has no concerns with the bill, save that it has taken the Government nigh on three years to bring in a bill that seeks to provide the sorts of protections and consent that most people assumed existed, until the revelations from the United Kingdom in 2000 and the New South Wales Coroner's Court in 2001. The Opposition will not delay the House any further.

Ms D'AMORE (Drummoyne) [10.27 a.m.]: I support the Human Tissue and Anatomy Legislation Amendment Bill. However, I inform the House of two issues. The bill allows for tissue from coronial post-mortems to be kept for coronial and legal purposes. It is important that the bill does not affect the coronial and criminal justice systems. As a result, the bill is careful to preserve the use of tissue for the purposes of a coronial investigation or the investigation of a criminal offence. In some cases tissue will have to be retained, in particular, when a crime has not been solved and its investigation is ongoing. I am advised that plenty of consideration was given to the formulation of those provisions to ensure that we preserve the interests of the whole community and not extend the power to retain tissue without consent.

Consultation was undertaken with the Attorney General's Department, the State Coroner, NSW Police and the Office of the New South Wales Director of Public Prosecutions. The bill recognises that some individuals may object to the retention of tissue and, therefore, individuals are permitted to request the Coroner to return that tissue. It is important to note, however, that where the legitimate interests of the coronial or justice system require it, the bill allows for the tissue to be retained. It must be said that there are circumstances in which the wishes of the deceased may conflict with the direction of the next of kin. The use of tissue from a post-mortem examination must be authorised by a designated officer. For example, if the deceased had objected to the use of the tissue, the wishes of the next of kin will not prevail.

A situation may arise in which the deceased has given written consent that his or her tissue may be used and the next of kin objects. In these circumstances the designated officer may exercise discretion, taking into account the effect the decision will have on the next of kin. It is the role of the designated officer to make the appropriate decision in these circumstances. The same applies to organ donation. I am advised, though, that families seldom go against the wishes of the deceased where they have been clearly expressed. A designated officer is appointed by the governing body of the hospital and that person does not have to be a medical practitioner. It is the responsibility of the designated officer to authorise hospital post-mortem examinations and to give authority for tissue removed at post-mortem examinations to be used for therapeutic, medical or scientific purposes. The designated officer may authorise that the body be retained and ensure that all relevant consents be obtained before authority is given.

In defining the meaning of "next of kin" the bill sets out the hierarchy as follows: for an adult it is a spouse, including a de facto; for an adult son or daughter it is a parent or an adult sibling; and for a child it is a parent, an adult sibling or a guardian. It is important to note that an adult may not have a next of kin. In that situation, if they had not expressed consent whilst they were alive, there cannot be a post-mortem examination or use of tissue from the body. A child will always have a next of kin. If they have no parents or adult sibling they will have a guardian, or the State of New South Wales will be their guardian. If two or more senior members disagree over whether a post-mortem examination should take place, or tissue from the body should be used, neither can proceed. They are a few significant measures in the bill. I commend the bill to the House.

Mrs PALUZZANO (Penrith) [10.32 a.m.]: I support the bill, which goes a long way to ensuring that the rights of individuals are recognised. Generally the bill will not allow the tissue removed from the body of a person during the course of medical, dental or surgical procedures, or following death, to be used for teaching and research without consent. The previous practice of using tissue for research without the consent of either the deceased, given whilst living, or the next of kin, will be prohibited by the bill. It is the responsibility of those who wish to carry out research on body parts to ensure that the next of kin are informed and consents are obtained. This will make sure there is an appropriate level of accountability amongst those who conduct medical research using human body parts.

Mr Bret Walker, who conducted the inquiry into the Glebe Morgue, said that community concern relates more to body parts and organs rather than to small samples of tissues that are prepared for examination. The bill reflects the importance of such tissue in advancing medical knowledge and research, and in assisting students to learn about disease. That is why the bill allows for tissue slides and tissue blocks to be retained for teaching and research, without the need to obtain consent. As a qualified radiographer and a lecturer in science and technology, I support this measure. Galileo was one of the first people to discover that to seek scientific knowledge one does so through an inquiry or investigative process rather than posing questions; you explore with experimentation. I support the bill because it will help students and researchers to strengthen their knowledge base. The bill reflects the right balance between protecting the individual's rights and the need to allow scientific and medical research into the causes of disease.

Constituents and friends have asked me to consider the position of people from particular religious or cultural backgrounds who, in accordance with their beliefs, may require the return of all body tissue that has been taken, even small pieces in blocks or slides. Individuals who hold these beliefs may even object to the conduct of a post-mortem examination. As the House would be aware, these concerns only arise in coronial inquiries, where the conduct of a post-mortem does not require consent. The Coroners Act already provides an appeal mechanism for such situations.

The bill does not prevent the next of kin from making a request to the Coroner to return tissue blocks and slides for burial with the deceased. The decision to return tissue blocks and slides will be a matter for the Coroner. The bill carries an authority for the retention of tissue blocks and slides. The proposed legislation does not impose a duty upon any person to retain that tissue. Obviously, there are circumstances that prevent the return of tissue, such as an ongoing investigation into the death or if a criminal act that caused the death is unresolved. If the Coroner considered it appropriate to return tissue blocks and slides because of deeply held cultural or religious beliefs, the bill does not prevent the Coroner from doing so.

Another matter is the protection of people who are unable to consent. Some people do not have the capacity to give consent. They include those with severe mental illness or intellectual disability or, in my own case, my father. My father entered hospital with cancer but developed pneumonia. Within 12 hours he was intubated and in a coma. He lived for five days. On the morning of his death I had to support my mother in making a choice on whether to permit an autopsy on my father. My mother had to decide whether an autopsy should be supported on medical grounds or whether a decision should be made personally between members of the family. So there is no one-size-fits-all approach. Some people have more capacity than others to make a choice but each decision must be made on a case-by-case basis. On the morning of my father's death my mother chose to give permission for an autopsy on my father so that medical research into non-Hodgkin's lymphoma could be advanced.

The Department of Health has education measures in place to educate relevant health staff on the requirement to obtain consent and on the general law that the person giving consent must have the power to do so. I must commend the staff at Nepean hospital who were present on the morning of my father's death. During the severe grief of my mother and myself, obtaining consent for that autopsy was handled by the hospital staff with much compassion in their explanation of the reason for the medical research. Under the current legislation,

if a deceased person lacks capacity to give consent for a post-mortem examination, anatomical examination or organ donation, the next of kin is responsible for giving consent, as my mother was. Under the bill, if the next of kin is not available such procedures cannot be authorised. I commend the bill to the House.

Ms KENEALLY (Heffron) [10.40 a.m.]: The object of the Human Tissue and Anatomy Legislation Amendment Bill is to balance the rights of individuals to have control over their bodies and the public commitment to teaching and research. As the mother of a child who required a post-mortem examination, I strongly support this bill. My daughter Caroline died in 1999; she was stillborn. The condition that caused her death was not clear. It was a particularly horrible time for my husband and me. The thought of surrendering our child to a post-mortem examination was harrowing but also hopeful because it would give us a sense of the cause of her death and help to aid research to prevent similar deaths in other families.

I have nothing but praise for the staff at the Sydney Children's Hospital and the way in which they treated our family and my daughter. But we cannot rely on the goodwill of our clinicians to ensure that the rights of families and individuals are safeguarded, which is why this legislation is important. My husband and I, in our time of grief, could not possibly think of all the things that might happen to Caroline during the post-mortem examination. In fact, we could barely think about much at all. Families facing a death, especially of a young child, cannot be expected to consider the multitude of issues and choices that a coroner might make during a post-mortem operation. It is incumbent on the Government to safeguard those rights for families in their time of grief.

At present any tissue, including organs, removed from the body as a result of either a coronial or non-coronial post-mortem examination may be used for other therapeutic, medical or scientific purposes, without prior consent from the person or relatives. From my experience and from the experience of other mothers to whom I have talked who have lost children, this is a particularly scary proposition. It has caused significant concern and disquiet in our community. I am happy to say that the Government introduced this bill to protect individual rights. The bill requires that written consent be given, either by the deceased while he or she is still alive or, in the case of a child, the next of kin, before tissue from a post-mortem can be used for other purposes. At present a non-coronial post-mortem examination can be conducted without the consent of the deceased or the next of kin.

The bill will ensure that that cannot proceed without authorisation in writing either by the deceased while still alive or by the next of kin. The question relating to whether coronial post-mortems should take place remains a matter for the coroner. The bill clarifies the purpose for which a coronial post-mortem may be conducted and the purpose for which tissue removed during an autopsy may be used. Many people choose to help others by donating organs.

I will now discuss the impact of this bill on organ donations. I support these provisions in the bill, and I know that the honourable member for Penrith, who spoke movingly about her mother's decision in regard to organ donation, would also support them. I had to face a similar decision in relation to my grandfather. This bill prevents organs and tissue from being donated by individuals who have not given their written consent or who do not have a next of kin who may be approached about providing such consent.

It is anticipated that these changes will have a minor effect on organ donation. Many members would no doubt be aware that the Red Cross is responsible for co-ordinating organ donations in New South Wales. In most cases the present policy is generally to seek written agreement from the next of kin or a written indication of the deceased's consent. The bill also provides an alternative to consent in writing to encourage flexibility. That is because the identification and notification of suitable tissue donors does not occur until some time after death. That means that there is only a short period within which tissue can be retrieved in a viable state. The bill introduces the concept of consent by prescribed means. A regulation could, therefore, prescribe consent by tape-recorded means or other means equivalent to that of written consent.

It is often asked how the bill deals with people who indicate on their drivers licence that they wish to donate organs—I have indicated that on mine—or who tell relatives they wish to be a donor. That will not be taken as written consent to the use of tissue removed at post-mortem examination for other purposes. Under the bill, consent for such use of tissue must be specific and must be in writing. The third point that I would like to make relates to the effect that this bill will have on the retention of brains. The honourable member for Canterbury spoke movingly about a situation faced by a family member in relation to the retention of a brain. One cause for community concern is when family members learn that a brain has been retained for post-mortem examination after a body has been transferred for burial.

The nature of brain tissue is such that it must be fixed to be examined properly. In the past, bodies have been released for burial while the brain has been retained—a situation described by the honourable member for Canterbury. Relatives are often not informed that that will occur. It causes a great deal of distress when relatives find out at a later date that this has happened. The Human Tissue Act already requires the consent of the deceased or his or her next of kin for a non-coronial post-mortem examination. The policy document entitled "Information and Consent to Postmortem Examination and the use of Human Body Parts or Organs for Scientific, Medical and Therapeutic Purposes", which is soon to be published by NSW Health, incorporates relevant recommendations from the Walker report. It is made clear to the next of kin that they can choose not to consent to the examination of organs, including the brain.

The bill, however, does not restrict the coroner's power to order an examination of a person's brain. The bill clarifies that the purpose of the 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 commend the bill to the House. I am proud of the Carr Government's achievement in introducing legislation not only for the families of deceased persons in their time of grief but also for families that have lost a child, as my family did. I appreciate the impact that this legislation will have on the people of New South Wales.

Miss BURTON (Kogarah—Parliamentary Secretary), on behalf of Mr Iemma [10.47 a.m.], in reply: I thank my parliamentary colleagues who represent the electorates of Canterbury, Heffron, Penrith and Drummoyne and the Deputy Leader of the Opposition for their input into the debate on this most important legislation. I would like to bring a few matters to the attention of honourable members. Honourable members may be aware that the Department of Health is conducting a review of the Human Tissue Act. A discussion paper has been issued which deals with organ and tissue donation and use, and post-mortem examination. The bill will change the Act in respect of post-mortem examinations and the use of human tissue as there is an urgent need to reassure the community regarding such practices in New South Wales.

The review of other provisions of the Act is continuing. It will deal with issues such as the legal framework for organ donation in New South Wales and whether it currently reflects the community's attitudes. As these matters are currently being considered by the National Health and Medical Research Council, the review will consider the outcomes of that process. Honourable members will also be aware that the interim report into the retention of tissue and organs following post mortems in New South Wales revealed that approximately 25,000 specimens of human organs and other tissues are held in New South Wales hospitals and universities, some dating back to the 1800s.

The Australian Health Ethics Committee paper entitled "Organs retained at Autopsy" sets out recommendations for the disposal of human body parts previously held following autopsies. The paper was endorsed at a meeting of the Australian Health Ministers Advisory Council. The ethics committee recommended that all institutions holding organs removed at autopsy for any purpose should undertake an internal audit of those organs and of records relating to past use and disposal or transfer of organs previously held. The committee also recommended that appropriate processes be developed for responding to inquiries and concerns by the next of kin.

The Chief Health Officer has subsequently written to all area health services and universities requesting their co-operation for a more detailed audit of health tissue collected. The Australian Health Ethics Committee proposed a national communications strategy following the audit, with the aim of returning organs to the next of kin if they so request. The Commonwealth launched the communications strategy on 24 February. To comply with the recommendations of the Australian Health Ethics Committee a central health register has been established to deal with initial inquiries from next of kin. The New South Wales Department of Health has established a hotline to deal with inquiries from the next of kin.

Next of kin may initiate an inquiry by contacting the New South Wales Department of Health. If the information on the register shows that organs of relatives have been retained, the next of kin will be referred to the responsible institution to continue the inquiry and arrange for the return or disposal of the organs in accordance with the wishes of the next of kin. The community advisory panel, as established by the Government, provided advice to the Department of Health regarding acceptable options for the disposal of both identifiable and non-identifiable organs that have been retained. The New South Wales Human Tissue Act Inquiry Line commenced in February and there is still an 1800 number for people wishing to contact the inquiry line, which is in the process of matching tissue to database inquiries. It will shortly begin contacting the next of kin and informing them whether there is any tissue. The tissue will then be matched with the area health service where the tissue is held. A process is already in place whereby tissue can be returned, if requested, and consent obtained, if required, for research or training, or for the appropriate disposal of tissue.

The consultation process in the development of the bill has been extensive and thorough. A wide range of medical, professional and community organisations have had input into its drafting. The bill implements recommendations made by Mr Walker, SC, as a result of his inquiry into matters arising from the post-mortem and anatomical examination practices of the Institute of Forensic Medicine. Mr Walker received public submissions and consulted with a wide range of individuals and groups, including the Royal College of Pathologists of Australasia, the Australian Medical Association, the Health Care Complaints Commission, various university faculties of medicine, several religious and cultural groups, the New South Wales Ombudsman, and representatives of the National Health and Medical Research Council's Australian Health Ethics Committee. The Community Advisory Panel on Post-Mortem Examinations was also consulted.

This panel was convened to advise the Government on various issues related to post-mortem examinations and organ retention practices. It consisted of representatives of the Royal College of Pathologists of Australasia, the Office of the State Coroner, the joint committee on post-mortems, Silent Hearts, the Aboriginal Health and Medical Research Council, the Sudden Infant Death Association of New South Wales, the Homicide Victims Support Group, a representative of wards of the State and a person with family experience of organ retention. The Department of Health also convened a reference committee on the retention and disposal of body parts, including representatives of the Royal College of Pathologists of Australasia, the Royal Australian College of Surgeons, departments of forensic medicine and various other health professionals. This committee was also consulted on the development of the bill.

The provisions of the bill that relate to organ donation were the subject of consultation with the Australian Red Cross. The Attorney General's Department, the New South Wales State Coroner, and the Office of the New South Wales Director of Public Prosecutions were consulted in relation to provisions that affect the Coroners Act and the collection of forensic evidence in criminal cases. The Department of Community Services was consulted in relation to matters dealing with children in the care of the State. The department also consulted the Medical Services Advisory Committee, a statutory committee that provides advice on proposed legislation that may affect the practice of medicine in New South Wales. The committee advised that the bill realistically addresses public expectation and essential medical and scientific requirements. This thorough consultation with relevant groups has meant that the proposals address community concerns.

Under the current provisions of the Human Tissue Act it is lawful to remove and retain tissue at post-mortem examination without consent, and tissue could have been removed from the bodies of individuals with next of kin and from individuals without next of kin who were in State care at the time of their deaths. However, it is noted that this is the case only in relation to post-mortem tissue. The Act has always required that the next of kin or guardian be consulted in respect of the removal of organs from children for the purpose of donation. The Chief Health Officer's report into the retention of tissue and organs following post-mortems in New South Wales indicates that approximately 25,000 pieces of tissue are held in tissue collections in New South Wales. In many cases the tissue is unidentifiable so it is not possible to know anything about the person from whom it was taken.

The former Minister for Community Services, the Hon. Faye Lo' Po, advised that although the Department of Community Services retains records of children and young people in State care who have died, the department does not retain records of children in care having had tissue removed during post-mortem examinations. Given the lack of available records and the fact that this practice may have occurred over a significant period of time, the Minister has advised that the Department of Community Services is not in a position to initiate an investigation into whether deceased children formerly in the department's care have had tissue removed and retained for medical and scientific purposes.

I shall now outline to the House the way in which the bill will affect the retention of brains. Many people have been distressed to learn that the brain of their family member was retained for a post-mortem examination. Because of the nature of brain tissue it must be fixed before it can be properly examined. This has led to brains being retained after the body has been released to the family for burial. In the past, relatives were often not informed that this would occur. The Human Tissue Act already requires the consent of the deceased or his or her next of kin for a non-coronial, post-mortem examination. The policy document "Information and Consent to Postmortem Examination and the use of Human Body Parts or Organs for Scientific, Medical and Therapeutic Purposes" incorporates the relevant recommendations from the Walker report, particularly with respect to providing information to the next of kin.

It is made clear to next of kin that they can choose not to consent to the examination of organs, including the brain. The bill does not restrict the Coroner's power to order a post-mortem examination, including

an examination of a person's brain. However, the bill does clarify that the purpose of a 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. The bill allows tissue from a coronial post-mortem examination to be used for the coroner's examination of a death, the investigation of any offences, or in any offence proceedings. Because the topic frequently caused community concern, the Walker report made a number of non-legislative recommendations regarding the removal and retention of brains. The Department of Health subsequently commissioned a further independent review by Effective Healthcare Australia into the practice of removing and retaining brains.

The recommendation of the Walker report and the independent review conducted for the department have resulted in the development of new protocols that are currently being implemented with the co-operation of three departments of forensic medicine, at Glebe, Westmead and the Hunter, and the Royal College of Pathologists of Australasia. In essence, the new protocols address whether there is a need to retain the brain for coronial purposes and the length of time needed to prepare the brain for detailed examination. Under the protocols, and consistent with the proposed legislation, the retention of any organ must be only for the purpose of assisting in determining the cause and manner of death and circumstances surrounding the death. I am advised that the protocols have dramatically reduced the retention of brains from 47 per cent in 2000 to only 17 per cent in 2002.

In all cases next of kin are informed prior to the release of the body that an organ is being retained. When it is necessary to fix an organ for further detailed examination the next of kin is given the option to reunite the brain with the body except in deaths of a suspicious nature. Any costs incurred in reuniting organs retained at autopsy are met by the State Government. The proposed legislation provides that if the organ is being used for any purpose other than the coronial examination written consent is required either from the deceased while living or from the next of kin. In addition, it is noted that the approval of the Central Sydney Area Health Service Human Research Ethics Committee is required for any research performed at the Department of Forensic Medicine, Glebe, regardless of ethics approval elsewhere.

I draw the attention of the House to the matter of record keeping. The Walker report was critical of the record keeping at the then Institute of Forensic Medicine. The bill inserts new regulation-making powers into the Act relating to record keeping for tissue collections or the use of tissue under the Act. Regulations may also be made for the forwarding of such information to the Director-General of NSW Health. This will allow the department to monitor human tissue collections properly. More recently, a review of the Department of Forensic Medicine's record management procedures was undertaken. A new position of records officer has been created and filled, and restructuring and reform of the department's record-keeping policies and practices are ongoing. Record keeping for the retention of organs has been improved through the use of a body part removal sheet on which is recorded the retention and subsequent release of an organ. Running sheets have been introduced for counselling staff to record information provided to the next of kin.

The bill provides for amendments to the Human Tissue Act 1983, the Anatomy Act 1977 and the Coroners Act 1980. These amendments protect the rights of individuals to control what happens to their bodies after their death. They also protect the rights of families to be informed of, and to give consent to, procedures that are undertaken on the bodies of family members who have died. The bill balances this respect for individuals' rights with the recognition that society has some legitimate interest in the use of human tissue, which should not be contingent on an individual's consent. Accordingly, the bill protects the use of tissue for coronial purposes for the investigation of crime and the proper functioning of the judicial system. The bill recognises the importance of medical teaching and research and allows these important interests to be advanced without offending the values of the general community. The bill represents a balance between the benefits that accrue from access to human tissue for therapeutic purposes, research, education and training on the one hand and respect for diverse cultural, religious and individual values and personal autonomy on the other hand. That balance is fair and reasonable. 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 Tripodi agreed to:

That standing and sessional orders be suspended to permit the passage of the City of Sydney Amendment (Electoral Rolls) Bill through all its remaining stages at this sitting.

CITY OF SYDNEY AMENDMENT (ELECTORAL ROLLS) BILL**Second Reading**

Mr NEWELL (Tweed—Parliamentary Secretary) [11.06 a.m.]: I move:

That this bill be now read a second time.

The City of Sydney Amendment (Electoral Rolls) Bill reflects the Government's continuing commitment to providing a transparent and effective legislative framework for the administration of local government in New South Wales. The Government is committed to ensuring that local government remains representative of the community and that the governing legislation is clear and workable. The bill amends the City of Sydney Act 1998 in relation to the preparation of electoral rolls for the purpose of elections to the Council of the City of Sydney. The general manager of a local council usually prepares electoral rolls for the purpose of local council elections. The City of Sydney Act specifically gives this function to the State Electoral Commissioner. The purpose of the amendments to the City of Sydney Act is to clarify the procedure for the preparation of the non-residential roll and the roll of occupiers and rate-paying lessees for the elections for the Council of the City of Sydney by the Electoral Commissioner. The necessity for this amendment arises from an ambiguity as to what data the Electoral Commissioner is to use to prepare the rolls.

Section 18A of the City of Sydney Act presently requires the Electoral Commissioner to prepare the non-residential roll and the roll of occupiers and rate-paying lessees for elections for the City of Sydney council. The Electoral Commissioner is also required by section 18A (3) to send a letter to persons on each such roll at least three months before the closing date for an election informing them that they are electors. However, the operation of the provision is unclear. Section 3 of the City of Sydney Act provides that the Act is to be read as if it forms part of the Local Government Act 1993—the principal Act. Sections 299 and 300 of the principal Act provide that the non-residential roll and the roll of occupiers and rate-paying lessees lapse after the election for which they were prepared. The essential question of interpretation is whether section 18A overrides the principal Act, and therefore whether the rolls lapse or continue to exist from election to election.

The status of the rolls is critical to the responsibility of the Electoral Commissioner under section 18A to write to electors on a roll. The lack of clarity in the present position may jeopardise the result of any of the elections for the City of Sydney. It is therefore necessary that the operation of section 18A be clarified in sufficient time before the next ordinary elections in March 2004. The Electoral Commissioner has expressed particular concern about the present provision in view of the contentious nature of elections for the council. As the non-residential rolls were prepared under section 18A for the first time for the 1999 local government elections, the issue of the roll from a previous election lapsing did not then arise. Uncertainty in the provisions relating to the preparation of electoral rolls may leave the entire electoral process for the council open to legal challenge by persons who disagree with the Electoral Commissioner's approach to discharging his or her duties. The Electoral Commissioner has also obtained advice from the Crown Solicitor that has highlighted the uncertainty of section 18A.

It is proposed to insert a provision to clarify that the non-residential roll and the roll of occupiers and ratepaying lessees lapse after the election for which they were prepared, as it does for all other local government elections. The policy intent of the proposal is also to ensure that non-resident electors and electors who are occupiers and ratepaying lessees are provided with every opportunity to claim inclusion on the roll for elections for the City of Sydney council. The proposed amendment will allow information on the rolls prepared for the previous election to be used by the Electoral Commissioner to send enrolment information by letter to persons who may wish to seek inclusion again on the non-residential roll and the roll of occupiers and ratepaying lessees. The purpose of the letter is to provide all electors with the best opportunity of becoming enrolled for council elections. The letter will provide notice of the requirements for claiming inclusion on the rolls and information as to the availability and lodgment of claim forms.

This bill was amended in another place to provide that this letter will be sent at least 90 days before the closing date for an election for the council to allow persons adequate time to claim enrolment. Previously the letter was required to be sent at least 60 days before the closing date for an election. This 90-day period is longer than the 60 days general managers have to prepare the rolls for all other council elections under the Local Government (Elections) Regulation 1998. This extended period will afford eligible persons greater time to claim enrolment. The Act currently provides that the costs of the preparation of rolls for the council election are to be met by the Council of the City of Sydney and are recoverable from the council as a debt owed to the Electoral Commissioner as the holder of that office. A further amendment was made in another place to allow that any

dispute as to the amount of those costs is to be determined by the Director-General of the Department of Local Government rather than the Electoral Commissioner as was previously the case. It is commonsense that the arbiter of any dispute between two parties should be independent of that dispute.

All persons must lodge a claim of enrolment with the Electoral Commissioner, so no favourable franchise is created for any group of electors. The proposed amendment also retains the independence of the Electoral Commissioner, as the Electoral Commissioner is not required to make judgments about the interpretation and method of implementation of section 18A. It is critical to the effective operation of elections for the council that the Electoral Commissioner is perceived by the community to be independent in the enrolment process. The amendments contained in this bill will ensure that clarity is given to an essential democratic process at this important level of government in the State's premier city. I commend the bill to the House.

Mr FRASER (Coffs Harbour) [11.12 a.m.]: I lead for the Opposition on this legislation. The Opposition will not oppose the City of Sydney Amendment (Electoral Rolls) Bill. The objects of this bill are threefold: to clarify that the roll of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees prepared for an election for the City of Sydney council lapse after the election for which they are prepared; to provide that information on the lapsed rolls is to be used to prepare a mail-out by the Electoral Commissioner to electors, and to corporations and firms that nominated electors, notifying them of the next election and that an application may be needed for inclusion of an elector on the relevant rolls for the next election; and to require the Electoral Commissioner to send the mail-out at least 60 days before the closing date for enrolment for the election.

The Minister for Local Government claimed in his second reading speech that the bill is part of the Government's ongoing commitment to a transparent and effective legislative framework for the administration of local government. There are many in the community who would take issue with that claim, especially considering the Government's handling of the other major issue facing the City of Sydney council at the moment, that is, the forced boundary changes that came into effect from 8 May. Under the City of Sydney Act, the job of preparing rolls for elections of councillors and the Lord Mayor is given to the State Electoral Commissioner. That stance was endorsed by the 1998 Fisher report into the City of Sydney council election procedure, and was advocated by many submissions to that inquiry, including Lord Mayor Frank Sartor and the joint business submission. In the case of other councils that operate under the Local Government Act 1993, the job of preparing rolls falls with the general manager. The difference between the preparation of rolls for the City of Sydney council elections and the preparation of rolls for other council elections recognises the unique nature of the makeup of the city's electoral roll—differences that I will outline in a moment.

The purpose of the amendments to the City of Sydney Act is to clarify the procedure used by the Electoral Commission for the preparation of the non-residential roll and the roll of occupiers and ratepaying lessees. Apparently the necessity for this amendment arises from an ambiguity as to what data the Electoral Commissioner uses to prepare the rolls. Under section 18A of the City of Sydney Act, the Electoral Commissioner is required to prepare the rolls for an election for the City of Sydney. Under section 18A, the commissioner is also required to send a letter to persons on each roll at least three months before the closing date for an election informing them that they are electors. This is where the ambiguity arises. The City of Sydney Act is to be read as part of the principal Act, which in this case is the Local Government Act. In that Act, sections specifically state that the non-residential roll and the roll of occupiers and ratepaying lessees lapse after the election for which they are prepared.

The question has therefore arisen as to whether the relevant parts of the City of Sydney Act override the Local Government Act, and whether the rolls lapse or continue to exist from election to election. It also raises the question of what information the commissioner is to use in preparing the rolls by way of notification. The Government's key proposal in this bill—that of specifying that the non-residential roll and the roll of occupiers and ratepaying lessees lapse after the election for which they are prepared—would bring the City of Sydney council into line with all other local government councils. However, the amendment does not take into account the somewhat unique nature of the content of the rolls for the Council of the City of Sydney. I have been informed that at the 1999 local government election the total number of electors for the city was 7,500 residential and 5,000 non-residential. For the election prior to that, the enrolment was 4,000 residential and 8,000 non-residential. That highlights the differences between the electors in the city and electors in a typical local government area. The city has a high proportion of non-residential electors, while any other local government area would have a higher proportion of residential electors and a smaller enrolment of non-residential electors.

While the circumstances of the city may change a little after the inclusion of residential areas formerly belonging to Leichhardt and South Sydney councils, there will still be a high proportion of non-residential electors. So why do these rolls have to lapse after the election for which they are prepared? Why do the rolls have to be effectively wiped, and just kept as a mailing list in the bottom drawer at the Electoral Commission? A concern has been put to the Opposition that the effect of lapsing the non-residential roll and the roll of occupiers and ratepaying lessees could have the unintended consequence of creating an ever-decreasing pool of non-resident electors. The figures I have outlined above are testament to that concern. The Opposition believes that the Government should be making it as easy as possible for people wishing to be enrolled as electors on the non-residential roll and the roll of occupiers and ratepaying lessees. These issues were well canvassed in the Fisher report in 1998, and several Parliamentarians and political parties had input into that inquiry and report.

The Opposition contends that the provisions of the bill, coupled with the current arrangements for elections for the City of Sydney council, make it difficult for potential electors to get on the roll. Put simply, we would hope that the Government would make it easy for eligible electors to get on the rolls for the city. The preparation of a fresh roll by the Electoral Commissioner would be an expensive process, and the cost of that exercise is recoverable from the council under current legislation. Why can the Government not make it easy? The Minister in the other place has indicated that the reduction in the notification period is to ensure that the duties of the Electoral Commissioner in preparing the rolls for the City of Sydney council do not clash with his duties in respect of the 2003 State election. That is appropriate. The Minister tried to lay the blame for current ambiguities in the City of Sydney Act on the amendments made during the Local Government Legislation Amendment (Elections) Bill 1998. The Minister should recall that bill with some caution, as it was that bill which sought to introduce a virtual gerrymander into the election procedures for the City of Sydney council. The problem with that legislation was not the amendments: the problem was the legislation put forward by the former Minister and the Australian Labor Party. In conclusion, I repeat that the Opposition will not oppose the bill.

Mr McLEAY (Heathcote) [11.20 a.m.]: From the beginning I should put on the record that my wife was an unsuccessful candidate in the recent City of Sydney elections. This bill amends the City of Sydney Act 1998 in relation to the preparation of electoral rolls for the purpose of elections to the Council of the City of Sydney. The Government is committed to ensuring that the legislative framework for local government in New South Wales is clear and effective, and enables local councils to best serve the communities they represent. In the case of the Council of the City of Sydney, three rolls are prepared before each council election. The residential role is prepared using data obtained from the Australian Electoral Commission. The non-residential roll and the roll of occupiers and rate-paying lessees are prepared by the State Electoral Commissioner. In respect of other council elections, the general manager prepares these rolls.

These amendments will clarify that the roll of occupiers and rate-paying lessees and the non-residential roll will lapse after the election for which they were prepared. These amendments are important because there is ambiguity in the current legislation as to what data the Electoral Commissioner is to use to prepare the rolls. The Crown Solicitor has advised that this ambiguity may leave the future result of council elections open to legal challenge. These amendments clarify the original intent of the legislation. The Electoral Commissioner, when preparing the non-residential rolls and the roll of occupiers and rate-paying lessees, is also required under the Act to send a letter to persons on each such roll at least three months before the closing date for an election, informing them that they are electors. However, the operation of the provision is unclear, because section 3 of the City of Sydney Act provides that the Act is to be read as if it forms part of the Local Government Act 1993, the principal Act.

Sections 299 and 300 of the principal Act provides that the non-residential role and the roll of occupiers and rate-paying lessees lapse after the election for which they were prepared. The key issue of interpretation then is whether section 18A overrides the principal Act, and therefore whether the rolls lapse or continue from election to election. Clearly, if the Electoral Commissioner is to use the rolls to form the basis of a mail-out, then it is of the utmost importance to determine the status of the roll. In order to ensure that the ambiguity that currently exists does not jeopardise the result of any elections for the City of Sydney council, this matter of interpretation must be clarified in sufficient time before the next ordinary elections.

The Electoral Commissioner has expressed particular concern at this situation, particularly given the contentious nature of elections for the council. The uncertainty that exists in relation to the preparation of electoral rolls may leave the entire electoral process for the council open to legal challenge by persons who disagree with the Electoral Commissioner's approach to discharging his or her duties. These amendments therefore also sustain the independence of the Electoral Commissioner, as the Electoral Commissioner is not

required to make judgments about the interpretation and method of implementation of section 18A. It is crucial for the effective operation of elections that the Electoral Commissioner is perceived by the community to be independent in the enrolment process.

This situation did not arise at the last elections for the City of Sydney council as the 1999 local government elections were the first time the non-residential rolls had been prepared under section 18A. The issue of the lapsing of the roll from a previous election did not then arise. These amendments will clarify that the non-residential roll and the roll of occupiers and rate-paying lessees lapse after the election for which they were prepared, as they do for all other local government elections. The policy intent behind this proposal is to ensure that non-resident electors and electors who are occupiers and rate-paying lessees are provided with every opportunity to claim inclusion on the roll for elections for the City of Sydney council.

This bill allows the Electoral Commissioner to use information on the rolls prepared for the previous election to send a letter containing enrolment information to people who may wish to seek inclusion again on the non-residential roll and the roll of occupiers and rate-paying lessees. This letter will provide all electors with the best possible opportunity for enrolling for council elections. The letter will provide notice of the requirements for claiming inclusion on the rolls and information about obtaining and lodging claim forms. Everyone who seeks enrolment must lodge a claim of enrolment with the Electoral Commissioner, so that a favourable franchise is not created for any group of electors. This bill clarifies an important provision of the legislation governing council elections in our State's capital city, and I commend the bill to the House.

Ms JUDGE (Strathfield) [11.25 a.m.]: I believe I have some understanding of this issue, having served the local community for eight years as an elected representative in the form of a councillor and for four terms as mayor, and as I am still wearing a councillor's hat in addition to the work that I am currently undertaking as the local State member. These amendments do not propose substantial changes to the City of Sydney Act. Rather, the amendments will clarify the intent already contained in the Act. The Government is committed to ensuring that the legislation governing local government is clear and workable.

This bill will amend the City of Sydney Act 1988 to clarify the procedure for the preparation of the non-residential roll and the roll of occupiers and rate-paying lessees for elections for the City of Sydney council. Currently, three rolls are used to compile the roll of electors for City of Sydney council elections: residential, non-residential and occupiers and rate-paying lessees. While residential rolls are compiled through data from the Australian Electoral Commission, section 18A of the City of Sydney Act at present requires that the State Electoral Commissioner prepare the non-residential roll and the roll of occupiers and rate-paying lessees for council elections. However, the operation of this provision is unclear, because section 3 of the City of Sydney Act provides that the Act is to be read as if it forms part of the Local Government Act 1993, the principal Act.

While the principal Act allows for non-residential rolls and rolls of occupiers and rate-paying lessees to lapse after the election for which they were prepared, the City of Sydney Act does not make such a provision clear. The essential question of interpretation is whether the rolls lapse or continue in existence from election to election. Thus, there is confusion over whether the principal Act overrides the City of Sydney Act. The Crown Solicitor has highlighted the uncertainty of the interpretation of section 18A. This uncertainty may leave the entire electoral process open to legal challenge. The proposed amendments will clarify that the non-residential roll and the roll of occupiers and rate-paying lessees lapse after the election for which they were prepared, in accordance with the principal Act. This ensures consistency with all other council elections in New South Wales.

It is also proposed that information from the non-residential roll and the roll of occupiers and rate-paying lessees form the basis of a mail-out by the Electoral Commissioner to advise of the requirements for claiming inclusion on the roll for election to the City of Sydney council. Further, it is proposed that the Electoral Commissioner send such a letter at least 90 days before the closing date for an election for the council, in order to allow persons adequate time to claim enrolment. The amendments contained in this bill will ensure that clarity is given to the essential democratic process of electing a Council of the City of Sydney. It will also ensure greater consistency across all local government elections in New South Wales. This bill is fair, democratic and consistent. I commend the bill to the House.

Mr TRIPODI (Fairfield—Parliamentary Secretary) [11.30 a.m.]: This important legislation is about clarification of a possible technical challenge to the conduct of ballots. It anticipates problems and puts in place measures to prevent them from occurring. As previous speakers have said, the bill seeks to clarify conflicting

statutory instruments that regulate the City of Sydney electoral roll. It seeks to make the process of producing the roll consistent with that of other councils across New South Wales and to provide the Electoral Commissioner with the ability to properly clarify the exact constituency. The Government believes that non-residential rolls should lapse after each election. There is a high turnover in owners, occupiers and rate-paying lessees included on those rolls and, consequently, their accuracy is short lived.

It is likely that a number of people could gain and then lose eligibility to vote in the time between elections without ever having voted. In addition, many electors on non-residential rolls are nominated by companies or firms to enrol to vote on their behalf. It is not unforeseeable that companies may not wish the same person who was enrolled four years previously to remain enrolled to vote on their behalf. Naturally, employees move on and the bill will provide the opportunity to correct the roll when that occurs. It provides companies with the opportunity to reconsider who their nominees will be. Furthermore, the company nominee may be disqualified from remaining on the electoral roll simply by changes in personal circumstances, for example, by moving interstate or changing a place of residence to the city's local government area, which would result in that person holding two votes. That situation must be clarified, and these amendments seek to do that.

Updating non-residential rolls imposed an unreasonable burden on the State Electoral Office. Ensuring that the Electoral Commissioner plays an appropriate part in determining the roll will make it possible to clarify the roll for the elections. It had previously been a provision that the council's general manager keep a list of the persons who, in his or her opinion, were entitled to vote. This system was unworkable. There is no reason why it would be any easier for the State Electoral Commissioner. Qualification to vote in City of Sydney elections comes from a variety of sources, such as owner-occupiers to rate-paying lessees. Therefore, updating the rolls is a resource-intensive exercise. The 1998 independent Fisher inquiry recommended that non-residential rolls be allowed to lapse. The recommendation makes a lot of sense and the Government seeks to implement it. The commissioner recommended:

The evidence is that council's experience with rolls is that when the time comes to prepare the roll, a quite significant proportion of the entries on the list are out of date, inaccurate, or can no longer be verified. This suggests that the more efficient course would be to create a new roll on the occasion of each election.

The Government agrees with Commissioner Fisher: non-residential rolls should lapse as provided for in the Local Government Act. So far as possible the provisions within the City of Sydney Act should be consistent with the Local Government Act. Previous speakers have explained the clarification that is necessary to achieve consistency across New South Wales. Clarification and consistency is a reform that is in the interests not only of the people of Sydney but of those across the State. Sections 229 (2) and 300 (2) of the Local Government Act provide for the lapsing of the roll of non-resident owners of rateable land and the lapsing of the roll of occupiers and rate-paying lessees.

There is no reason the City of Sydney elections should not follow the same provisions. The Government believes that there is no valid public policy reason to keep inadequate electoral rolls open. This measure seeks to correct that. Provisions already exist to enrol eligible non-resident electors prior to the four-yearly council elections or a by-election, the date of which is well known in advance. The State Electoral Office has expressed concern at the Opposition's amendment, and wrote to the previous Minister for Local Government stating:

Given that the Electoral Commissioner does not have details of ownership, lease or occupier details to verify eligibility for enrolment, it would not be possible to confirm the rolls based on an opinion regarding entitlement.

This House has previously debated whether electoral rolls are a proper and accurate record of voters. We seek to act on that concern. The Opposition's amendment requires an eligibility letter based on information provided by the Council of the City of Sydney. The State Electoral Office contends that it does not know what information the council has or what that information might entail. The State Electoral Office also believes that the Opposition's amendment would undoubtedly incur significant costs and require increased resources, possibly including the development of software to enable structure of a database. The State Electoral Office estimates that the cost of running the election would be possibly double the \$73,326 that was spent on the preparation of the rolls for the 1999 election. That would equate to a significant extra expense for the Council of the City of Sydney and its ratepayers.

All members of the House would agree that the money would be better spent on other matters relating to the City of Sydney or the involvement of the State Electoral Office rather than on expenses that can be easily avoided. The Government has put in place a number of provisions to ensure every opportunity for eligible voters to enrol. We have extended the time from 60 to 90 days for the State Electoral Office to write to people who

were previously on the roll. People have the opportunity to either re-enrol or explain their situation. There is also provision for the State Electoral Office to advertise in major metropolitan and local newspapers to advise people of the enrolment process. I am sure that all honourable members would agree that public information and the education process for voters is significant.

The bill is a commitment to enhance the roll to ensure that voters are informed of their rights and obligations to participate in elections. Voting is compulsory, and ultimately it is the responsibility of individuals to ensure that they are enrolled correctly. Allowing the roll of non-residential owners and the roll of occupiers and rate-paying lessees to lapse after the election for the Council of the City of Sydney, for which the rolls were prepared, is consistent with the practice followed by other council elections administered under the Local Government Act 1983. The compulsory nature of enrolment and the date of local government elections are public knowledge. People will be further advised of the date through the media and other mediums.

It is not tenable for the Opposition to claim that maintaining permanent rolls of non-residential ratepayers, occupiers and rate-paying lessees is the only way to ensure that eligible voters are enfranchised for the election of the Council of the City of Sydney. The amendment in the bill makes enormous sense. It is about resource management and ensuring that the State Electoral Office wastes no more money than it needs to in ensuring that the integrity of the roll is maintained. It is about ensuring that the Government can prepare quickly for elections, for example a by-election, by ensuring that those who are no longer eligible to vote do not remain on the roll and that the integrity of elections in New South Wales is maintained.

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 Tripodi agreed to:

That standing and sessional orders be suspended to permit the passage of the Local Government Amendment (National Competition Policy Review) Bill through all stages at this sitting.

LOCAL GOVERNMENT AMENDMENT (NATIONAL COMPETITION POLICY REVIEW) BILL

Second Reading

Mr TRIPODI (Fairfield—Parliamentary Secretary) [11.40 a.m.]: I move:

That this bill be now read a second time.

This bill provides for the amendment of the Local Government Act 1993 to address certain of its provisions that are inconsistent with the principles of national competition policy and, in particular, competitive neutrality. The Local Government Act 1993 is one of the core Acts regulating local and county councils. It deals mainly with the establishment and functioning of local and county councils. It gives councils certain powers to regulate the activities of others as well as granting councils wide powers to undertake services and other functions in the local and wider communities.

The Local Government Act is not directly targeted at regulating markets or affecting competitive forces. However, in carrying out their functions under that Act, councils may affect the operation of businesses and the way that they compete with each other. There are two broad ways in which councils acting under the Local Government Act may affect businesses. The first relates to councils' role in regulating the businesses of others. Non-council businesses are affected in relation to competition policy, as under the Local Government Act certain business activities require the approval of council to conduct the business activity. Examples include the requirement to obtain a business approval to operate an undertaker's business or a mortuary, to operate a public car park or a caravan park or camping ground.

The other way in which councils have an impact on competitive neutrality is in relation to councils' own business activities, that is, the manner in which council businesses operate and interact with private sector competitors, such as private certifiers in relation to certifying development. Competitive neutrality is one of the

principles of national competition policy that is being applied throughout Australia at all levels of government. The national competition policy is the subject of the Competition Principles Agreement 1995, developed by the Council of Australian Governments and entered into by the Commonwealth Government and all State and Territory governments.

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 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. The framework for the application of national competition policy to councils in New South Wales was developed by the government in consultation with the Local Government Association of New South Wales [Lgov NSW], formerly the Local Government and Shires Associations.

As required by the national agreement, the Local Government Act has been reviewed to identify any provisions that might unjustifiably restrict competition. That review was conducted by a committee comprised of senior officers from the Department of Local Government, the Cabinet Office and New South Wales Treasury. The committee was assisted by a reference group comprised of senior officers from Lgov NSW, the Institute of Municipal Management, the Municipal Employees Union of New South Wales and the Environmental Health and Building Surveyors Association. The committee's report of July 2001, "National Competition Policy—Review of the Local Government Act", was published by the Department of Local Government and has been publicly released. This bill is based upon the recommendations made in that report. Because competition policy is not about the pursuit of competition as an end in itself, this bill addresses those areas appropriate for reform. Anti-competitive provisions are justified if the benefits to the community as a whole outweigh the costs, or if the objects of the Act cannot be achieved without them.

I turn now to tendering. Section 55 of the Act currently exempts councils from the normal tendering requirements for purchasing when a council buys goods or services through a bulk contract arranged by the State Contracts Control Board or the equivalent Commonwealth agency. Procurement through these agencies has been specifically recognised in the Act because the State Contracts Control Board and equivalent agencies follow their own rigorous tendering and probity requirements before making contracts available to other government bodies. It would be a nonsense to then require effectively the same process that has been undertaken by the State Contracts Control Board to be replicated by local councils, as would be required were the exempting provision not available.

The review committee reported that the current restriction on the organisations that can provide bulk purchasing is anti-competitive. While the issue of paramount importance is ensuring probity and transparency in government tendering, sufficient controls can be put into place to facilitate competition between bulk purchasing organisations. The bill will amend section 55 to implement the committee's recommendation. A regulation-making power will be inserted in section 55 (3) so that the list of prescribed organisations that enjoy the exemption from tendering requirements can be extended to include any other organisation, subject to such conditions as may be required. Appropriate conditions would need to ensure accountability with respect to the expenditure of public money by requiring, for example, that the organisations in this position comply with probity standards commensurate with those already in the Act and its regulations.

I turn now to fees and charges for business activities because they are also covered by the legislation. There are a number of sections in the Act that require councils to set fees in a particular way. Section 608 provides councils with a broad power to charge fees for the provision of services, such as receiving an application for approval or issuing a certificate. In order to set fees under the current provision, a council must first include the fee in its management plan. Public consultation must occur in relation to the plan. This provides councils' competitors with detailed information about councils' pricing policy, putting councils at a commercial disadvantage. By setting fees as part of the management planning process, councils have a limited ability to introduce new fees outside this process, and cannot therefore set a new fee in response to competitive pricing, other than in the next annual management plan. In relation to national competition policy, the fee-setting restrictions in the Act mean that councils are not able to adopt flexible pricing and respond to market trends. Of course, such restrictions do not apply to private businesses when setting their own fees and charges.

The requirements for setting fees in this way are appropriate for regulatory functions, such as inspection fees connected with an application for approval. They are also appropriate in relation to monopoly functions of councils, such as the annual charge for domestic waste removal services. However the restrictions

also apply to councils' business activities. The vast majority of submissions on this issue to the review committee argued that the current provisions seriously disadvantage councils against their commercial competitors, including the submission from the former Local Government and Shires Associations. One example was that Sutherland Shire Council submitted that fees and charges must be able to be set in a more responsive way for business activities, such as function centres and kiosks.

The review committee agreed that a new model should be developed which provides for flexibility in setting fees in response to market conditions for those activities which are business activities or contestable. The bill proposes the insertion of new divisions 1, 2 and 3 in part 10 of chapter 15 of the Act to facilitate increased flexibility in the setting of fees, in accordance with the recommendations of the review committee. The new fee-setting system is applicable to the operation of an abattoir, the operation of a gas production or reticulation service, the carrying out of water supply or sewerage services, the carrying out of private work under section 67, the carrying out of graffiti removal work under section 67A, and any other prescribed business activity.

The new fee-setting system affects only those activities that are contestable. This means that activities undertaken as a community service, or where there is no market competition, or where the activity is a regulatory activity not subject to competition will continue to set and apply fees according to the current provisions. The new fee-setting system will also not affect the method by which annual charges or special rates for water supply and the like are set, or section 608 fees that are already set under any Act or regulation by the director-general. These charges are already appropriately regulated.

The new, more flexible fee-setting model proposed in the bill allows a pricing methodology to be adopted and explained by council in its management plan, but does not require the actual price for each activity to be disclosed in the management plan. The normal public consultation period applies to the plan and the plan must be adopted by council resolution. The proposed amendment also allows fees to be set and adjusted quickly as needed in the circumstances, as long as they are within the costing methodology set out in the management plan, or subject to a specific council resolution.

For new or different services arising throughout the year and after the adoption of the management plan, council may either apply the costing methodology adopted in the management plan, or set a fee in accordance with the current section 612, providing 28 days public notice of the amount of the fee. To cater for the new content of management plans, consequential amendments to section 404 of the Act are also proposed. In relation to the carrying out of private works under section 67, the requirement that if the council wishes to charge less than the amount set, the decision to carry out the work must be made by resolution of the council at an open meeting prior to the work being done, will be retained.

I turn now to controls on use of council revenue. The Local Government Act places strict controls on the use of certain council revenue. Section 409 imposes restrictions on money raised from the rent, profits or other proceeds from a lease, licence or other estate in respect of community land, so that this revenue must be expended on community land acquisition and maintenance. That section also imposes the restriction that 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 the purpose for which it was levied. This applies to charges including water supply and sewerage charges. The Minister may, however, allow an internal loan if the money is not immediately required for the purpose for which it was received.

Those restrictions are based on the responsibilities that a council has in its use of public funds, namely to ensure accountability, that the community receives best value for its money, and the best possible management of public assets held in trust for the community. Those restrictions are not applicable to the private sector and, therefore, place council business operations at a disadvantage by comparison. Councils that operate category 1 businesses in particular are required by the National Competition Policy Agreement to include a return on capital invested, that is, dividends. This mirrors imperatives in the private sector. Category 1 businesses are those having an annual sales turnover or gross operating income of \$2 million and above. There is some question as to whether the Act currently allows councils to deal with these requirements through the transfer of dividend payments between council funds, from restricted use funds to unrestricted use general funds.

There are conflicting interpretations of the scope of section 409, and legislative amendment is proposed to clarify the situation. It is proposed that the restrictions that apply to money raised from the rents, profits or other proceeds from a lease, licence or other estate in respect of community land be lifted. The review committee considered that rental income from community land, as opposed to operational land, will always be

far outweighed by the costs of community land management. The committee also considered that the requirement in section 409 for separate accounting procedures for the small amounts raised is administratively inefficient. Consequently, the bill proposes the deletion of subsection (3) (d) of section 409 of the Act to remove the restrictions on the use of income raised from the rent of community land. The bill also proposes the insertion of subsections (5) to (7) into section 409 of the Act to define the proper relationship between restricted funds held under section 409 and a council's general funds, including the circumstances in which dividends may be paid by a council business activity.

Under the amendments contained in the bill, a council may choose to deduct from the money which is restricted in its use for the purpose of water supply or sewerage services, an amount in the nature of a dividend, and to apply that money to any purpose under the Act or any other Act. That is, the dividend payment becomes available for use at council's discretion. However, it is critical to the operation of the provision that the transfer of such payments is regulated properly. Therefore, the Minister for Energy and Utilities, with my concurrence, will publish guidelines relating to the management of the provision of water supply and sewerage services. A council must comply with those guidelines before any deduction from the restricted use funds is made, and must record its compliance by resolution of council in an open meeting. If a council is found not to have complied with those guidelines, the Minister for Energy and Utilities may, with my concurrence, direct the council to comply with the guidelines before any further deduction is made.

A further amendment relates to the ability of councils which are water supply authorities under the Water Management Act 2000 to also pay a dividend. The Water Management Act does not specifically constrain councils which are water supply authorities from paying a dividend. Nevertheless this ability needs to be put beyond doubt. The bill will specifically provide that the ability to pay a dividend as per the amendments to section 409 (5) and the constraints on such a payment under section 409 (6) and (7) also apply to local councils which are water supply authorities under the Water Management Act.

Amendment of the definition of "domestic waste" in the dictionary to the Act is also proposed, to clarify that the term "domestic waste" applies only to household garbage, including recyclables, but does not apply to household effluent waste. The anti-competitive nature of the annual charge for domestic waste management services can be justified on the basis that it is in the interests of the community to provide an effective low-cost waste removal service. However the same justification does not apply to household effluent waste, which may be the subject of commercial sewerage works. The amendment of the definition ensures that anti-competitive provisions are retained only when they can be adequately justified.

I turn now to business approvals. Section 68 of the Act requires that council approval be obtained before operating an undertaker's business and/or a mortuary. As access to an approved mortuary is a requirement for an approval to carry on an undertaker's business, the approvals are effectively connected. Applicants for council approval to operate an undertaker's business or a mortuary must comply with public health standards, which are enumerated in schedule 4 to the Local Government (Orders) Regulation 1999. The standards relate to the construction of mortuaries, water supply and sewerage, and closet and ablution facilities. These standards are critical to the maintenance of public health and safety and the occupational health and safety of staff that work in such facilities.

Public health legislation in New South Wales also imposes standards with respect to the handling of bodies and related matters. It can be seen that quite apart from the business approval, undertakers and mortuaries are regulated to ensure that the business is conducted in appropriate and secure ways. It is worth noting that other Australian jurisdictions do not require business approvals for the funeral industry. Maintenance of both public and occupational health and safety is achieved through enforcement mechanisms without the need for business approvals. In relation to national competition policy principles, business approvals impose barriers to entry into a market, because competition is restricted to those persons who are able to obtain the necessary approval from a local council.

Under the National Competition Policy Agreement it must be demonstrated that the benefits to society of restrictions on competition outweigh the costs of those restrictions, and that the objectives of the legislation can only be achieved by restricting competition in this way. 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. Predevelopment regulation can be limited to the requirements of the Environmental Planning and Assessment Act 1979 for development consent, with operational matters continuing to be regulated under the Public Health Act. I commend the bill.

Mr FRASER (Coffs Harbour) [11.58 a.m.]: The Opposition does not oppose 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 conducted into the Act. The Local Government Act 1993 is the principal Act regulating local and county councils and it provides local councils with certain powers to regulate the activities of businesses and individuals in addition to providing councils with wide-ranging powers to undertake services in their local communities. The bill adjusts the way that national competition policy requirements apply to local government. These adjustments will be required from time to time as practical issues emerge in relation to the implementation of the national competition policy.

I make it clear at the outset that the legislation must ensure an appropriate balance between public expectations of accountability and commercial expectations of a level playing field. It is also worth noting that, whilst councils have needed 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 received 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 competition payments by virtue of an agreement with the State Government.

The New South Wales Treasurer, the Hon. Michael Egan, refuses to release the purse strings and pass on a share of national competition policy [NCP] payments to local government. So it is ironic that we are now debating a bill that relates to NCP issues and reviews. National competition policy is a package of measures that generally aims to encourage competition. The underlying premise is that greater competition will usually create incentives for improved economic performance. The elements of 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 competition neutrality is central to national competition policy. The object 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, which aims to achieve competitive neutrality between public and private sector businesses, is part of a continuum of measures to foster greater efficiency in the operation of the public sector. The amendments proposed in the bill will amend the Local Government Act 1993 in accordance with the national competition review conducted into the Act. The first amendment relates to bulk tendering.

The objective of the amendment is to allow 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 they are buying goods and services through a bulk contract arranged by the State Contracts Control Board or the equivalent Commonwealth agency. This has the potential of being anti-competitive as it prevents competitors from entering the market for council contracts. The amendment in the bill is consistent with the review committee's recommendations that the Local Government Act be amended to insert a regulation-making power so that the list of organisations included in the Act is extended to include additional organisations with conditions attached. This will ensure accountability with respect to the expenditure of public money.

The organisations would also have to deliver the service and comply with the probity standards commensurate with those already in the Act and regulation. The second amendment in the bill will remove the requirement that a person operating an undertaker's business or mortuary must hold 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. In order to obtain council approval to operate the undertaker's business or a mortuary, applicants must comply with certain standards relating to adequate public health conditions outlined in schedule 4 to the Local Government (Orders) Regulation 1999.

Standards apply also to undertakers and mortuary operators under the Public Health Regulation 1991 in regard to the actual 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 in border areas of the State the problem of access to an approved mortuary as a requirement for an approval to carry on an undertaker's business. 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 already have avoided the practice of requiring a separate business approval since the amendments to the Environmental Protection and Assessment Act commenced on 1 July 1998. The third set of amendments in the legislation relates to restrictions on the use of council revenue. Schedule 1 [5] to the bill provides that money that has been received by a council as rent or profit or other proceeds from community land may be used not only on community land acquisition and management, as is currently the case, but for any purpose. The rationale behind this amendment is that the cost of providing community land far outweighs the relatively small amount of income received through rent. The Opposition has a number of concerns about that set of amendments.

Although I am aware that councils legitimately cross-subsidise between revenue-producing assets and the maintenance of lesser revenue-producing assets, this legislation must ensure that there is an appropriate balance between the commercial expectation of a level playing field and public expectations of accountability. Often, community minded individuals donate a number of significant assets or land to local communities. It is important that councils respect the purpose for which those assets were donated and maintain them in such a way as to benefit the community. It is important that this amendment is not used as a gateway for the sale of community land that was originally donated to the community via council to be used for capital or recurrent purposes.

The amendments in schedule 1 [7] will allow 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. That is another area of the legislation that raises concerns. Central to these concerns is a matter raised by a ratepayer regarding the legitimacy of certain revenue and expenditure models in Wingecarribee council. Wingecarribee council, like many other local councils, is struggling to meet infrastructure requirements on its current rate base after an extraordinary rate of growth. Council recently had approved an application for a 4.2 per cent environmental levy to assist it to meet these infrastructure requirements.

In 2000 Wingecarribee council established a 6 per cent annual infrastructure rental charge on total revenue from water and sewerage charges. This was to be taken back into general revenue for general infrastructure maintenance, which was approximately \$5 million over five years. It has been perceived by some that this revenue is the only way in which council would be able to match its section 94 plan obligations or forfeit developer-contributed section 94 funds. The ratepayer who challenged the legitimacy of this expenditure pointed out that Wingecarribee council is the only council in New South Wales to make such a charge. I have a letter from the former director-general which refers to section 611 of the Local Government Act 1993 and states:

By making a charge on its water supply business a council is placing itself at a disadvantage when compared to other water supply authorities, contrary to competition principles. Accordingly, it is the Department's policy that it is inappropriate to use this provision as a basis for a revised costing structure.

A letter dated 12 March 2001 from the office of the former Minister for Local Government to Wingecarribee council indicated that the Minister has no power to prevent council from doing so. This provision appears to be an attempt to delay the confirmation of a situation that this ratepayer is seeking to resolve on behalf of Wingecarribee council ratepayers. It is imperative that this legislation does not mean that a council can set any level of dividend payment and have the money stripped away from water and sewerage revenues to fund expenditure, including recurrent costs such as wages and probably some infrastructure. It is also important that the bill not allow the standard of water and sewerage revenue and operations to be downgraded or compromised. The full set of amendments in the legislation relate to the establishment of a more competitive fee-setting structure.

The aim of these amendments is to introduce greater flexibility in setting business fees 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 it allows competitors to access councils' fee information. The proposed amendments will enable councils to set their fees in a more competitive manner. The final amendment proposed in the bill will change the definition of "domestic waste" in the Act and clarify that the term 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 community's need 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.

While the Opposition does not oppose the bill, which serves an administrative purpose in bringing the Local Government Act 1993 into line with the recommendations of the national competition policy review of

that Act, I have outlined in detail our reservations about the bill. The Local Government and Shires Associations has noted that, due to tension between national competition policy—which promotes a more businesslike approach on the part of councils—and the accountability constraints on local government in the Local Government Act 1993, the various reforms outlined in the bill are required.

Several rural councils have indicated that a public benefit test should be applied more thoroughly to national competition policy decisions in a commonsense manner. Judging from the submissions from a number of rural councils to the national competition review committee, it is important that local sustainability be encouraged through offering incentives to businesses to relocate to rural areas, for example, even if such policies do not comply with the rigid application of economic rationalism. It is also mandatory that there be an appropriate balance between the public expectation of accountability and the commercial expectation of a level playing field. The Opposition does not oppose the bill.

Ms JUDGE (Strathfield) [12.11 p.m.]: I am pleased to support the Local Government Amendment (National Competition Policy Review) Bill, which is essentially about providing a level playing field, ensuring that the goalposts are fixed and do not move up and down or sideways, and securing a better deal for our councils. If my memory serves me correctly there are 172 councils in New South Wales, three of which—Strathfield, Burwood and Ashfield—are in my electorate of Strathfield.

The bill seeks to amend the Local Government Act 1993 to address certain provisions in the Act that are inconsistent with the principles of national competition policy, particularly competitive neutrality. A review was conducted into the Local Government Act to identify any areas that might restrict competition. The report of that review, entitled "National Competition Policy—Review of the Local Government Act", was published by the Department of Local Government and has been released publicly. This bill is based upon recommendations made in that report and it addresses those areas considered appropriate for reform.

Because competition policy is not about the pursuit of competition as an end in itself, anti-competitive provisions are justified if the benefits to the community as a whole outweigh the costs, or if the objects of the Act cannot be achieved without them. As I said, this bill pays particular attention to addressing the areas of the Local Government Act that are inconsistent with the principles of competitive neutrality. The aim of competitive neutrality is to remove any net competitive advantages or disadvantages that may apply to significant business activities conducted by government agencies. Local government should not receive any special advantage simply because it is a level of government, but nor should it be disadvantaged. That seems fair.

On that note I will turn my attention to the way in which the national competition policy review addresses fees and charges for business activities. The committee found that in many circumstances the manner in which councils are required to set fees and charges puts them at a disadvantage compared with their private sector competitors. A number of sections in the Local Government Act require councils to set fees in a particular way. Section 608 gives councils the broad power to charge fees for the provision of services such as receiving an application for approval—development applications, for example—or issuing certificates.

Under the current Act, in order to set a fee a council must first include the fee in its plan of management. I know that many councils, including the one of which I am still a member, are considering that issue at the moment. This plan is open to public consultation, and that is how it should be: council decision making should be transparent and accountable. While such consultation is important in involving the community in the decision-making process and keeping councils accountable to their local community, it also allows a council's competitors to access detailed information about the council's pricing policy, thus putting the council at a commercial disadvantage.

The other disadvantage that councils face in setting fees as part of their management planning process is that they are limited in their ability to introduce new fees outside the process. When faced with competitive pricing, a council cannot respond by setting a new fee except by setting it in the next annual management plan—which, once approved by council, is set for the next 12 months. It is anti-competitive to prevent councils from adopting flexible pricing and responding to market trends whilst private businesses are not restricted in that way. The Government agrees that the requirements for setting fees in this way are appropriate for the regulatory and monopoly functions of councils. However, the Government believes that a new model should be developed in response to market conditions to provide for flexibility in setting fees for business or contestable activities.

Therefore, the bill will insert new divisions 1, 2 and 3 in part 10 of chapter 15 of the Act to facilitate increased flexibility when setting fees. The new fee-setting system will be applicable to the operation of an

abattoir, the operation of a gas production or reticulation service, the carrying out of water supply or sewerage services, the carrying out of private work under section 67, the carrying out of graffiti removal work under section 67A—I commend the councillors and staff of Strathfield and Burwood councils for their hard work in attempting to remove graffiti from the local area as part of a joint initiative—and any other prescribed business activity.

This new fee-setting system affects only activities that are contestable. When there is no market competition, when the activity is undertaken as a community service, or when the activity is a regulatory activity not subject to competition, councils will continue to set and apply fees according to the current provisions in the Act. Annual charges or special rates for water supply and the like or section 608 fees already set by the director-general under any Act or regulation are already appropriately regulated and will not be subject to the new fee-setting regime.

The new, more flexible fee-setting model proposed in the bill allows a pricing methodology to be adopted and explained by a council in its management plan, but it does not require the actual price of each activity to be disclosed in that plan. The normal public consultation period applies to the plan—I think that is tremendous—and the plan must be adopted by council resolution. So, every step of the process is extremely democratic. This will enable councils to respond to market forces in setting and adjusting fees, so long as they employ the costing methodology set out in the management plan or so long as the matter is subject to a specific council resolution. In the case of new or different services arising after the adoption of the management plan, councils may either apply the costing methodology or set a fee in accordance with existing section 612, provided they give 28 days public notice of the new fee.

Consequential amendments to section 404 of the Act are also proposed as a result of these changes. The Government will retain the provisions that, when carrying out private works under section 67, council must resolve to carry out the work at an open meeting prior to the work being commenced if the council wishes to charge less than the amount set. The bill also proposes the insertion of subsections (5) and (7) into section 409 to define the proper relationship between restricted funds held under section 409 and a council's general funds, including the circumstances in which dividends may be paid by a council business activity. This bill proposes amendments which will allow a council to deduct—from the money which is restricted for the purpose of water supply or sewerage services—a dividend to be applied at council's discretion to any purpose allowed under the Local Government Act.

The amendments proposed in this bill seek to level the playing field for councils where they are engaged in markets with private businesses. At the same time they strike a balance by ensuring that any activities of council that are not contestable due to council's status as a monopoly provider, or where activities are in the public good, will not be subject to competition policy. Councils will benefit from the removal of the disadvantages to competitiveness currently applying in the legislation. Non-council businesses will also have greater opportunities to compete with local councils and to carry out business with councils. The community will benefit from the greater transparency and accountability that these amendments will foster in the local government sector. I commend the bill to the House.

Mr WHAN (Monaro) [12.21 a.m.]: I support this bill, which will amend the Local Government Act 1993 in accordance with the national competition policy review of the Act. The review was conducted by a committee comprising senior officers of the Department of Local Government, the Cabinet Office, and Treasury. The honourable member for Fairfield said that the pursuit of competition was not an end in itself. It is important to bear in mind that in rural areas the pursuit of competition policy has caused concern about the ability of councils to service their constituents and about local councils being pushed out of their area. As a Country Labor representative I believe it is important to work with the smaller communities and local councils to make sure that when we address competition policy throughout New South Wales we do so in a way that benefits our local ratepayers. We should also ensure that the benefits that have always been put forward for introducing competition policy, that is, to give better service and cheaper services to ratepayers and citizens, are achieved.

In the past few years I have been concerned about competitive neutrality used by private businesses, for instance, as a reason to oppose the provision of a service to ratepayers in local towns. As honourable members have demonstrated, this bill is reasonably non-contentious. It proposes a greater market entry by allowing councils to access bulk-purchasing arrangements of certain organisations, subject to the probity requirements applying to those organisations. The Act allows access to contracts of the State Contracts Control Board without the tender process. That is an anti-competitive provision because it prevents competitors entering the market for council contracts. The amendment allows competitors to be prescribed, together with conditions relating to probity and reporting matters.

The bill will also remove the requirement that a person operating an undertaker's business or a mortuary must have council approval to operate such a business. Conditions relating to the preservation of public health and occupational health and safety may still be enforced through council orders without the need for separate business approval. That has been a concern of a number of rural councils during the years, as referred to by honourable members representing regional and rural electorates.

The amendments proposed in the bill will remove some of the current anti-competitive restrictions on the use of council revenue. Specifically, it will remove the requirement that moneys raised from leasing community land must be expended on community land acquisition and management, as the cost of providing community land far outweighs the relatively small amounts received through rent. These amendments will allow dividend payments to be deducted from money required to be used only for the purpose of water supply or sewerage services, and transferred to a council's general fund and used for any purpose under the Act. Dividend payments are required to be made under national competition policy from council water supply and sewerage businesses. The bill will introduce greater flexibility in setting fees for council's 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 a council's fee information. The amendments will enable councils to set fees in a more competitive way. The honourable member for Strathfield, who has great experience in local government, both as a mayor and a councillor, put some good arguments about the importance of that matter.

The bill amends the definition of "domestic waste" in the Act. It will 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. I commend the bill to the House.

Mr DEBUS (Blue Mountains—Attorney General, and Minister for the Environment), on behalf of Mr Campbell [12.26 p.m.], in reply: I thank all honourable members who participated in this debate. The amendments are the sensible outcome of a comprehensive review undertaken as part of the Government's commitment to national competition policy principles. As speakers have agreed, they achieve an appropriate balance between a council's need for competitiveness and the need at the same time to ensure that the best interests of the community are promoted. I commend the bill to the House.

Motion agreed to.

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

FAIR TRADING AMENDMENT BILL

Second Reading

Debate resumed from 27 May.

Mr BROWN (Kiama) [12.28 p.m.]: I support the Fair Trading Amendment Bill, which will enhance the Fair Trading Act 1987, which underpins every consumer transaction in this State and applies to more than \$70 billion in annual consumer trade. Legislation such as the Fair Trading Act and the Commonwealth Trade Practices Act play a most important part in facilitating pro-competitive conduct and the efficient operation of the economy, and both were introduced by a Labor administration at a national or State level. Consumer confidence relies to a great extent on the effectiveness of this legislation. While this Act has provided good service to consumers since its commencement in 1987, the amendments being debated today will give it more teeth in enforcement and enable the Office of Fair Trading to crack down on unscrupulous traders who persist in trying to cheat consumers.

These traders, who in reality are only out to defraud consumers, have managed to reinvent themselves time and again, returning to relieve yet more consumers of their hard-earned money. Businesses and consumers in my electorate will not tolerate these unscrupulous operators. These rogues have got to be stopped. This bill will enable them to be punished as the criminals they really are, by a term of imprisonment. Fraud is fraud whether pursued under the Crimes Act or the Fair Trading Act. I congratulate the newly-appointed Minister for Fair Trading on her efforts to get this amending legislation introduced in the first session of this Parliament.

The increased monetary penalties able to be imposed by the Local Court will also, I believe, make the Fair Trading Act more effective in pursuing rogue traders. These amendments bring the legislation up-to-date and are a response to a trading environment in this State that is not only robust but must continue to inspire the confidence of consumers, who play such a major role in maintaining the financial health of the State's economy. The economy of New South Wales is of course the engine room of the nation's economy. Therefore it is fitting that this Parliament pay proper attention to the financial health of New South Wales, ensuring that it and our nation stay at the forefront of commercial activity.

Another amendment proposed by the bill, and also a measure to inspire consumer confidence, is the fine-tuning of the product safety provisions. Under the Fair Trading Act as currently drafted, there are several steps in the process before a faulty product can be withdrawn from sale. Honourable members would be aware that major traumas can be suffered from the use of unsafe products where the flaws are not visible on purchase. This is especially so in products intended for the use of babies and children.

The proposed amendment to the Act will allow the Minister for Fair Trading to act promptly on the advice of the Commissioner for Fair Trading to recall an unsafe product. However, the amendment takes into account the rights of affected parties, who will be able to seek a review of the recall order in the Administrative Decisions Tribunal. The Products Safety Committee will continue to have a role in conducting investigations into whether products should be banned or their sale otherwise restricted, but this will be in respect of the less urgent matters.

The Fair Trading Act is well known. It seeks to ensure fair trading in this State and as such is pro-competitive legislation. Traders who are committed to doing the right thing have nothing to fear from this legislation, which does a good job in balancing trader and consumer rights. The bill will give traders more rights under the Act by extending the unconscionable conduct provisions to allow small businesses to protect themselves against the power of the major corporations. This significant measure will be of enormous assistance to small businesses not only in the Illawarra but right around the State. More and more games are being played by major corporations, and many more small businesses need the extra help that this amendment of the Act will provide.

I am sure honourable members are aware that small traders provide a greater number of jobs than do big business, and it is only right that such traders, who are often just as vulnerable as consumers, are equipped with legislative protections to allow them to continue to undertake their valuable role in the marketplace. Many of those protections are found in section 40E of the Act, which gives the consumer the right to cancel direct commerce contracts during a cooling-off period. The same provisions have been redrafted to ensure that the unconscionable conduct protections will apply to investment purchases by consumers.

Again, the Act seeks to respond to consumer needs. More consumers are looking to invest to ensure their futures. There are people out there—I hesitate to call them traders because they are simply shonks—who are ready to take consumers' money and use hard-sell techniques or other dubious means to sell inappropriate investments. This amending bill will make it clear that such consumers are protected. This is a bill that is clearly responsive to the needs of consumers in this State. It will enhance the trading environment. I congratulate the Minister on bringing this bill before the House. Having spoken to a number of small business persons in the Illawarra electorate, as well as to consumers generally, I thoroughly recommend the bill to the House.

Mr MERTON (Baulkham Hills) [12.34 p.m.]: I support the Fair Trading Amendment Bill. Consumer protection and fair trading are not the easiest matters to deal with as they relate to many different types of products and people, and by inference many industries. Fair trading is a complex issue. In essence, we must balance the right of those running businesses to legitimately pursue their business with the right of consumers to proper protection. Legislation is necessary to deal with overzealous people in business—sometimes more than overzealous, in fact on occasions blatantly dishonest or, for want of a better expression, persons who could be described as shonks.

I believe there are but few shonks in the industry given the number of legitimate traders who conduct their day-to-day business to the satisfaction of the public and enjoy an excellent reputation. I regard consumer protection as being not about hounding or harassing business, but as being able to provide a safety net so that traders who depart from fair and reasonable ways of conducting their businesses become accountable under law. I guess that is the intent behind the Fair Trading Amendment Bill presented by the Minister for Fair Trading to this Parliament.

The bill repeals the Door-to-Door Sales Act 1967 and the Mock Auctions Act 1973. The Minister, due to her youth, will not recall the introduction of the Door-to-Door Sales Act in 1967. I, too, was not a member of this place in 1967—and quite rightly so at that time, in my opinion. However, I do recall as a zealous young lawyer being confronted by my mother, who had been cajoled, enticed or simply conned by a fellow selling door-to-door who arrived at our home at Merrylands. My mother signed up for some articles. I will not describe the articles, because to do so would make obvious to whom I am referring. The salesman assured my mother that the quality of the articles was absolutely wonderful, and that the articles would not only see out her life and the lives of her children and great-grandchildren, but many future generations of Mertons. However, their price was simply exorbitant.

My mother, having signed up to buy the items, rang me, a newly admitted solicitor, asking, "What can we do about it?" I quickly remembered that something called the Door-to-Door Sales Act had been passed. Being fresh from university and having a reasonable knowledge of the law—so I thought anyway—I got out my law books, found the Door-to-Door Sales Act and noted for our particular situation there was something like a two-day cooling-off period. I went straight home that night, and on a sheet of paper on the kitchen table wrote to the company advising of my mother's election to exercise her right under the Door-to-Door Sales Act 1967 to terminate the agreement. Off went the notification, and all bets were off: the salesman kept his articles and my mother was spared the agony of making payments for the next four or five years on things that were clearly over-priced and, I believed, did not represent good value.

Consumer protection affects Australians in many circumstances. Many battlers become victims of people who are overzealous and, in some instances, dishonest. We must have a reasonable system of business that protects ordinary Australian people. It is not only ordinary people who answer the door and are conned by a slick talker, a person who promises the world, or a snake oil salesman with evangelical zeal, determination and fake sincerity. Such salesmen are able to close deals with people from all walks of life who normally would not have become involved. A cooling-off period is desirable. The legislation reflects the changing nature of consumer transactions. I refer to the increasingly sophisticated practices engaged in by disreputable operators in the marketplace.

In the 1960s telephone trading and canvassing did not exist because not everyone had a phone. It is hard to imagine, but I am old enough to remember that it was a great thing when the phone was put on. Some people had party lines that they shared with their neighbours: if they could not afford the rent they could elect to have a party line. However, one party could not listen into another party's conversation. When people get home from work at 9 o'clock or 10 o'clock at night they are often interrupted by someone on the phone wanting to sell them something that they do not want. It is important that we implement devices to protect people against high-pressured traders. Wonder drugs or miracle cures have been around since Adam was a boy. Tragically, many miracle cures do not work and people are entitled to seek redress for claims that cannot be substantiated.

The bill will enable the director-general to impose mandatory recall of defective products. Often it is not until people have received and/or used a product that they realise it is defective. The director-general will be able to refer the matter to the Minister who, in turn, will have four weeks to refer the recall to the Products Safety Committee. Under the current legislation the director-general can issue only a voluntary recall notice—there is a big difference between the two. Under provisions in the bill, direct commerce by telemarketing and/or door-to-door sales will be prohibited between the hours of 8.00 p.m. and 9.00 a.m. except by prior arrangement. Parliamentarians who get home from branch meetings around 11.30 p.m. will not be greeted with "Hi! I am from XY products. I was just wondering whether you would be interested in so and so." We laugh about it, but that is what happens. But if people want to get involved, they are the authors of their own harm.

Telemarketers must cease contact immediately if so requested by the consumer and must not attempt to contact the consumer again for at least 30 days. We have heard many stories of consumers who have been literally terrorised by people phoning time and time again. It is true to say that some consumers are so badgered and harassed that they end up doing a Neville Chamberlain—peace at any price—and they buy the product to get rid of the people on the phone. Honourable members might think I am joking, but it has happened on numerous occasions. Doorstep salesman will be required to leave immediately upon request. However, they will not be subject to the 30-day ban. Compulsory identification cards for doorstep salesman will be introduced, and will be dealt with by regulation. Again, that is an excellent idea. The bill also seeks to clarify the situation surrounding country-of-origin labelling requirements by introducing provisions similar to those contained in the Trade Practices Act.

One would hope that, once the legislation is implemented, goods labelled as made in Australia are totally made in Australia not just small parts of them. The bill seeks to increase the penalty incurred by an

individual or a body corporate by enabling a court to impose a three-year prison term for repeated unfair practices and habitually deceptive traders. These provisions are strong measures. Such penalties will be imposed in only the worst possible cases, but strong sanctions and deterrents must be available to deter disreputable traders from repeatedly abusing consumers and taking people for a ride. A three-year prison term for repeated unfair practices and deceptive trading is such a deterrent. Individuals and corporations will be required to show cause why they should be permitted to continue trading within New South Wales.

The bill also provides small businesses with the option of seeking Local Court compensation orders against unscrupulous wholesalers and traders who have been convicted of a breach of the Act. It must not be forgotten that not only consumers fall victim to disreputable traders; people running businesses who buy products from other businesses can also find themselves in difficult situations. A businessman who gets parts from a supplier who turns out to be disreputable actually passes any defect on to the customer who purchases the goods. Therefore, both the supplier and the businessman, by implication and as a matter of law, inherit the legal obligation to make good even though the businessman may have acted in perfect good faith but was misled and duded by a disreputable supplier.

There is an argument that consumers could be disadvantaged by the proposal to reduce the cooling-off period for a direct commercial transaction from 10 to 5 working days. However, there is no cooling-off period for sales conducted in business houses. It was reasoned in the national competition policy review of the Door-to-Door Sales Act that in some cases a consumer actively arranges for a trader to attend the home to negotiate a contract for a purchase that the consumer has already decided to make, for example, the purchase of a swimming pool or custom-made blinds. Commencement of that work would be delayed for 10 days because of the cooling-off period. This cooling-off period was put in place 30 years ago to counter high-pressured sales tactics, whether in the home or elsewhere, and the 10-day period was introduced to ensure that a wife had sufficient time to seek her husband's approval of the purchase. That circumstance very much reflects the situation in which my mother found herself with the articles offered for sale in 1967. I will not repeat what my father said when he found out about them.

It has all changed now. In this day and age people are more aware. A wife does not have to seek her husband's consent to purchase articles. She is her own agent and is free to make such decisions, as she should be. The Government put forward this legislation to overcome certain problems in an industry that affects many Australians in many different circumstances. It is an ongoing problem. At this very moment someone is probably knocking on a door, trying to sell a product. Let us hope the product is a good one and that, at the end of the day, the customer is satisfied. The customer needs protection. The Opposition does not oppose the legislation. We trust that it will work to the benefit of the community. I congratulate the Minister.

Ms JUDGE (Strathfield) [12.49 p.m.]: I am very pleased to support the Fair Trading Amendment, particularly the provisions relating to direct commerce. I congratulate the Minister for Fair Trading, and Minister Assisting the Minister for Commerce on the timely way in which the bill has been brought before the House because, at the end of the day, this bill is about protecting consumers, and the sooner that happens, the better. The Door-to-Door Sales Act 1967 was one of the earliest consumer protection statutes in New South Wales and it regulates unsolicited door-to-door credit sales of goods and services. The aim of the Door-to-Door Sales Act is to deal with problems that may occur when transactions are conducted in settings that are not normally places of business, and when the seller is physically present with the consumer. At face value, the Act may be considered to be anticompetitive because it imposes conditions on door-to-door trade that do not apply to the general consumer marketplace. However, the national competition policy review found that a regulation of this trade was justified owing to the nature of the risks and disadvantages that are specifically associated with it.

Of particular concern was the practice of using high-pressure selling techniques, which characterises the nature of this industry. Such tactics are frequently used by direct traders who attend the consumer's premises with the intention of selling goods and services, without the costs and restrictions that are associated with traditional forms of commerce, such as the costs of rent, electricity and rates. However, consumers are potentially exposed to costs associated with suffering and detriment that may be experienced as a result of being pressured into entering transactions with which they may not necessarily feel comfortable, and for which they may not have been able to shop around. When a team of people is standing in a person's lounge room, aggressively selling a product, and the person wants them to leave, it can be very difficult for that person to say no. I know that sometimes it is difficult to leave because people do not wish to be impolite or offensive.

When the Act was introduced 35 years ago, it was aimed at protecting vulnerable consumers in the marketplace where values, attitudes and practices were very different to those prevailing in 2003. In today's

society, vulnerable consumers tend to be older people and people from a non-English speaking background. It is this category of consumer that is particularly at risk in making unwanted and un-affordable purchases in response to pressure that is exerted by sales people who call at their doors uninvited. Earlier during the debate the honourable member for Baulkham Hills referred to his mother and what happened to her, and no doubt she would be in that category. When I was told I would be speaking during this debate, I undertook some research in my electorate of Strathfield. One of my constituents described the way in which her daughter was attracted by an offer of free carpet cleaning. She filled in a form at a shopping centre and provided her contact details to a vacuum sales business.

A telemarketer called a short time later to arrange a time for a sales team to visit my constituent's house to demonstrate the vacuum cleaner and provide the promised free vacuum-cleaning. Sales representatives from the company arrived at about 7.00 p.m. and began their demonstration. They produced several patches of soiled carpet and cleaned them, demonstrating the effectiveness of the machine. They also cleaned small areas of carpet and some marks on the lounge. Upon hearing the cost of the machine, my constituent made it clear that she would not be interested in purchasing it. She described the sales pitch as extremely persistent and aggressive, with the sales representatives constantly coming up with new strategies to convince potential buyers. Even though she made it quite clear that she did not intend to purchase the product, the sales representatives repeatedly suggested alternative payment schemes to make a sale. Can honourable members imagine how my constituent must have felt? That would have been disgusting. It is absolutely disgraceful.

Approximately two hours after they arrived, at 9.00 p.m.—not 6.00 p.m. or 7.00 p.m., but 9.00 p.m.—she finally put her foot down and asked them to leave. I think she was pretty patient with them: I would have chucked them out much earlier. Under this legislation, residents will be offered protection from these high-pressured sales tactics. In the case of both door-to-door sales and telemarketing, business will not be able to be conducted between 8.00 p.m. and 9.00 a.m., except by prior appointment. To assist those who make impulsive purchases, a five business days cooling-off period will be enforced. From my limited knowledge of the law, the cooling-off period is similar to the provisions operating in relation to the sale and purchase of land, unless a section 66W waiver is submitted. At least consumers will have five days to think about the cost and how much money they have available in the bank or on their credit card. Consumers need five days to think about sales. This provision takes into account the changing social, economic and technological environments of today's society.

The aim of the bill is to ensure that consumers are protected in circumstances when protection is warranted while also ensuring that the protection is not unreasonably onerous for the trader and does not give rise to anticompetitive effects. After all, the Government is endeavouring to achieve a balance with this legislation. The provisions apply to unsolicited contact by a trader that results in a purchase by a consumer either by cash or credit. The provisions of the bill include statutory coverage with respect to traditional door-to-door selling and telephone-based direct marketing, that is, telemarketing, and statutory coverage in respect of all unsolicited direct commerce sales of more than \$100 in total value. The bill also provides that a direct commerce trader may not collect fees during the cooling-off period for services provided during that period, that agreements to suspend the proposed direct commerce provisions may not be made, that direct commerce traders inform consumers in writing of their entitlements under the Act, and that a direct commerce telemarketer must immediately cease contact when requested to do so, and may not contact a consumer again by telephone for 30 days after a consumer has advised the trader that he or she is not interested in the trader's goods or services.

There is nothing worse than being called by a telemarketer at an inconvenient time and saying that it is not convenient to speak, only to be called back a few hours later or the following day. The most prevalent issues mentioned during consultation about direct commerce relate to the cooling-off period and contact times by traders. The purpose of a cooling-off period is to provide a safeguard for consumers who are pressured into purchases. The steering committee that conducted the national competition policy review of the legislation considered that, in a modern trading environment and with the assistance of instantaneous communications, the extent of the safeguard was no longer required. While the committee strongly supported the retention of some form of cooling-off period to curb the effect of personal contact and pressuring tactics by some traders, it considered that a 10-day period was unduly excessive and disadvantageous to traders.

Consequently the New South Wales legislation applying to direct commerce sales has been amended to allow a consumer to cancel such a contract within five days of its agreement. The bill also provides further protection by prohibiting a trader from collecting fees for services that are provided during the cooling-off period. Such services may include alarm monitoring fees and pay television fees. Traders will not be out of pocket by this provision as they will be able to retrospectively collect fees for services that are provided when

the cooling-off period expires, provided that the contract is not rescinded. They are the normal terms of contract. If a trader chooses to provide services during the cooling-off period, that trader does so at his or her own risk.

Another issue that is close to the heart of many consumers is contact times of direct traders. As I have already mentioned, the bill provides that direct commerce traders shall not make unsolicited contact with consumers between the hours of 8.00 p.m. and 9.00 a.m., seven days a week. Currently the Door-to-Door Sales Act does not prescribe hours of contact; however, several other State Acts do. For example, the Queensland Fair Trading Act provides that traders may not make unsolicited calls upon consumers between 8.00 p.m. and 9.00 a.m. Monday to Friday, or between 5.00 p.m. and 9.00 a.m. on Saturday, and not at all on Sundays or public holidays. Although it is desirable to prescribe the hours of unsolicited contact, it is not considered necessary to create additional regulation for Saturdays, Sundays and public holidays.

This is consistent with New South Wales trading hours, which do not prohibit Sunday trading. Moreover, industry advice to the national competition policy review of the legislation suggests that traders will not call on consumers at inappropriate times or on inappropriate days, as this is likely to cause anger in consumers at having been disturbed. Therefore, the hours of prohibited contact developed by the steering committee for the review are appropriate and are a reasonable compromise between consumers and the interests of traders. I encourage all honourable members to support the bill.

Debate adjourned on motion by Mr Maguire.

[Madam Acting-Speaker (Ms Andrews) left the chair at 1.00 p.m. The House resumed at 2.15 p.m.]

FEMALE STONEMASON MS KATIE HICKS

Ministerial Statement

Dr REFSHAUGE (Marrickville—Deputy Premier, Minister for Education and Training, and Minister for Aboriginal Affairs) [2.17 p.m.]: The art of the stonemason has been on display throughout this city since colonial times. In fact, Sydney has one of the finest collections of sandstone buildings in the world. Most of them are in public hands and many are in need of renewal, creating a lasting trade for our modern stonemasons. One of the wisest decisions of the Wran Government—led by my predecessor, the late Jack Ferguson—was to bring the art of stonemasonry back to life. This occurred in 1977 under the skilful guidance of the late George Proudman, whose magnificent contribution lives on in the fellowship named in his honour and in the Centenary Stonework Program now located in the new Department of Commerce. TAFE scrapped stonemasonry in 1948 in favour of bricklaying, but, thankfully, it was restored in 1991. Since then 180 stonemasonry graduates have completed their trade qualifications at the only college that offers this unique course, the Miller College of TAFE.

Those 180 graduates were men, but I am proud to say that that record was broken last week with the graduation of the first female stonemason in New South Wales, Katie Hicks. Ms Hicks, who honours us with her presence in the gallery today, is a 22-year-old from Western Sydney. Katie is employed by the Department of Commerce's Heritage and Building Services stoneyard in Alexandria. She now works under the watchful eye of the Master Stonemason. Katie got there through three tough years of on-the-job training and detailed learning in the classroom that included a trade certificate as well as a certificate three in heritage overview. This has given her advanced traditional skills in stonemasonry conservation work for heritage buildings. She is now enrolled in the building diploma at Hornsby TAFE. Katie's work to date includes replacing decayed marble on the 100-year-old Arthur Phillip Fountain in Sydney's Royal Botanic Gardens.

Her remarkable skills are also evident in the facade of the Darlinghurst Courthouse and the old Supreme Court building. There, she fashioned a 1½ tonne block of sandstone to seamlessly match with the rest of the building. Honourable members can imagine the skill and dexterity required for that. I acknowledge the outstanding program conducted by the Department of Commerce, which has revived the art of stonemasonry in this country. I commend TAFE, which trains 50,000 people each year in 1,200 world-class courses. Above all, I congratulate Katie on her groundbreaking achievement and I am sure all honourable members join me in congratulating her.

Mrs SKINNER (North Shore) [2.20 p.m.]: Honourable members on this side of the House join with the Minister in congratulating Katie Hicks and acknowledging the work of stonemasons, particularly on heritage buildings around the city. They have made a major contribution to the facades of many of our buildings and

other public places. I commend the work of TAFE in helping to develop the skills of many young people, including my youngest son, who is an apprentice through the TAFE system. It is a great joy to know that traditions such as stonemasonry are enjoying a revival at this time. The Coalition congratulates Katie Hicks and welcomes her to the gallery.

PETITIONS

Cudgen Creek Seaway

Petitions requesting that the Cudgen Creek seaway at Kingscliff be cleared of silt, received from **Mr Cansdell, Mr Fraser and Mr R. W. Turner**.

Local Government Planning Control Reform

Petition requesting the 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**.

White City Site Rezoning Proposal

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

Age of Consent

Petitions supporting a uniform age of consent of 18 for both boys and girls, opposing legislative changes to lower the age of consent for consensual male homosexual acts, opposing retrospectivity of the legislation, supporting increased criminal penalties for sexual predators, and praying that age of consent and penalties be dealt with in separate bills, received from **Mr Ashton and Mr Tink**.

Bushfires and Hazard Reduction

Petition requesting an inquiry into the causes of bush fires and their relationship to the lack of hazard reduction, received from **Ms Hodgkinson**.

Freedom of Religion

Petition 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 **Mr Tink**.

Bus Service 311

Petition praying that the Government urgently improve bus service 311 to make it more frequent and more reliable, received from **Ms Moore**.

Surry Hills Policing

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

Circus Animals

Petition praying that the House end the unnecessary suffering of wild animals and their use in circuses, received from **Ms Moore**.

BUSINESS OF THE HOUSE

Reordering of General Business

Ms BEREJIKLIAN (Willoughby) [2.25 p.m.]: I move:

That General Business Notice of Motion (General Notice) No. 47 [Overdevelopment in the Willoughby Electorate] standing in my name, be reordered to have precedence on Thursday 29 May 2003.

The State Labor Government has foisted on the people of Willoughby a so-called master plan for yet more development in Chatswood. That master plan involves the construction of three additional residential towers up to 30 storeys high. The Government said that this development has to proceed to fund the much-needed overhaul of the Chatswood transport interchange. Consideration of this issue should take precedence because the Labor Government must justify why it will not simply deliver adequate public transport interchange facilities, including disability access at the railway station, without imposing more massive development. The motion should also take precedence because the so-called master plan is becoming a fait accompli without adequate consideration being given to all associated issues.

The Government must understand that any further development should be considered as part of a holistic plan for the local community. Members of the community must be guaranteed that their concerns about the provision of adequate infrastructure and potential detrimental impact on their residential amenity will be addressed. Additional details of the Government's plans were reported in the media two days ago. I note that even the Labor member for Georges River expressed concern about similar proposals for Hurstville. Any proposal about which the Labor Government has seen fit to talk to developers without more weight being given to the views of local residents must be questioned, must be worthy of debate and should be given precedence in this place. The *Sydney Morning Herald* of 16 April 2003 stated:

More than 100 construction and development representatives have been briefed on the master plan. Tenders will be invited later this year.

If, by the Government's own admission, construction is to begin early next year and the tender process is to commence in the next few months, it is imperative that the motion be debated tomorrow so that the community's concerns about the Chatswood master plan can be dealt with before the formal tender process commences. The frequency and adequacy of bus routes, the impact on traffic and our already congested residential streets, the provision of additional child care facilities and general residential amenity are all issues that the Government must address as a matter of priority. On behalf of the people of Willoughby, I ask honourable members to support the reordering of this motion.

Mr BARR (Manly) [2.29 p.m.]: I refer to events and circumstances concerning North Balgowlah Public School.

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

Mr BARR: On 14 May a demountable had to be vacated due to severe leakage problems. Some 35 litres of water were pumped from the carpet of that demountable. That incident highlights the dire circumstances at that school. At present it has 11 demountables and six permanent classrooms. Last week it had only 10 demountables, but another was delivered. It was late; it should have arrived in February. No-one knew where to put it as it did not come with proper instructions.

Mr Hazzard: Point of order: This matter has already been dealt with by me in the *Manly Daily*. The issue has been addressed.

Mr SPEAKER: Order! There is no point of order. I call the honourable member for Wakehurst to order for the second time.

Mr BARR: The poor member for Wakehurst is obsessed with Manly; he cannot let it go. If he focused more on his electorate he might achieve something there. The school is a hotchpotch of temporary accommodation, and almost every classroom has severe shortcomings. There are no taps in classrooms and the water container is old and rusty. Students, including preschoolers, must traipse with muddy feet through wet areas to classrooms. Currently there are 400 students at the school compared with 190 in 1994. This matter must be debated urgently and the school must receive the sorts of facilities that all New South Wales students deserve. I call on the House to give General Notice of Motion (General Notice) No. 38, standing in my name, priority on Thursday 29 May.

Motion agreed to.

QUESTIONS WITHOUT NOTICE

DEATH OF MRS SARITA YAKUB

Mr BROGDEN: My question is directed to the Minister for Infrastructure and Planning. Why did the Minister and his staff publicly raise as recently as last weekend questions about Mr Mohammed Yakub's mental health and use that to justify their cover-up and failure to release the late 2002 report into the circumstances surrounding his wife's death?

Mr KNOWLES: Once again, the assertions in the question from the Leader of the Opposition are wrong. As I explained to the House yesterday, there was a communication failure, for which I have apologised directly to Mr Yakub. The inquiry by the Health Care Complaints Commission, which commenced earlier this year, continues.

ELECTIVE SURGERY WAITING LISTS

Mr TRIPODI: My question is directed to the Minister for Health. What is the Government's response to recent initiatives undertaken to reduce elective surgery waiting lists?

Mr IEMMA: I am pleased to advise the House of the progress of an innovative approach to managing elective surgery waiting lists in Western Sydney and the networking of services. A pilot project was initiated at Auburn hospital last year by respected surgeon Dr Geoff Brooke-Cowden. That approach involved surgeons pooling their waiting lists, which resulted in patients being given a guaranteed date for their surgery. The waiting time for surgery has been drastically reduced as a result. Auburn hospital has treated twice as many patients for 25 per cent less cost. That means that more money has been made available to perform more operations. Auburn hospital has been able to focus on elective surgery while its larger sister hospitals deal with emergency procedures. As a consequence, non-urgent cases are not postponed suddenly to allow an emergency operation to go ahead.

The good news is that this successful approach is now being adopted at other hospitals. Clinicians at Campbelltown, Liverpool and Fairfield hospitals have combined to undertake major trauma orthopaedic surgery at Liverpool Hospital and elective orthopaedic surgery at Fairfield Hospital. Fairfield Hospital has become a major centre for elective orthopaedic surgery, particularly joint replacement surgery. Patients undergoing joint replacement surgery at Fairfield Hospital through the Whitlam Joint Replacement Centre are reaping the benefits of that networked approach. With this kind of arrangement at Fairfield, patients due to undergo hip or knee replacements get to have that surgery; they do not find their operations suddenly postponed because an emergency or trauma case has come in. Clinicians have greater access to operating theatres and there are fewer of the delays that often occur in major hospitals. Patients get better access to the surgery they require and to after-surgery care, such as physiotherapy.

The average length of time spent in hospital by patients undergoing knee and hip replacement operations has dropped by more than 50 per cent. At Fairfield Hospital patients undergoing knee replacement surgery now have an average hospital stay of five days, which is a decrease from almost 13 days in 1997. Reducing the length of time that patients stay in hospital allows hospitals to treat more patients each year. In the 12 months to 30 April 2002, 215 joint replacement operations were performed at Campbelltown, Liverpool and Fairfield hospitals. In the 12 months to 30 April this year 271 joint operations were performed at Fairfield Hospital alone. That means that an extra 56 operations were performed just at Fairfield.

The new approach has also led to shorter waiting times. As at February this year 52 patients had been waiting more than 12 months for all categories of elective surgery at Fairfield Hospital. That number has decreased from 107 in February last year. Patients are pleased with this outcome because, from a surgery and clinical perspective, they are receiving better treatment. The hospital is also experiencing lower infection rates. The Government has supported projects of this kind with the injection of an extra \$1 million. That sum is additional to the support that the Government has given the pilot project at Auburn, which has been running since last year. We will continue to support these kinds of pilot projects because they bring about reduced elective surgery waiting lists, more orthopaedic procedures and better clinical care.

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

Mr IEMMA: At Fairfield hospital an extra \$1 million has been provide by the Government over the past two years to support this kind of plan to reduce elective surgery waiting lists. Like the successful Auburn project, a team of clinicians developed a whole-of-care program for the patient from admission, surgery, post-surgery care and then home care. That kind of approach is improving the care of patients at hospitals like Auburn and Fairfield. The pooled arrangement and the whole of care approach at Auburn, Liverpool and Fairfield are the kinds of benefits that eminent clinicians, professors Goldstone, Stuart and Dwyer, foreshadowed through the networking of services and the greater metropolitan task force process. I am pleased to report to the honourable member for Fairfield that we will continue to support these pilot projects that work to reduce waiting times and increase the number of operations being done at places like Fairfield.

GRAIN RAIL LINE CLOSURES

Mr STONER: My question is directed to the Premier. Given the recommendations in this leaked report prepared by the Premier's Co-ordinator General of Rail to close rail grain lines in New South Wales, including Gwabegar, Lake Cargelligo, Burcher and Wilbriggie, and potentially Tottenham and Boree Creek, will the Premier give an ironclad guarantee to keep those vital grain lines open?

Mr CARR: What a choice question from a representative of a political party which when in government closed 17 rail lines. Remember when the Greiner-Murray Government went through New South Wales and if it saw a rail line it closed it. What a question to ask when current the Deputy Leader of the Opposition was the policy adviser who gave us that rail policy. He sat in the office of Bruce Baird and signed off on all these rail closures, one after the other. Some new honourable members will appreciate that wonderful question I was asked in the past Parliament by the Deputy Leader of the Opposition about a rail station that no longer existed and we were to be indicted. The files in relation to that matter disclose that the rail station had been closed and demolished by accident while the Coalition was in government and when he signed the policy recommendations. They were great days—Bruce Baird as Transport Minister and Barry O'Farrell as his highly paid adviser.

Mr Stoner: Point of order: My point of order is that of relevance. The question was not about what has happened with grain rail lines in the past, but it is about this report and what the Premier intends to do in relation to Gwabegar, Lake Cargelligo, Burcher and Wilbriggie.

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

Mr CARR: While they were busy closing every country line they could find, they did not forget to stop the rail services to Broken Hill, a rail service with which people were happy. They realised it was running and they closed it. It was an act of victimisation on a Labor-represented community because someone told them a passenger rail service operated to Griffith so for good measure they closed that as well. By the way, we reinstated both. I thank the honourable member for this question; I will give it the closest examination.

PAWNBROKERS AND SECOND-HAND DEALERS REGULATION

Miss BURTON: My question without notice is to the Minister for Fair Trading. What is the Government's response to community concerns about pawnbrokers in New South Wales?

Ms MEAGHER: I thank the honourable member for her keen interest in the development of these reforms. The Carr Government recognises the need to protect consumers when they are dealing with pawnbrokers and second-hand dealers. At the same time, we are cracking down on trading in stolen goods. There are more than 1,200 licensed pawnbrokers and second-hand dealers in New South Wales. Goods offered for sale can range from a few dollars to many thousands of dollars, from a \$15 second-hand toaster to a \$2,000 diamond ring. One of the major problems is the traffic of stolen goods through these operations. Last year the police recovered more than 7,800 items of stolen property worth \$2.6 million from pawnbrokers and second-hand dealers. In fact, since 1999 the Government has recovered more than 20,000 items of stolen property worth more than \$12 million, arrested more than 5,000 people and laid more than 19,000 charges. They have also conducted more than 6,000 inspections of pawnbrokers and second-hand dealers.

Last November this Parliament passed major amendments to the Pawnbrokers and Second-hand Dealers Act. I advise honourable members that today I am releasing for public comment the draft proposed Pawnbrokers and Second-hand Dealers Regulation 2003. The new regulations aim to strengthen consumer confidence in this industry and tackle the pawning of stolen goods. The major objective of the legislation is to

restrict the trade in stolen goods. The proposed regulation lists the high risk of theft of goods and is based on crime and insurance data. It includes jewellery such as engagement rings and watches, television sets, stereos, video recorders, cameras, DVDs, microwave ovens, interactive game consoles, lawnmowers, computers, bicycles, power tools and mobile phones. Records made of transactions in these goods must be provided to police within three days electronically, and held at the premises for 14 days.

Another major area of reform is to help consumers retrieve goods that have been stolen. Under the old rules, consumers were responsible for contesting the ownership of goods that had been stolen. The consumer, having identified their stolen television, for example, in a pawnshop or second-hand dealer premises would have to go to court to retrieve the goods. Under our reforms, consumers can simply approach the police with the evidence of ownership, or a statutory declaration, and the police will instruct the licensee to return the goods to the consumer. If the licensee disputes ownership, they will have 28 days in which to take the matter to the Consumer, Trader and Tenancy Tribunal for a ruling. This simplified process will place a greater responsibility on the pawnbroker to ensure that the person selling or pawning the goods is the rightful owner, and that victims of theft have their goods returned.

Another change will require a licensee to notify a consumer that—where a surplus on an unredeemed good is more than \$50—the consumer can seek a share of that surplus. Finally, the reforms will also strengthen the licensing regime for pawnbrokers and second-hand dealers. It requires applicants to satisfy a fit and proper test before they are granted a license. I invite public comment on the draft regulation by the closing date of 20 June. All comments will be taken into consideration before the proposed regulation is finally released. The reforms are scheduled to commence from 1 August and the Office of Fair Trading will continue to work closely with the police in the implementation of further reforms in this industry.

DEATH OF MRS SARITA YAKUB

Mr O'FARRELL: My question is directed to the Minister for Infrastructure and Planning. If there was not a cover-up, why did Debra Picone, the Deputy Director-General of the Department of Health, repeatedly tell Mr Yakub that a two-page letter to Ms Kruk from Professor Fisher and Mrs O'Connell was the complete report into the circumstances surrounding his wife's visit to Nepean hospital when an additional five pages detailing what actually occurred had also been submitted?

Mr KNOWLES: I answered the substance of that question yesterday. I made it clear that I had believed Mr Yakub was clear on the details of that report, and for that I have acknowledged yet again that I was wrong in that assumption, and I have apologised to him.

STATE ENVIRONMENTAL PLANNING POLICY NO. 5

Ms JUDGE: My question without notice is to the Minister for Infrastructure and Planning. What is the Government's response to community concerns about State environmental planning policy [SEPP] 5?

Mr KNOWLES: Last week, as honourable members would recall, I announced the beginning of changes to SEPP 71 in a deliberate move to require the Department of Urban and Transport Planning to move away from being a de facto local council and to assume a strategic role in shaping our coastal environments. At the end of my remarks last week I flagged further changes to other planning instruments as part of an overall review of planning policy and strategic direction for the State. Another planning policy that causes concern is State environmental planning policy 5, which provides a policy framework for the provision of housing for older people and people with a disability. It is entirely appropriate, of course, that the State has policies and programs that encourage the provision of appropriate housing stock for the growing number of older people in our community. One only has to read the front page of today's *Sydney Morning Herald* to learn about the ageing nature of our community and the onset of illnesses that the older community has to endure to understand that it is appropriate that we have macro policies that consider that growing demand for housing.

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

Mr KNOWLES: SEPP 5 is one such approach, but there are others. For example, in recent times, at the instigation of the former Minister for Planning, local councils that developed their own housing strategies for older people and people with disabilities had been granted exemption from SEPP 5 as a consequence. I can report that a total of five councils have now received an exemption from that planning policy. Another eight councils have made application for exemption, and the department is currently considering those applications. Those exemptions provided for local councils to use their own tailor-made plans that take into account local circumstances.

For example, I am advised that the Blue Mountains City Council's draft local environmental plan of last year allows accessible housing in 10 out of its 26 centres. The details of the local controls demonstrate that council is aware that, of all the metropolitan local government areas, it is projected to have within the next 10 years one of the highest proportions of population over 55 years of age. Of course, now is the time to do something about that growth projection and to plan for the future. The Blue Mountain council has demonstrated that it is planning for it, and as a consequence received the exemption from the former Minister for Planning.

It would be good if all councils could follow that lead and develop their own appropriate housing strategy for older people, if you like, removing SEPP 5 altogether. But there are councils that support the operation of uniform State controls for this form of housing. In those cases SEPP 5 remains a useful mechanism, and one which by and large has served its purpose well. Nonetheless, SEPP 5 can be a blunt instrument, and it can also be the subject of abuse. I am sure some honourable members could tell stories about some of the B-grade end of the development industry exploiting SEPP 5, whacking up spec developments and scarpering with the profits, but not making an effort to fit in with the neighbourhood.

In some of those circumstances we end up with medium-density housing for older people and people with a disability, in the wrong locations, perhaps with the wrong occupants, whilst many good proposals are either refused or delayed by local councils because of the very poor reputation SEPP 5 ends up receiving in their particular area. So I have asked the Department of Urban and Transport Planning urgently to review SEPP 5 with the intent of establishing how we can best provide for housing for older people and people with a disability.

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

Mr KNOWLES: The review will involve local government, the relevant peak housing industry groups and aged care providers, including representatives of the Housing Industry Association and the Retirement Villages Association. I want the review to consider the market demand projections for housing for older people; the opportunities for large-scale retirement villages; how we can best provide for independent living and supported accommodation, if you like, from villa to nursing home; and the need for affordable and social housing. In addition, I want the review to deal with the apparent inconsistencies between, for example, SEPP 5 and SEPP 53. The Deputy Leader of the Opposition raised this matter with me just yesterday in respect of his own electorate as it relates to the location of aged persons housing in bushfire-prone areas. Under one SEPP, development is not permitted for safety reasons but under another SEPP, subdivision and dual occupancy can proceed. I want those contradictions sorted out in this review.

It is essential to recognise that, as our community ages, we will all need to make changes in the type of housing stock available. It is sobering to realise that within 25 years 2½ million people—that is, one-third of the State's population—will be aged 55 years and over. Of course, that means this State will have an extra one million older people than it has at present. Our planning policies have to be dynamic instruments that the community understands and accepts. That implies regular review. The review that I have ordered today continues in that vein. More and more, as households grow smaller, as integrated care systems develop, and as service-style accommodation offering a range of support for older people is looked for, we will continue to see pressure to add more choices to our housing stock. The review of SEPP 5 and its relationship to other planning instruments will form part of the effort to provide choice in housing.

The review will look at some of the problems associated with some of the abuses by a small proportion of the development industry taking advantage of SEPP 5, and how to sort out those issues. It will look at the needs of an ageing community and an industry keen to provide alternative options, as lifestyle choices need to be amended, as people see their families leave their large homes and are stuck with the quarter-acre block and the four-bedroom brick and tile house, and no longer able to maintain it, and desire as they get older to move into something that is a bit more sustainable for their needs and their futures. Of course, the housing policies that underpin that need to be reflected in not only our State instruments but at a local level, and they need also to reflect the market expectations that seek to provide for those needs. That is the purpose of my announcement today. It will continue to drive the work we do in the review and the reform of our planning instruments in this State.

LOCAL COUNCIL AMALGAMATIONS

Mr FRASER: My question is to the Premier. Despite numerous denials by the Premier and the Minister for Local Government that there will be no forced council amalgamations, how does the Premier explain a letter from the Minister of yesterday's date advising Yarrawlumla Shire Council that it is to be dissolved? Is the Premier's policy now one of dissolution rather than amalgamation?

Mr CARR: I thought the honourable member would be aware that Queanbeyan City Council has made a submission for boundary changes that the Minister referred to the boundaries commission on 12 May. I can advise the House that Yass Shire Council also has made a submission, which the Minister referred to the boundaries commission this week.

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

Mr CARR: This process is in accordance with our old friend, section 21 (8) (f) (i) of the Local Government Act. Those of us who have been knocking around this area for a long time know that section of the Act. It is a favourite of many honourable members of this House. The Local Government Boundaries Commission will place notices calling for public submissions.

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

Mr CARR: The idea of a conspiracy has been dispelled. With every particle of information I place before the House, that powerful dissolvent, truth, is working wonders with the rust of misinformation. The commission has also written to both Yarrawlumla Shire Council and Queanbeyan City Council requesting their written submissions by this date. In addition, all councils will have an opportunity to make an oral presentation to the commission in July. The commission will report to the Minister by 25 August. A most consultative process is unwinding itself. The Minister will then consider the commission's recommendations and make a decision. Everybody knows that the Government has a policy of no forced amalgamations, but we will work hard to encourage councils in this State to talk to each other, and to explore what is in the best interests of the ratepayers of New South Wales.

Mrs Skinner: They do not trust you.

Mr CARR: I think the recent election result shows that they do trust us.

TEACHERS MILITARY HISTORY SCHOLARSHIPS

Mrs PERRY: My question without notice is to the Premier. What is the latest information on initiatives to encourage the teaching of the history of Gallipoli in New South Wales schools?

Mr Hartcher: We've had that.

Mr CARR: I do not think the honourable member for Gosford was in much of a position during the recent election campaign to pay attention to the release of my veterans policy. I think he was distracted.

Mrs Skinner: Are you a veteran?

Mr CARR: The honourable member asked whether I am a veteran. Obviously, I am not a veteran. But reading the recent NRMA minutes I notice that the new member for Lane Cove appealed to the meeting of the NRMA as a "returned serviceman". Obviously, it was a bugle call to the returned servicemen at the meeting. I thought he must have taken a field command in the first Gulf War, but from Lane Cove council's press releases it turns out that he saw eight weeks in the public relations unit in Bougainville. Unless you were there in the tents churning out those press releases, you have no idea how tough and dangerous the work was there in the front line, keeping the Port Moresby Gazette satisfied each day. Few of our diggers have seen action like that. The old public relations unit!

Every year since the seventy-fifth anniversary of Gallipoli in 1990 interest in the Anzac tradition has been growing. The Government has worked hard to ensure that Gallipoli and Australian military service abroad has a strong place in the New South Wales school curriculum. The veterans affairs policy I released during the recent election campaign included two new scholarships for New South Wales teachers to undertake study tours relating to Australia's military history; they are for a considerable amount at \$10,000 each.

I am happy to say that one of these scholarships will be dedicated specifically to the study of Gallipoli: to enable the teacher to walk the beaches and climb those rocky hillsides; to see the trenches and the tunnels, the rusted cans and the bullet casings; to observe for himself or herself the paths where the English-born adventurer, John Simpson, and his donkey ferried the wounded; to question the competence of the British command under Hamilton and Munro; and, above all, to see the graves of the 8,141 Anzacs who made the supreme sacrifice. These were the men of whom Kemal Ataturk addressed those gracious words of reconciliation and comfort:

You, the mothers, who sent their sons from faraway countries, wipe away your tears; your sons are now lying in our bosom and are in peace. After having lost their lives on this land, they have become our sons as well.

To see these things and understand them is to live history. It will have a great effect on the classrooms of New South Wales because I anticipate that the teacher who has this experience will return and participate in preparing teaching material and classroom material that will enliven the teaching of this aspect of Australia's history. I am proud to say that these scholarships join what can now be described as an array of New South Wales teacher scholarships supported by the private sector at my advocacy. They apply in physical education, history, English literature, special education, business studies and science.

Honourable members may remember that this all started with the proceeds of the Fulbright Distinguished Fellow Award, which I was privileged to receive in 1999. From that original \$50,000 prize we managed to extract five one-off New South Wales American history teacher scholarships. From that first group one teacher travelled from Kyogle to the site of the 1890 massacre at Wounded Knee. Another travelled from Baulkham Hills to visit five presidential libraries and, by chance, meet former President Jimmy Carter. Since then the scholarships have been expanded to include teachers of modern history, and they have received the generous support of Frank Lowy of Westfield and Berel Ginges, formerly of Best and Less.

Westfield is now funding equivalent teacher scholarships in every Australian State and Territory as a flow on from this little initiative in New South Wales. Companies such as Lend Lease, Coca-Cola, ABN AMRO, and Allen and Unwin generously support these other teacher scholarships. To give a sense of the impact that just one teacher scholarship has, I will share with the House something Major-General Peter Phillips, National President of the RSL, said to me in a letter. He mentioned one of the history scholarship winners, Mary-Lou Gardam, who used her award to study the citizens of Hay who made the supreme sacrifice in World War I. She had spoken of the research to the Riverina District Council of the RSL. Major-General Phillips said that he found her address inspirational and added:

I cannot think of a better investment in our community than this scholarship.

That was a generic history scholarship. We have now set aside two scholarships in line with the veterans policy announced at the last election purely in the area of Australia's military history. Awarding this latest scholarship will be a serious job, which is why we have set up a specialist committee. Honouring the spirit of Atatürk and his remarks about Australia's lost sons in Gallipoli, we want a representative from the Turkish community. I know that will meet the approbation of the honourable member for Auburn. I have extended an invitation by letter to the Turkish Consul-General in Sydney. In the coming years more than 50 teachers from across New South Wales will have the chance to travel overseas to study as result of these initiatives.

Given the deep significance of Gallipoli at the very heart of the Australian identity, this new scholarship will become highly prized by the teachers for whom we are honoured to provide it. Earlier I mentioned the pride that Australians feel in their military history. This year marks the fiftieth anniversary of the end of the Korean War. If the Korean War is the forgotten war, and perhaps does not register in the Australian mind as strongly as other conflicts, it is not because the 12,000 Australians who served there were any less professional or less brave than those in any other conflict. The fact is that 339 Australians died there.

At the battle off Kap Yong in April 1951 there was action that deserves to rank alongside Tobruk, Kokoda and Beersheba as one of the greatest Australian feats of arms. A small group of Australians, along with a few American, Canadian and New Zealand troops, fought for 24 hours and defeated a Red Army advance that outnumbered them nine to one. That story alone underlines the pity that the contribution of Australian forces in Korea—a war fought to protect the liberty of the Korean people and under the United Nations mandate—is not more widely recognised and honoured. That is why another key election commitment was to hold an annual reception in honour of Korean War veterans.

Like the reception for Vietnam veterans it will be held in a place of honour, Government House, on 22 June. It is the first of what will be an annual celebration to commemorate the achievements of Korean veterans. The reception will be modelled on receptions for Vietnam veterans that have been held in Government House since 1998. The reception is being organised in co-operation with the New South Wales branch of the RSL, the Korea and South East Asia Forces Association, the Royal Australian Regiment Association, the Korean War Veterans Association of New South Wales and the Naval Association and RAAF Association. The guest list is being drawn up by those veterans organisations. As is the practice with the annual Vietnam veterans reception, the guest list will change each year to allow as many veterans as possible to attend. This reception, in common with the new teacher scholarships, is a clear way of saying that we honour those who served and those who fell.

ST VINCENT'S HOSPITAL PATIENT DISCHARGE

Ms SEATON: My question is directed to the Minister for Health. How can he defend St Vincent's Hospital discharging a 50-year-old pensioner at risk of developing fatal septicaemia because, in the words of the discharge summary, she was unable to afford the device needed for lifesaving surgery? When will he guarantee that she will be given treatment?

Mr IEMMA: I will obtain the details of the case referred to by the honourable member and report back to the House.

COUNTRY TOWNS WATER SUPPLY AND SEWERAGE PROGRAM

Mr WHAN: My question is directed to the Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts. What is the latest information on the Country Towns Water Supply and Sewerage Program?

Mr SARTOR: I thank the honourable member for Monaro for his question. Lately there has been a lot of discussion about water and sewerage issues in Sydney, but I assure the House that this Government cares just as much about water and sewerage issues in country towns. Investment in water and sewerage infrastructure is an investment in the health of our communities. Since commencing in office in March 1995 the Carr Government has spent more than \$480 million on the Country Towns Water Supply and Sewerage Program, which covers 134 projects throughout country towns in New South Wales. Each week more than \$1 million goes straight into country communities and that funding boosts local economies by creating jobs, generating investment, supporting businesses, and improving the environment for local towns. The honourable member for Monaro—

Mr Stoner: Monaro, like "Mon-airo".

Mr SARTOR: I spent a lot of time in Adaminaby and I know a little bit about Monaro. Some people pronounce it "Mon-airo" and some people pronounce it Monaro.

Mr Scully: Point of order: A number of honourable members are having trouble hearing the Minister's answer. I ask you to bring the House to order so that honourable members may have the benefit of the answer.

Mr SPEAKER: Order! The Minister may continue.

Mr SARTOR: I thank the Leader of the House for his assistance. What was it, "Mon-airo" or Monaro?

Mr Stoner: "Mon-airo".

Mr SARTOR: "Mon-airo" it is; I am happy. The honourable member for Monaro, who would be aware of the correct pronunciation of his electorate, would also be aware that over the past 12 months the Government has provided more than \$24 million for projects that will benefit his electorate and nearby districts. I repeat: \$24 million has been allocated to the Monaro region.

[Interruption]

Mrs Skinner: I cannot understand what the Minister is saying.

Mr SARTOR: If the honourable member for North Shore would just be quiet, I will tell her about our country program. A few Coalition members might be interested.

Mr Page: Point of order: Perhaps the Minister will tell the House why the Labor Party cut the Country Towns Water Supply and Sewerage Program from \$85 million to \$50 million. The Government has cut \$35 million a year from the program.

Mr SPEAKER: Order! The honourable member for Ballina will resume his seat. I call him to order.

Mr SARTOR: I remember trout fishing on the Eucumbene River with Don Page and his wife, Morag, 25 years ago. I am happy to talk about that. He used to be such a decent, nice young man. What has happened to

him? Before joining the National Party, he was a really decent bloke. He has a lovely family—they are terrific people. They were friends of my wife's family and they are wonderful people.

Mr Tink: Did you catch any trout?

Mr SARTOR: My fly-fishing was not ideal. I was not the best, but he was not bad.

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

Mr Hazzard: Point of order: We have limited time to get the answer about why the Labor Government cut the Country Towns Water Supply and Sewerage Program by 25 per cent.

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

Mr SARTOR: Members of the Opposition are complaining that I am not giving the answer, but they keep interrupting me. The Leader of the National Party should teach his members to be silent.

Mrs Skinner: You have had enough time.

Mr SARTOR: The honourable member for North Shore can help me if she likes. All the money that has gone into the Monaro region has been put to very good use in projects such as upgrading sewerage treatment plants, replacing old pipe systems, and installing new pipes and water-pumping equipment to boost water supply. I would have thought that honourable members of the National Party would be interested in some of the things I am about to say because they affect some of their electorates. Are they interested in their electorates, or is Country Labor the only political organisation that is interested in country electorates?

Mr Armstrong: Country Labor!

Mr SARTOR: It is about time the honourable member for Lachlan joined Country Labor. He is such a reasonable man. It may seem trite, but something as simple as installing a new water pump or an extra pipe to the river can make a huge difference to the quality of life of people living in a small country town, especially during a drought. I will have more good news for the honourable member for Monaro in the coming week, but today I inform the House that I have approved funding for nine new projects.

More than \$200,000 will be allocated to designing the Yass sewerage treatment plant upgrade, and if the honourable member for Burrinjuck were listening, she might be interested in that. The upgrade will result in the production of cleaner effluent. This project also includes the construction of effluent storage and pumping facilities to reduce effluent in the Yass River. In addition, \$650,000 has been allocated for design work to upgrade the north Grafton and Clarenza sewerage treatment plants, which the honourable member for Clarence may be interested in. This is a major project, but still members of the Coalition interrupt.

The project will involve the decommissioning of the south Grafton sewerage treatment plant and the development of sewerage recycling. The sum of \$187,000 will also be allocated to investigate enhancements to the sewerage system at Bundanoon to prevent overloading the existing treatment plant. The honourable member for Southern Highlands, who is not in the Chamber, would be interested in that. The project is jointly funded with the Sydney Catchment Authority because it will have an impact on the quality of water entering Warragamba Dam, which is Sydney's largest source of water. This is a very important project. I have approved more than \$30,000 in emergency funding to increase the holding capacity of the pumping pool that supplies water to Boorowa, which is in the Burrinjuck electorate. I have approved \$30,000 to the Lachlan Shire Council to enlarge the Burcher and Fifield water supply dams.

Mr Armstrong: It is pronounced "Burger".

Mr SARTOR: I am happy to have a pronunciation session with the honourable member for Lachlan.

Mr SPEAKER: Order! The Minister will continue with his answer.

Mr SARTOR: I come from the country, but obviously that does not count.

Mr Brogden: It is that Rockdale accent.

Mr SARTOR: There is nothing wrong with the Rockdale accent. The project to enlarge the Burcher and Fifield water supply dams will ease the pressure caused by the drought. In addition, I have approved \$25,000 for emergency drought relief works for villages around Young. Those funds will be spent on investigating new drinking water supplies for the villages of Bribbaree, Monteagle and Murringo.

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

Mr SARTOR: I have approved \$20,000 to investigate enhanced water supply options for the Burcher water supply scheme in the Lachlan shire and \$15,000 to the Moree Plains Shire Council to survey and design a new drinking water supply for Garah. More than \$14,000 has been approved to fund improvements to the water supply works at Gol Gol in the Wentworth shire. The funds will be used for the extension of an inlet pipe and for upgrading a pump to ensure the continuity of water supply to the towns of Gol Gol, Bironga, Namatjira and Dareton on the Murray River. These are wins for country New South Wales. These projects are in addition to the \$9.8 million in new works announced by the Government since February. The projects include more than \$2 million for the augmentation of Goulburn's sewerage scheme, almost \$1.8 million to Mudgee Shire Council for the Mudgee and Gulgong water supply schemes, and more than \$600,000 for sewerage augmentation in Lismore. It is gratifying to be able to deliver good news for country communities and I hope there will be a lot more of it.

WHEAT STREAK MOSAIC VIRUS

Mr CAMPBELL: Yesterday the Leader of the National Party asked me a question relating to the exotic wheat streak mosaic virus. I can now provide a supplementary answer. I am informed by my colleague in the other place the Minister for Agriculture and Fisheries that the wheat streak mosaic virus is being found at an increasing number of sites in Victoria, South Australia, and now New South Wales. The Minister has told me the latest information is that wheat streak mosaic virus has now been confirmed at two farms in southern New South Wales, as well as at the two research facilities at Tamworth where positive identifications were made previously. I am told that another 12 samples from farms and roadsides in New South Wales have shown signs of wheat streak mosaic virus but they have not been confirmed as positive at this stage. They have been picked up in the comprehensive survey being carried out by New South Wales Agriculture as part of the national surveillance for the disease.

Mr Armstrong: Point of order: This is a very important subject, but, because of the drought, insufficient green material has been sown for there to be an accurate answer.

Mr SPEAKER: Order! That is not a point of order.

Mr Armstrong: I ask the Minister to clarify that for the public.

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

Mr Armstrong: The drought means that the information is not necessarily accurate.

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

Mr CAMPBELL: The two research facilities in New South Wales where the disease has been confirmed are the SunPrime wheat breeding facility at Tamworth and NSW Agriculture's Tamworth Centre for Crop Improvement. Those two research breeding facilities have been placed under quarantine. The quarantine will remain in place until a decision has been made on the feasibility of eradicating the disease. At both of the sites in Tamworth, the infected plants and all hosts in the vicinity have been or are being destroyed. As I said, the wheat streak mosaic virus is being found at an increasing number of sites in Victoria and South Australia. The virus has now been confirmed at nine sites in Victoria and eight in South Australia, where another five sites are suspect. New South Wales is continuing to play its part in the national investigation into the spread of the wheat streak mosaic virus and the feasibility of eradicating the disease.

The National Management Group [NMG] is waiting on advice from the Federal Department of Agriculture, Fisheries and Forestry on a cost-benefit analysis of attempting its eradication or accepting that the virus is endemic. The NMG has deferred a decision on the matter until later this week. The wheat streak mosaic virus is known to occur in the United States of America, Canada, France and other countries. Because of our different climate, its impact on yields in Australia has not been determined at this stage. If it is accepted that the

wheat streak mosaic virus is established in Australia, it would become another management issue for growers, with departments of agriculture assisting farmers with management options. They would include breaking the disease cycle, controlling grasses on the borders of newly sown crops, delaying sowing time, as well as other measures.

Questions without notice concluded.

REFERRAL OF DOCUMENTS AND PROCEEDINGS TO COMMITTEES

Motion, by leave, by Mr Scully agreed to:

That this House refer to the following statutory and standing committees all documents and proceedings of any committee appointed during the Fifty-second Parliament for similar purposes:

Public Accounts Committee
Legislation Review Committee
Committee on the Independent Commission Against Corruption
Committee on the Office of the Ombudsman and the Police Integrity Commission
Committee on the Health Care Complaints Commission
Standing Ethics Committee
Joint Standing Committee on Road Safety
Standing Committee on Public Works
Public Bodies Review Committee
Committee on Children and Young People
Standing Committee on Natural Resource Management

HONOURABLE MEMBER FOR LANE COVE ARMY SERVICE

Personal Explanation

Mr ROBERTS, by leave: I wish to make a personal explanation. I had the great privilege to serve as part of Operation Bel Isi on a three-month rotation as a full-time Army officer. I transferred across as a Reservist. I proudly served there along with many thousands of other Australians, many of whom have been Reservists. The comments by the Premier today were incorrect, hurtful and offensive. They besmirched and denigrated the character of all who have served overseas. He should be ashamed of those comments and withdraw them.

Mr Scully: Point of order: A new member such as the honourable member for Lane Cove can be given some latitude in learning the ropes of how and when to make a personal explanation and what to say. However, he must explain how he has been personally impugned as a member of Parliament. Otherwise he is out of order.

Mr SPEAKER: Order! The honourable member for Lane Cove has completed his personal explanation.

CONSIDERATION OF URGENT MOTIONS

Newcastle Stadium

Mr GAUDRY (Newcastle—Parliamentary Secretary) [3.26 p.m.]: My motion is urgent because another Federal budget has gone by without the Federal Government honouring its promise to fund half of the redevelopment of EnergyAustralia Stadium at Newcastle. This matter is urgent because the people of Newcastle and the Hunter Valley deserve first-class facilities. This matter is urgent because on 27 June last year the Premier handed over a cheque for \$23.6 million to the International Sports Centre Trust. This matter is urgent because the trust needs to complete this world-class facility at a cost of \$44 million. This matter is urgent so that all members of this House can come together and say to the Federal Government, "We support this project. We support the co-funding of it. We call on you to provide your funding for it at the earliest possible opportunity."

Shooting Incidents

Mr DEBNAM (Vaucluse) [3.27 p.m.]: Mr Speaker—

Mr Scully: Tell the truth.

Mr DEBNAM: Again, the Minister who used to be the Minister for Transport says, "Tell the truth." What an opportunity I now have to talk about his telling the truth.

Mr Gaudry: Point of order: The honourable member for Vacluse has to explain to the House why his matter is urgent. Rather, he has launched into an attack upon the Leader of the House.

Mr SPEAKER: Order! The Leader of a House is capable of taking care of himself. The honourable member for Vacluse is merely making some introductory remarks, and he will continue with the substance of his contribution.

Mr DEBNAM: The House should debate my motion, which deals with shootings in New South Wales, because they have been escalating right under the nose of the Carr Government; they have got out of control. I note that very few members who represent south-west Sydney electorates are in the House, they have scurried out of the Chamber. And why? Because they have not done their jobs. They have not highlighted this problem on behalf of their constituents.

Mr SPEAKER: Order! The honourable member for East Hills and the honourable member for Camden will come to order.

Mr DEBNAM: Today we heard of a decision that should have come to the Coalition, which represents the interests of Western Sydney. Instead, we will have another Federal Government-bashing exercise by a Labor member. This happens every day. Why are these shootings occurring? What has happened to law and order in New South Wales? To show honourable members why this matter is urgent, let me run through a few incidents that have occurred since the Carr Government was re-elected on 22 March. On 29 March there was a drive-by shooting, on 13 April there was another shooting in Rosemeadow, on 15 April there was an armed robbery, and on 16 April a rifle was fired.

Miss Burton: Point of order: The honourable member has five minutes in which to establish why his motion should receive priority over the motion of the honourable member for Newcastle. The honourable member is now debating the substance of his motion, and is clearly out of order. He should be directed to state why his motion should receive priority over the motion of the honourable member for Newcastle.

Mr SPEAKER: Order! The honourable member for Vacluse has heard the point of order. I ask him to give reasons why his motion should receive priority over the motion of the honourable member for Newcastle.

Mr DEBNAM: My matter is urgent. Shootings in New South Wales are out of control, whether they are car-jackings, kneecappings, drive-by shootings, or armed robberies. Over recent years Don Weatherburn has drawn attention to this fact time and again, but the Carr Government has done nothing. It talked about Customs and this being a Federal problem, but it is not. We welcome any changes to Federal Customs inspections and we welcome the new task force that is addressing the handgun trafficking issue, but this Government is doing nothing on the streets and in the suburbs of New South Wales. It has betrayed the people of New South Wales. More than 30 shooting incidents have occurred since the Carr Government was re-elected.

Mr Ashton: Point of order: You have already ruled that the honourable member for Vacluse, who knows the standing orders, has to establish why his motion is more urgent than the motion of the honourable member for Newcastle. I ask you to restate the standing orders for the benefit of the honourable member for Vacluse, who does not appear to understand them.

Mr SPEAKER: Order! The honourable member for Vacluse must give reasons why his motion should take priority.

Mr DEBNAM: We have the wrong Minister for Police. That is the real problem that honourable members have to address. If honourable members debate my motion we could discuss that urgent matter and enable the Premier to change his Cabinet. There is no doubt that the Minister for Police is an ambitious, card-carrying leftie.

Miss Burton: Point of order: It is obvious that the honourable member for Vacluse has nothing to say. He cannot establish urgency, so he is now attacking the Minister for Police. The honourable member, who has not prepared for this motion, cannot establish urgency.

Mr SPEAKER: Order! If the honourable member for Vacluse wants to attack the Minister for Police, he should do so by way of substantive motion.

Mr DEBNAM: There is no shortage of opportunities to do that. Yesterday the *Daily Telegraph* revealed that one shooting has not been investigated.

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

Mr DEBNAM: Investigations into that shooting ceased in April. There is nothing more urgent than putting resources where they are needed. Yesterday's *Daily Telegraph* story resulted in the recommencement of that investigation, which had simply stopped for a month. This Government must investigate shootings that are occurring across the State. [*Time expired.*]

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

The House divided.

Ayes, 46

Ms Allan	Mr Greene	Mr Pearce
Mr Amery	Ms Hay	Mrs Perry
Ms Andrews	Mr Hickey	Mr Price
Ms Beamer	Mr Hunter	Dr Refshauge
Mr Black	Ms Judge	Ms Saliba
Mr Brown	Ms Keneally	Mr Sartor
Ms Burney	Mr Lynch	Mr Scully
Miss Burton	Mr McBride	Mr Stewart
Mr Campbell	Mr McLeay	Mr Tripodi
Mr Collier	Ms Meagher	Mr Watkins
Mr Corrigan	Ms Megarrity	Mr West
Mr Crittenden	Mr Mills	Mr Yeadon
Ms D'Amore	Mr Morris	
Mr Debus	Mr Newell	<i>Tellers,</i>
Ms Gadiel	Mr Orkopoulos	Mr Ashton
Mr Gaudry	Mrs Paluzzano	Mr Martin

Noes, 35

Mr Aplin	Ms Hodgkinson	Mr Richardson
Mr Armstrong	Mrs Hopwood	Mr Roberts
Mr Barr	Mr Humpherson	Ms Seaton
Ms Berejiklian	Mr Kerr	Mrs Skinner
Mr Cansdell	Mr McGrane	Mr Slack-Smith
Mr Constance	Mr Merton	Mr Souris
Mr Debnam	Ms Moore	Mr Torbay
Mr Draper	Mr Oakeshott	Mr J. H. Turner
Mr Fraser	Mr O'Farrell	Mr R. W. Turner
Mrs Hancock	Mr Page	<i>Tellers,</i>
Mr Hartcher	Mr Piccoli	Mr George
Mr Hazzard	Mr Pringle	Mr Maguire

Pairs

Mr Bartlett	Mr Brogden
Mr Iemma	Mr Stoner
Mr Whan	Mr Tink

Question resolved in the affirmative.

NEWCASTLE STADIUM

Urgent Motion

Mr GAUDRY (Newcastle—Parliamentary Secretary) [3.41 p.m.]: I move:

That this House:

- (1) congratulates the State Government on delivering \$23.6 million to help build a new stadium in Newcastle for the Hunter;
- (2) notes the Premier personally delivered the cheque to the region on 27 June 2002;
- (3) expresses its disappointment that the Commonwealth Government did not honour its election promise in last week's Federal budget to match the State Government's contribution; and
- (4) calls on the Federal Government to immediately provide its fair share to the Newcastle stadium.

In June last year the State Government handed over a cheque for \$23.6 million to none other than Andrew Johns, a man who needs no introduction in this House or to rugby league players. That money was allocated to help build a new world-class sporting facility at EnergyAustralia Stadium in Newcastle. The Premier delivered the cheque himself and I remember standing on the halfway line at the ground to hear that great announcement. Later that day I had the honour of speaking in this place, when I said:

Today I had the honour, together with the Minister Assisting the Premier on Hunter Development, to attend the handover ceremony at EnergyAustralia Stadium of a \$23.6 million cheque to help build a new world-class sporting facility at Newcastle's EnergyAustralia Stadium. This State Government funding is part of a \$44 million redevelopment proposal put to the New South Wales and Federal governments by the Newcastle International Sports Centre Trust in May. It was made very clear by the Premier that our Government's funding today of \$23.6 million is not conditional on the Federal Government providing its share of the upgrade. It was put on the table. The Federal Government must now honour its promise and come up with a matching amount so that Newcastle and the Hunter region can have a world-class stadium which, as honourable members are clearly aware, the Hunter deserves and has awaited for a long time.

The new stadium will give our Knights football team and Newcastle United soccer team the opportunity to operate from a world-class facility. Also, all other sporting and cultural activities in the Hunter will have the opportunity to participate in their activity at the stadium. It will be a fully seated stadium and spectators will have the conditions they justly deserve

That was a great day for the Hunter. We made a promise and we delivered the cash into the hands of the Newcastle International Sports Centre Trust, giving it the opportunity to go ahead with its ambitious plans to develop a \$44 million world-class stadium and to give the people of Newcastle a facility that they have called for and which they deserve. Members of the Hunter Task Force have long advocated the development of this facility. A positive and proactive plan was put before the Premier and his department, who appraised it and considered the value of the stadium as a sporting venue and its likely contribution to the cultural and social development of Newcastle and the Hunter Valley. They gave the plan a tick and awarded it \$23.6 million in funding.

The movement received added impetus when Andrew Johns, our great Newcastle Knights and Australian rugby league captain, said at the end of the 2001 rugby league competition—which was of course won by the Newcastle Knights—that Newcastle fans deserved a world-class stadium. The Newcastle Knights have made an enormous contribution not only to the economy of the Hunter Valley but also to its social fabric. There is strong community support for the team. I pause at this point to pay tribute to the late Allan McMahon, who laid the foundations of the Knights rugby league team. I pass my condolences, and I am sure those of every rugby league fan, to his wife, Glenice, and to their children, Alana, Kayla and Gregory, upon Allan's tragic death. In the words of the Newcastle Knights founding members, Allan "dug the well" and established the great Newcastle Knights tradition.

That is the basis upon which we call for the development of the stadium. The State Government has made its funding commitment. The Federal member for Paterson, Bob Baldwin, told the House of Representatives and the *Newcastle Herald* that the Federal Government was also committed to the project and would chip in the other \$22 million when the State Government had provided its share of the necessary funds. Has that occurred? It certainly had not happened last year when the State Government put our \$23.6 million on the table. It had still not happened when the University of Newcastle put together a very strong economic and social case in favour of the development.

Professor Holmes of the University of Newcastle Centre for Business Innovation Research and Development made it clear in his study that the cost of building the stadium could be recouped in as little as 1.4

years, or in a maximum of 2.75 years. Between 1988 and 1998 the Newcastle Knights generated spending of some \$52.4 million and stimulated some \$104.8 million in regional spending. It is apparent that this investment would produce strong economic and social benefits. There is a clear case for calling on the Federal Government to inject funds into the project under its regional development policy and provide a base from which to increase not only the sporting but also the tourism, social and cultural benefits for the Hunter region.

The Prime Minister commented at about the same time last year that stadium development is not normally the role of Federal Government. However, the Federal Government allocated \$12 million for the NorthPower Stadium in 1988 and put \$2 million towards the Maitland basketball centre in the same year. It has spent about \$4.5 million on Manuka Oval in Canberra and has promised to allocate about \$90 million for the redevelopment of the Melbourne Cricket Ground. The Federal Government included workplace agreement stipulations that enabled it to withdraw. The Federal Government cannot use the argument that it is not involved in improving sporting facilities or should not be involved in assisting in regional development.

The Newcastle and the Hunter regions deserve this sporting facility and it is time for the Federal Government to come to the party. We waited patiently for the budget but nothing came out of it. In October last year a delegation led by Ted Aitchison, the chairman, John Tate, the Lord Mayor of Newcastle, Andrew Johns, our rugby league football captain, and Michael Hill, the Knights chairman, had a meeting with the Prime Minister's Chief of Staff, Arthur Sinodinos—the Prime Minister was not available—and at that time the Federal Government appeared to be interested in coming to the party. This is a regional issue and is beyond politics. There was no good news in this budget for the sports centre. The Federal Government must look at regional development issues and come forward and assist the Hunter, perhaps in the next budget. What is happening at the moment is not acceptable.

I congratulate Robbie O'Davis on his two-hundredth game last weekend. One could not see a more committed, determined and talented player. His play is tremendous when one remembers his try in the 1997 grand final and his try last Saturday night after having recovered from a terrible injury to his nose and jaw. The 16,000 people at the game last Saturday night had to sit in terrible weather. The people of the Hunter Valley should have a 25,000-seat stadium provided by the State and Federal governments. That would be a wonderful asset for the community and would enable families to watch their top grade rugby league and soccer games and cultural and social events in comfort and at a reasonable price. I say to the Prime Minister and the Federal Government that it is time to come forward with the \$22 million for the stadium. The communities represented by members of the Coalition know the value to their region of sport and cultural events in such a facility. I ask them to join us in supporting this motion.

Mr ARMSTRONG (Lachlan) [3.51 p.m.]: I move:

That the motion be amended by the addition of paragraph (5) as follows:

- (5) calls on the State Government to provide \$50 million in urgently needed sports facility funding in inland New South Wales.

I have no doubt that every sensible Australian and all New South Welshmen appreciate the full value of sport. However, to have good sport one must have good facilities. This morning, a leading daily newspaper carried a report extolling the virtues of sporting equipment—simple things such as scooters, tennis racquets and soccer balls—for the physical development of children. In the past couple of days during question time we have heard about the trend towards greater urbanisation and more people living in high-rise buildings. The writer of the article also implied that we need to exercise both mind and body. Sport in any form satisfies that need. Sporting facilities are places where people can both have fun and competition and also improve their physical and mental health.

The motion of the honourable member for Newcastle is an attempt to make political points about the Newcastle stadium. The Coalition supported the Newcastle stadium and said prior to the election that if elected it would fully fund the stadium. If the Coalition had gained office I am sure considerably more funds would have been provided to give Newcastle a better and grander stadium. The honourable member for Newcastle talked about the weather. If the Coalition had been elected, the stadium would have heated seats. Sports facilities in general are underfunded by the State Government. Let us clear the deck from this day forward. The New South Wales Government has the responsibility of funding and providing sports facilities in this State. If another government, be it local or Federal, wants to make a contribution, that would be voluntary. The Government of the day has the right and responsibility of providing and managing its own sporting facilities, and that obligation cannot be ignored.

In recent times sporting facilities and many other events in this State have come under attack because of the requirements of public liability insurance. Despite the two tranches of legislation that were passed in this House last year, the problem is still escalating. Sporting occasions, for example, the Stockinbingal Village Fair annual bicycle road race, are continually contracting because the Government has not addressed the problem of public liability insurance positively. I assure the Parliamentary Secretary, the honourable member for Newcastle, that for the 90 or so members who participated this year and for the many others who have participated over the past 30-odd years the Stockinbingal Village Fair is anything but a village concept. Rather, the fair is a very important part of the social, cultural and physical energy and attractions of that area. The example of the Stockinbingal Village Fair is symptomatic of what is happening in suburbs, small towns and villages across the State. This year the Stockinbingal community did not have the necessary insurance but at the last moment funding was obtained. However, it is unlikely that the fair will be held next year unless a generous sponsor is found.

Horse riding is a very important sport. According to the Roads and Traffic Authority, every weekend up to 10,000 horses are being transported in trucks and trailers on this State's roads to gymkhanas, agricultural shows or trail riding. I could list for the next half hour the number of horse riding facilities that have had to close down because of public liability insurance difficulties. I will cut right to the chase and talk about who is providing the funds. The proportion of the State budget allocated to the sport and recreation portfolio has declined considerably under Labor, from 2.8 per cent in 1994-95 to 2.5 per cent in 2001-02 and, excluding a major grant for a drag-racing strip, just 2.2 per cent in 2002-03. Labor has not focused on sport and recreation issues.

Sporting facility development is a low priority under Labor. The 2001-02 facility development budget was \$6 million in New South Wales, compared to 16.4 million in Victoria and \$25.2 million in Queensland. This State, the largest in the nation, allocates only about 40 per cent of Victoria's facility development expenditure and about 23 per cent of Queensland's expenditure. Per capita, 77¢ is allocated for that purpose in New South Wales, \$3.44 in Victoria and \$7.07 in Queensland. Regional and rural New South Wales have been especially neglected and disadvantaged. Excluding Olympic facilities, the local government area of the Sydney region has received 38.5 per cent of grants and 42.2 per cent of funds in 2001-02, whereas only 22.5 per cent of grants and 25.4 per cent of funds have been allocated to country local government areas.

Over the past five years only two Sydney councils have not received a grant, compared to 47 country shires and councils that have missed out. Excepting the Olympics and the Paralympics, New South Wales has lost major sporting events to other States. The \$1.5 million budget for a small major events unit in the Premier's Department pales to insignificance compared with funding in other States. Victoria spends \$45 million seeking events. Labor's major grants are driven by political considerations rather than merit and need. Massive grants of \$21.96 million for a drag racing strip at Eastern Creek and \$23.6 million for an upgrading of EnergyAustralia Stadium at Newcastle have been driven by political opportunism rather than by an assessment of relevant needs across the State.

If the Government wants to be taken seriously on sport and recreation, it has to be fair. It cannot provide for sports and sporting facilities and a superior quality of life for two-thirds of the people of the State and neglect the other third. Today I fully expect all honourable members, because I know the concerns of all members of this Chamber, to vote for fairness and equality by supporting my amendment: that is, they should vote that another \$50 million should be urgently pumped into country New South Wales to assist with the provision of sporting facilities. I speak of such things as the Captains Walk in Cootamundra. A bust of every Australian Cricket Test captain has been made and erected in the Captains Walk. Cootamundra is the town where Don Bradman was born. The cottage in which he was born is in the town. That is just one worthy funding initiative that comes readily to mind. There is growing concern about country grandstands. Only last week I raised in the House the Cootamundra racecourse. Racing is known colloquially as the sport of kings. But that magnificent historic and architectural masterpiece, the Cootamundra grandstand, is now closed down owing to occupational health and safety issues.

The Cowra showground grandstand has been closed in the last few weeks, again because of occupational health and safety concerns. The West Wyalong showground grandstand has been closed down for some years. Yass showground facilities have also been under duress for some time. Virtually every showground in New South Wales that has sporting facilities—whether they be for horseracing, harness racing or greyhound racing—has problems. I welcome this opportunity to raise in the House that this Government has neglected sports funding. This State's contributions to sports are well behind those of Victoria and Queensland. The New South Wales Government does not appreciate the health benefits of sports. In fact, sports reduce health costs. A

healthy sporting community means reduced health costs, reduced hospital waiting lists and assistance for the overall budget. Sports also help with mental conditions. As I look across to the Government benches I see many honourable members, including members of Country Labor, who would benefit from participation in sporting activities in the bush that would get the gut off them. They could then get out and do a bit more work. They might then win a seat in their own right. It is important that we give them the opportunity to provide \$50 million for the bush. I expect full and unanimous support for my amendment. I thank honourable members opposite in anticipation of their support for my amendment and for the bush.

Mr MORRIS (Charlestown) [4.03 p.m.]: Those were interesting words from the honourable member for Lachlan, but they do not change the fact that the Federal Government remains neglectful in its failure to participate in the process of upgrading EnergyAustralia Stadium. I look forward to the people of Newcastle being given a place where they can watch the football without having to sit on the ground and be exposed to rain. Although I have been a member of Parliament for only a short time, I have been quickly reminded just how passionate Hunter families are about EnergyAustralia Stadium. The correspondence has been flowing in. And why would it not? If there is one city in Australia that could be guaranteed to take advantage of a new stadium, it is Newcastle. A new state-of-the-art EnergyAustralia Stadium would be packed to the rafters for every game, every year. The Federal member for Paterson, Bob Baldwin, and Senator John Tierney have failed the people of the Hunter. I quote some of their earlier comments on the redevelopment proposal. Firstly, Mr Baldwin said:

... the State Government should first contribute its \$22 million share to the project before the Commonwealth chips in.

That was reported in the *Newcastle Herald* of 7 June 2002. Mr Baldwin said further:

... it is the responsibility of, and is owned by, the State Government. They need to address the issue in the first place.

That was recorded in *Hansard* on 4 June 2002. In the *Newcastle Herald* of 16 May 2002 Senator John Tierney was reported as saying he and Mr Baldwin would not fully pursue the EnergyAustralia upgrade until its owner, the State Government, firstly contributed significant funds to the project. That has been done. I quote these words of Senator Tierney, reported in the *Newcastle Herald* on 16 May:

We want to see the Carr Government first meet its responsibilities on this issue. That's our position on it.

These two so-called Hunter advocates should hang their heads in shame. They should hang their heads in shame for suggesting that it is up to the football teams and State members from the region to lobby for Federal Government funding—their role. But that is typical of those Liberal members, who have continually failed to represent the people of the Hunter. They are John Howard puppets first and foremost. For them, representing the Hunter region runs a distant second, or maybe even a third. It is time they took a stand. It is time they started working for the people of the Hunter who elected them.

New South Wales Government funding is not conditional on the Federal Government providing its share for the upgrade. We want Newcastle to have a first-class stadium for its world-class football teams. After the redevelopment, the EnergyAustralia Stadium will be the best regional sports stadium in Australia—one of the best venues. It will be able to cater for international events of the highest quality—but only if the Federal Government comes to the party. On a final note, I would like to refer to the back page of today's *Daily Telegraph*, which shows Andrew Johns and his team, who will play the Brisbane Broncos this weekend, at the recently completed Suncorp Stadium. It would be great if we could turn this around in the next few years so that the Newcastle Knights could play against a team like Brisbane in a stadium that they and their fans could be proud of.

Mr STONER (Oxley—Leader of the National Party) [4.06 p.m.]: This motion is the continuation of a political stunt by the Carr Labor Government. The \$22 million promise was made in the lead-up to last year's election, when the Premier flew up to Newcastle with Andrew Johns after last year's State of Origin game. This was somewhat ironic, given the Premier's obvious disinterest in and lack of knowledge of the game of rugby league. In fact, during the lead-up to last year's State of Origin series the Premier showed his ignorance of the great game of rugby league. I quote the *Daily Telegraph* of 21 May 2002:

There must be a poll in the air—Bob Carr can't stop attending sports functions. A few days ago the Premier showed up at NSW Blues' training fearlessly predicting they would trounce Victoria in tomorrow night's State of Origin rugby league game.

Victoria? Now, with another State of Origin series imminent, the Labor Party is seeking to try to make further political mileage out of rugby league. This motion is misleading in that it omits the fact that when the Premier announced the funding for the Newcastle stadium he knew full well that the Federal Government has no

program that provides funding for sport capital projects. So the call for a commensurate grant of \$22 million from the Federal Government was misleading and politically motivated. Labor has led the good people of the Hunter up the garden path on this one. I do not begrudge a contribution to the development of the EnergyAustralia Stadium. In fact, the Sydney Labor Government should provide the full amount required, instead of offering only half of what is required. It is only fitting that other parts of the State get a fair go after Labor spent hundreds of millions of dollars on sporting facilities in Sydney for the Olympics. If Labor wants to spend \$22 million—it should be \$44 million—in the Hunter, that is great, but what about the North Coast? What about the Central West?

Mr Martin: What about Mount Panorama? What happened to the money there?

Mr STONER: We promised \$10 million for Mount Panorama but the State Government would not put the money on the table until we made the promise. What about Tamworth, Armidale, Goulburn, Queanbeyan and Griffith? It is great that the Knights get a helping hand, but what about St George-Illawarra, the Penrith Panthers or the Wests Tigers? For that matter, what about the Casino RSM Cougars, the Comboyne Tigers or the Long Flat Dragons?

Mr Gaudry: What about Kendall?

Mr STONER: Kendall has a good football team, too. This is a sorry case of Labor pork-barrelling and, even worse, political gamesmanship. Again the Labor Party is seeking to debate Federal issues in State Parliament because the Labor Opposition in Canberra is so weak; its leadership is in all sorts of crises. The knives are out and they are being sharpened. Poor old Simon Crean cannot provide an effective Opposition in Canberra, so honourable members opposite keep trying to bash the Federal Government by using valuable parliamentary debating time to move urgent motion after urgent motion related to Federal issues. This is a stunt by the Labor Government. It new full well that the Federal Government had no sports capital program.

The Federal Government provides a huge amount of money for sport generally in Australia, but it is for sporting administration and facilities such as the Australian Institute of Sport. The Federal Government does not provide capital funding for facility development in the States. That is a State responsibility. As the Government acknowledges, Newcastle stadium is a State responsibility. A trust reports to the State Government on the management of the facility. Clearly, it is a State responsibility. I call on the State Government to find not half of what is required but to produce \$44 million to give the people of the Hunter a fair go.

Mr MILLS (Wallsend) [4.11 p.m.]: I am aware that the Premier has encouraged Andrew Johns and his team-mates to keep up their campaign to gain Federal funding for the massive upgrade of EnergyAustralia Stadium. I wholeheartedly endorse his comments. As we have heard, the \$23.6 million in State Government funding is part of a redevelopment proposal valued at a total of \$44 million. In May last year the Newcastle International Sports Centre Trust put the official proposal to the New South Wales and Federal governments. The trust and the local people in the Hunter had done the hard yards. The Carr Labor Government in New South Wales acknowledged that just one month later.

Unfortunately, the Federal Government did not think the plans had the same merit—or, as it turned out, any merit—that we believed they had. Not even a high-level meeting between the Lord Mayor, Councillor John Tate, Andrew Johns and the International Sports Centre Trust with the Prime Minister in October last year seemed to have any impact. The Leader of the National Party means well, but it is a pity he does know his history a little bit better. He said that the Federal Government has no sports capital project. If that is so, why did the Federal Government, when it wanted to save Jim Lloyd's seat on the Central Coast coming into the 1998 election, offer to put \$12 million into building a stadium for the new combined Northern Eagles team to be based in Gosford, provided the State Government would put in a half share?

The Carr Labor Government was in office, and we agreed to the Federal Government's proposition. We kept our promise to provide half the funding for the stadium in Gosford. It was politically motivated and a political stunt by the Federal Government to help out a member of the Coalition on the Central Coast. The Leader of the National Party should understand that. To help Bob Baldwin win Paterson in the Hunter, the Federal Government made an equivocal promise and the people understood that funding of Newcastle stadium would be most favourably considered when the Federal Coalition was re-elected. But, no, it has reneged. Families in the Hunter deserve facilities just as good as those in the big cities. The Knights have done our region proud, but no-one would know that by looking at the stadium where the Knights play.

Giving a city like Newcastle world-class facilities such as the proposed stadium means that people in that city can say that they are proud to live in Newcastle. The stadium is not only a community facility, it is also an investment. We must realise that when we provide the community with facilities of which they can be proud, the benefits will reach beyond those who are simply enjoying a football game. The stadium will create jobs and boost the economy of one of our most important regional cities. The full redevelopment of the ground will bring it up to FIFA world standards, which will help to attract international soccer fixtures. It will, therefore, play a key role in any future Australian bid for the World Cup as well as provide the alternative major international rugby league and rugby union venue outside of Sydney. We can be sure that John Howard would be more than happy to take the credit for the redevelopment then.

If ever a project brought together the whole community, this is it. The way the Federal Government is working the politics on this matter is puzzling. In 2001 Federal Labor made a clear commitment that, if elected, it would provide half the funding for the stadium. I recall a press conference at the stadium with Joel Fitzgibbon, Jill Hall, Kelly Hoare, Bob Horne and then candidate for Newcastle, now the member, Sharon Grierson. As I stated earlier, the Federal Coalition Government's response was favourable, but now it has run away from the project in spite of what it did in Gosford, where we kept our promise. The Federal Government has been equivocal about the grade-separated interchange at Weakleys Drive and Maitland Road at Beresfield, which has now been allocated funding after missing out in the first year. The project has been allocated \$1 million for next year and another \$1 million the year after that, but the rest is off in the never-never.

Mr Stoner: That's a State responsibility.

Mr MILLS: Again the Leader of the National Party is wrong. He does not know his history and the relationship between the State and the Commonwealth. The other project is the Bucketts Way, for which the Federal Coalition Government has been copping a lot of flak. The State Labor Government has delivered and the families of the Hunter know it. We will not stop until those in Canberra get the message. The last thing Hunter families need now is another broken promise from the Howard Government.

Mr GAUDRY (Newcastle—Parliamentary Secretary) [4.16 p.m.], in reply: I thank the honourable member for Wallsend and the honourable member for Charlestown for their contributions. They focused on the fundamental aspect of the debate, that the Howard Government is yet to deliver on the promise made prior to the election to match State Government funding. We call on our partners across the Chamber to join with us in saying that this is an important regional social, sporting and economic facility for the honourable member for Upper Hunter, the honourable member for Myall Lakes, the honourable member for Lismore and honourable members representing electorates on the Central Coast. It is an important facility not only for rugby league or soccer but also for cultural and social activities.

The honourable member for Lachlan is a canny operator. He tried to divert us from our fundamental position to a general discussion that includes horseracing, public liability, funding for country fairs and a range of activities that have nothing whatsoever to do with this debate. The fundamental focus is establishing a classical world-class stadium for the people of our region. They deserve it. They have been given \$23.6 million by the State Government, which will deliver the eastern grandstand with world-class facilities for spectators. It will deliver improved seating and pay the cost of shifting the corporate boxes on the northern-southern end of the field to provide better facilities.

The funding will also assist in the development of media facilities. An amount of \$1.6 million will be spent on upgrading the western grandstand to address occupational health and safety issues. That is an excellent choice of expenditure but it is still only half of the funding needed to produce a world-class stadium. I point out to the Leader of the National Party that one reaches the bottom of the barrel when one embarks upon personal attacks and makes jokes about whether someone is a football supporter. That is not the issue. The issue is that all honourable members should agree that this is an important facility that should be supported. I note also that the Leader of the Opposition pledged prior to recent State election great support from the Opposition for funding of the stadium.

Mr Mills: Support for State funding.

Mr GAUDRY: Yes, State funding. We expect financial support from the Federal Government and we expect the Opposition to say to the Federal Government, "Bring on the funding!" The State Opposition made requests for Federal funding for the Central Coast stadium and the Manuka stadium. It should make a similar request of the Federal Government on behalf of Newcastle, the Hunter Valley and areas to the north, whose

constituents would certainly utilise the facility. The State Government is certainly playing its part and has contributed financially to the provision of these facilities. It has contributed \$23.6 million to the EnergyAustralia stadium, \$8 million for the WIN stadium, and \$10 million for upgrading of the Mount Panorama circuit. The honourable member for Bathurst introduced that topic during the debate, and why should he not? The Federal Government made a halfhearted promise and then walked away. Federal funding is needed for the EnergyAustralia stadium and the Mount Panorama circuit to become fully operational.

Mr Armstrong: Point of order: The honourable member has referred to funding. New South Wales receives 77¢ per head of population whereas Queensland receives \$7.07 per capita, and that negates his argument about fairness. It is important to ensure when honourable members take points of order that fairness and equity are applied. Therefore, I ask you to uphold my point of order.

Madam ACTING-SPEAKER (Ms Saliba): Order! There is no point of order.

Mr GAUDRY: It is fundamentally important to remember that before the most recent Federal election, Senator Tierney and the member for Paterson, Mr Baldwin, said that the Federal Government would come to the party. It has not done so, and this debate presents an opportunity for members of this House to ensure that it happens. [*Time expired.*]

Amendment negatived.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 53

Ms Allan	Mr Gibson	Mr Oakeshott
Mr Amery	Mr Greene	Mr Orkopoulos
Ms Andrews	Ms Hay	Mrs Paluzzano
Mr Barr	Mr Hickey	Mr Pearce
Ms Beamer	Mr Hunter	Mrs Perry
Mr Black	Ms Judge	Mr Price
Mr Brown	Ms Keneally	Dr Refshauge
Ms Burney	Mr Knowles	Mr Sartor
Miss Burton	Mr Lynch	Mr Scully
Mr Campbell	Mr McBride	Mr Stewart
Mr Collier	Mr McGrane	Mr Torbay
Mr Corrigan	Mr McLeay	Mr Tripodi
Mr Crittenden	Ms Meagher	Mr Watkins
Ms D'Amore	Ms Megarrity	Mr West
Mr Debus	Mr Mills	Mr Yeadon
Mr Draper	Ms Moore	<i>Tellers,</i>
Ms Gadiel	Mr Morris	Mr Ashton
Mr Gaudry	Mr Newell	Mr Martin

Noes, 26

Mr Aplin	Mr Hazzard	Mr Richardson
Mr Armstrong	Ms Hodgkinson	Mr Roberts
Ms Berejiklian	Mrs Hopwood	Ms Seaton
Mr Cansdell	Mr Humpherson	Mrs Skinner
Mr Constance	Mr Kerr	Mr Slack-Smith
Mr Debnam	Mr Merton	Mr R. W. Turner
Mr Fraser	Mr Page	<i>Tellers,</i>
Mrs Hancock	Mr Piccoli	Mr George
Mr Hartcher	Mr Pringle	Mr Maguire

Pairs

Mr Bartlett
Mr Iemma
Mr Whan

Mr Brogden
Mr O'Farrell
Mr Tink

Question resolved in the affirmative.

Motion agreed to.

IMPACT OF WAR AGAINST IRAQ**Matter of Public Importance**

Ms MOORE (Bligh) [4.32 p.m.]: I ask the House to note as a matter of public importance Australia's involvement in the war in Iraq and the consequences. The New South Wales Parliament from time to time debates Federal issues and their impact on the people of New South Wales. Recently we debated proposed changes to Medicare and last year we debated Australia's failure to sign the Kyoto Protocol. Our involvement in Iraq is also important. The Premier has already spoken about the consequences of the war for New South Wales in terms of investigations by the State Government into economic opportunities in Iraq. He said:

This is about two things: a humanitarian contribution to the people of Iraq and opportunities for jobs and contracts for people based in this State.

I will also address the ethical implications of that war. Australia should never have been involved in that unlawful act of aggression. It was morally wrong, and we must now deal with the consequences of a decision that was wrong in principle. Before the invasion, UNICEF reported a humanitarian crisis in Iraq, where 53 per cent of the population was aged under 17 years and thousands of children were dying from malnutrition and lack of medical services. Poorly equipped Iraqi forces were overwhelmed by vastly superior technology. Thousands of Iraqis were killed or severely injured, although the American administration has not revealed the numbers. Cities and towns in Iraq have been left in ruins and their cultural heritage has been destroyed.

The war was not in our national interest; it was not even in our strategic sphere of interest. Unlike the 1991 Gulf War, it did not have the legitimacy of a genuine international coalition or United Nations sanction. The war was an act of aggression that has placed Australia firmly in the sights of terrorists. It has put us on the terrorist map and that has impacted on our lives and our capital. In 2000 the world saw an Olympic Sydney that was safe, friendly and desirable to visit. Now, following our participation in the Iraq invasion, we face increased terrorist threats, ramped up security, and the deployment of Army reserves.

I was aware of the security checks at the Opera House recently. As I looked around at a packed audience waiting for a performance to commence, I realised how our lives could be shattered irreparably in a moment, as were the lives of ordinary people enjoying a night out at a Bali nightclub. Last September Federal Parliament debated Iraq, but did not vote. Prime Minister John Howard did not even speak in the debate, and the only members of Parliament to protest were Peter Andren and Tony Windsor, two New South Wales Independents. On 18 March the Prime Minister declared that he had decided to commit troops to the Iraq invasion in response to a phone call from President Bush. Debate and a vote in Federal Parliament followed that decision. The war was presented as a *fait accompli*. Alarming, our Prime Minister now claims that the legality of the war is irrelevant. Philosopher Raimond Gaita wrote recently:

We carry the effects and meaning of our past into the future—to be lucid about what we are doing, we must be lucid about what we have done.

During the lead-up to the recent State election, many Bligh constituents were disturbed by the prospect of war and many people used their vote at the State election to express their opposition to war. During February and March thousands of New South Wales residents marched against the war. On 16 February I joined with Bligh constituents, hundreds of thousands of Australians, and millions of people across the world who were angry and concerned about the prospect of war with Iraq. There should have been extensive debate by the Federal and State parliaments across our nation in response to the serious community concern that war was not in our national interest, that it was an unlawful war, that it put Australian lives at risk, that it would make Australia more of a terrorist target and that it would cost large sums of taxpayers' money that would otherwise have been

spent in areas such as education, health, welfare and drought assistance. Those areas impact crucially on the lives of New South Wales taxpayers.

The concerns are valid and the consequences of the war in Iraq are serious and long term. The recent Federal budget revealed that the direct cost of the Iraq war was \$645 million. There will be further costs of \$100 million, and \$25 million to re-establish a diplomatic mission in Baghdad. There will be further increases in defence spending over the next few years and Australia's Reserve Forces are to be enlarged and strengthened. Now that Australia is "embedded in America's new world order", as the journalist Geoff Kitney wrote, it seems that we are obliged to increase our defence spending. At the same time the Federal Government is undermining Australia's world-class system for universal, free health care and education. The \$650 million spent on a morally wrong war could have gone into Medicare, tertiary education, environmental restoration, scientific research, drought relief, or the ABC, to name some of the areas of current serious concern.

It is disturbing that defence Minister Robert Hill considers the money was well spent on war. He argued that it created a safer global community by contributing to the elimination of weapons of mass destruction and bringing greater stability in the Middle East. Does he take us for total fools? Contrary to Senator Hill's extraordinary forecast, a flood of letters in the *Sydney Morning Herald* recently showed that the New South Wales public sees Australia as being at greater risk of terrorism and the world less stable. As one correspondent, Dr Wendy Varney, wrote:

Escalating terrorism in recent weeks should remind us that violence begets more violence and that a Government at a loss to understand the root causes of terrorism will be equally incapable of dealing with it.

The potential for continued violence in the Middle East is high, as demonstrated by the spate of five suicide bombings in Israel over 48 hours last week and suicide attacks on Riyadh and Casablanca. The United States of America has considered closing its Saudi Arabia embassy, fearing imminent attacks. In Iraq there have been mass anti-American demonstrations by mostly Shiite Muslims, and American forces continue to face gunfights and ambushes. According to the professor of political science at Baghdad University, Americans will continue to be targets. The war will produce more recruits to extremist Islamic organisations, and there is evidence that al-Qaeda is regrouping. A tape released last week urged attacks on Australia, the United States of America and Britain.

On all accounts the war in Iraq has not been justified. We have been given a number of reasons for the war, the first being Iraq's weapons of mass destruction. The initial reason given by United States President Bush, British Prime Minister Blair and our Prime Minister was that Saddam Hussein's regime possessed weapons of mass destruction that constituted such a threat that a pre-emptive strike was justified. To date, no nuclear, chemical or biological weapons have been found.

While United States intelligence agencies reportedly assessed how they got it wrong in Iraq, the nuclear capability of Pakistan and North Korea was overlooked. The United States also knew that Iraq was an impoverished country with limited military capacity that presented no real threat to America, let alone the combined coalition forces. The second reason related to the regime change. President Bush maintained that the Iraqi regime was not only harbouring weapons of mass destruction but also aided, trained and harboured terrorists. Yet there is still no evidence that Iraq had links with the events of September 11; nor has Iraq been implicated in terrorist acts against America, unlike Saudi Arabia, where 15 of the 19 alleged terrorists came from.

Thirdly, we were given a moral case for war. The moral case posed by Bush, Blair and our Prime Minister was the most compelling. Everyone would agree that Saddam Hussein was a ruthless dictator at the head of a brutal regime that did not hesitate to kill, torture and maim its own people to maintain control. Some Iraqi exiles supported the war. However, the humanitarian justification is weakened by 12 years of sanctions that caused untold suffering and deaths. It is not credible that the United States and Britain suddenly became concerned. In Australia, asylum seekers from that brutal regime are still held in detention. Other regimes with appalling human rights records, such as Mugabe's Zimbabwe, have been ignored. As Robert Manne pointed out, the humanitarian argument can disguise old-style aggression or imperialism.

The fourth reason relates to democratic reform. President Bush also used the war as a rallying call for the establishment of a democratic state **in Iraq that could serve as an example for other regimes in the region. The choice of regimes in the Middle East is not simply between a secular dictatorship and a secular democracy: an Islamic democracy is a likely outcome. This possibility is supported by the jostling since the end of the war between Shiites, Sunnis and Kurds for power in Iraq. The rhetoric of democracy masks a wider strategy to

maintain global United States pre-eminence and remake the Middle East in a way favourable to United States interests, including continuous access to oil—an aim of the Bush Administration since before September 11.

The fifth reason we were given was that it would strengthen the United States alliance. Prime Minister Howard also argued for Australian involvement due to the importance of the United States alliance and the value of strengthening it. Our Federal Government seemed concerned that extreme Islamic organisations in our region could pose a threat to Australia's security and that a strong demonstration of commitment to the United States alliance would give us protection. Issues of free trade undoubtedly also played a part. But United States presidential terms are limited and there is no guarantee that this administration or a future administration would become involved in any skirmish in our region—but it is disturbing that our participation in the invasion has increased tensions in our region.

Most of our neighbours opposed the war, including Indonesia, the country with the largest Muslim population. They see Australia's involvement as further identifying with the interests of the United States and Britain—a view likely to see Australia become an increased terrorist target. As Richard Woolcott, former head of the Department of Foreign Affairs, said, "We are a sovereign nation. We could have said no to the US." The Federal Government was quick to commit our forces. While the Premier reported possibilities for jobs and contracts in connection with the reconstruction, Australia has wider humanitarian and international obligations. Australia should never have been involved in this unlawful act of aggression, it was morally wrong, but we must address the consequences of that decision on Australia and the world if we are to reverse its serious negative impacts.

Mr TRIPODI (Fairfield) [4.42 p.m.]: I have spoken previously in this House about United Nations sanctions against Iraq and the consequences they were having for the people of Iraq and the people of Fairfield. Honourable members would be aware that United Nations sanctions caused enormous difficulty for the people of Iraq. They impeded their access to necessary resources, including medical services and supplies. Even though that has been contradicted somewhat by recent reports that the Iraqi regime created a perception that United Nations sanctions were causing pain and suffering, we now know that those reports were drummed up by the Iraqi regime in an attempt to reverse sanctions, which is quite despicable.

I am sure the international community condemns the actions taken by Saddam Hussein. I said in a debate one or two years ago that the sanctions and pressures that affected Iraq also affected people in the Fairfield electorate. Many people who escaped the Iraqi regime came to live in Fairfield and Liverpool, and we proudly boast one of the biggest ethnic communities in Australia. Those families, many of whom come from low socioeconomic groups, obviously had a sense of duty to their families in Iraq. Even though they were on low incomes they saved money to send to their relatives in Iraq to alleviate their poverty and suffering. Fairfield families have a long history of humanitarian aid to Iraqi families. That has been expressed through individual efforts—families saving money and repatriating it to their families in Iraq.

Many organisations have conducted fundraising events to raise money for the purchase of medical supplies and other kinds of relief to families in Iraq. Fairfield residents now want to participate in the creation of a new Iraq. They want to participate in the creation of a new political infrastructure upon which a modern, Middle Eastern democracy can be built. They are inspired by what is happening in Iraq. To some extent their families, friends, relatives and communities now enjoy freedom not from poverty but from the political oppression that existed under Saddam Hussein's regime. The New South Wales Government has a moral obligation to assist the people of Iraq.

Recently the Premier announced that a number of government agencies were assisting and co-operating in the reconstruction of Iraq. The Federal Government should take up its obligations under our international treaties and involve itself in the reconstruction and recovery of Iraq. The New South Wales Government is honouring its obligation to help in the recovery and reconstruction of Iraq. The Community Relations Commission established the Iraqi Community Council to channel consultation. That council, which comprises Muslim representatives from Sunni or Shiite backgrounds, Christians, Assyrians or Chaldeans and Kurds, is assisting in the reconstruction of Iraq.

Some people in Fairfield who have an enormous sense of obligation have asked me how they can assist in this reconstruction and recovery process. They want to utilise the opportunity that has been given to them following the war, regardless of their opinions about the war. They want to be part of the reconstruction process. Their initial reaction is one of humanitarian assistance. They want to help to create Iraq's social, economic and political infrastructure. Having left that country, they now want to make a contribution to it. The community council to which I referred, which is one such medium, has been actively engaged in pursuing opportunities in Iraq.

The democracy and freedoms that the Iraqi people now enjoy have been reported and celebrated around the world. Iraqi Australians living in Fairfield and Liverpool were enormously relieved that their relatives in Iraq survived the war and now have the chance to begin a new life. All those nations involved in the reconstruction of Iraq will face interesting challenges. I think Iraqi Australians will seize the opportunity to play their part in ensuring Iraq's future economic prosperity. We must engage Australian resources to generate benefits for both Iraq and this country.

People of 130 nationalities live in the Fairfield council area and they obviously retain strong cultural and familial bonds with their homelands. Such relationships present an opportunity to exploit future economic activity in Iraq. Iraqi Australians living in my electorate believe they can make a contribution to benefit both Iraq and Australia. That is the positive side of this conflict and the advantage of migration to Australia. These people are poised to give advice not just to the Australian Government but to the United States of America and to all other nations that want or feel obliged to assist in Iraq's recovery. The Iraqi people can now move forward in a climate of freedom and inspiration. There is no doubt that they face enormous challenges. The poverty that existed in Iraq before the war and that which was created by the war present a challenge for the entire international community.

As one of the countries that sent an occupying force to Iraq, Australia has an obligation to be involved in the reconstruction of that country. We must consider the positives of this conflict. Iraqi Australians in Fairfield to whom I have spoken believe this is a new start for their homeland. They are excited about what will happen in the future, and Australia must ensure that the correct decisions are made. Iraq should stand as a bastion of good governance and democracy in the Middle East and serve as an example to other oppressive regimes around the world of what could happen if they continue their undemocratic activities. I repeat: the House must focus on the positives and the opportunities that now exist for the peoples of Iraq and Australia.

Mr HARTCHER (Gosford) [4.52 p.m.]: We have all seen the television newsreels of the liberation of Paris in 1944, when Parisians lined the streets to cheer the forces that came to liberate them from Nazi tyranny. We witnessed similar scenes this year, when the people of Baghdad and Basra lined the streets to cheer their liberators, the American forces. We saw the statues of the tyrant Saddam Hussein topple, just as we saw the statues of Adolf Hitler topple.

Saddam Hussein was the Stalin of the twenty-first century. He was a master of torture and terror. The torture chambers that have been discovered, the mass graves that have been unearthed in city after city, the rule by a single party, the Ba'ath party, the 72 obscene palaces that Saddam Hussein built for his own edification, and the vast system of personal patronage and terror that he enforced through his secret police were all worthy of Josef Stalin and Adolf Hitler. Every thinking Australian is proud of the part that Australia played in Saddam Hussein's overthrow. Every thinking citizen of the world was proud to see the United States of America take action to end his tyranny.

Freedom of religion was denied to the majority of the Iraqi Shiite population. Since Iraq's liberation we have seen how the Shiites are able to practise their religion openly and to bring back their exiled ayatollahs. We have seen how the Sunni people, other than those who lived in Tikrit, which was Saddam's hometown, and the Assyrian Christians—many Assyrian Christians live in the electorate of Fairfield—were persecuted. We know how Saddam Hussein exploited little children across Iraq for his own propaganda purposes. This was revealed in his manipulation of the United Nations sanctions, which simply required the expenditure of money on food and medicine and prohibited expenditure on weapons.

Australia committed 2,000 troops to the liberation of Iraq. They fought alongside their American and British allies, just as they fought in Korea and in the Second World War against communist and Nazi tyranny. Our troops fought successfully and with honour. The United States of America showed extraordinary restraint in fighting the war, using precision bombing to minimise civilian casualties, and making a massive effort to rebuild Iraq immediately in the same way that it rebuilt Germany and Japan. Every civilised person can only salute the self-restraint and altruism of the American people.

Three great leaders emerged from the Iraq war: Mr Blair, the Labour Prime Minister of the United Kingdom; Mr Bush, the Republican President of the United States of America; and Mr Howard, the Liberal Prime Minister of Australia. Despite initial unpopularity, they took action against Iraq and, like Winston Churchill in 1940, saw it through. Enormous anti-war sentiment in the United Kingdom in 1940 led to calls to appease Hitler. Lord Halifax, the Foreign Secretary, wished to make peace but Churchill was determined. Churchill led and the majority followed. Blair, Howard and Bush saw off the initial unpopularity of action

against Iraq. Mr Blair said, "I do not seek this unpopularity but I accept it as the price of doing what is right." And Mr Blair, Mr Bush and Mr Howard did what was right.

The world is a safer place for the extinguishment of one tyranny. Yet many other tyrannies remain—in North Korea, Iran and Syria. Each of those tyrannical regimes must be dealt with appropriately, as Mr Blair said after the initial victory in Iraq. Under the leadership of the United States of America, the world will deal with them. The Iraq war was justified by no less an authority than 12 resolutions of the United Nations, beginning in 1991 and continuing to the present, that demanded that Iraq disarm and verify its disarmament. Iraq would not do that. It expelled United Nations weapons inspectors in 1988 and allowed them back in 2002 only when pressured to do so by the international community.

The people of the world must recognise one simple fact: tyranny is an inescapable burden upon hundreds of millions of people. Those who seek to liberate the world from tyranny—and the United States of America is the leader of the free world—will pay a price because, unfortunately, there are those in our society who do not recognise that liberty has a price. We salute our servicemen, we salute the leadership of the United States of America, and we salute the liberation of Iraq.

Ms MOORE (Bligh) [4.58 p.m.], in reply: I thank honourable members who contributed to the debate, in particular the honourable member for Fairfield. This important debate has allowed us to reflect the concerns expressed by our constituents about the Iraq war. I believe that the war was not in our national interest. I believe that it was unlawful, that it put Australian lives at risk and enhanced Australia's chance of being a terrorist target. It caused the deaths of many Iraqis and injured thousands more. It left Iraqi cities and towns in ruins and destroyed the country's important cultural heritage.

My constituents and I were particularly shocked that Australian's participation in the Iraq conflict was not debated properly and voted upon by Federal Parliament. That did not just happen in Australia. Alan Ramsay quoted in the *Sydney Morning Herald* a speech given in the American Senate by its longest-serving member, Robert Byrd. Senator Byrd identified the same shocking lack of debate in America and its implications—implications that were felt here in New South Wales. He said:

On this February day, as this nation stands at the brink of battle, every American on some level must be contemplating the horrors of war. Yet this chamber is, for the most part, silent. Ominously, dreadfully, silent.

There is no debate, no discussion, no attempt to lay out for the nation the pros and cons. There is nothing. We stand passively mute in the United States Senate, paralysed by our own uncertainty, seemingly stunned by the sheer turmoil of events.

And this is no small conflagration we contemplate. This is no simple attempt to de-fang a villain. This coming battle, if it materialises, represents a turning point in US foreign policy and possibly a turning point in the recent history of the world.

This nation is about to embark upon the first test of a revolutionary doctrine applied in an extraordinary way at an unfortunate time.

The doctrine of pre-emption—the idea that the United States or any other nation can legitimately attack a nation not imminently threatening but may be threatening in the future—is a radical new twist on traditional self-defence.

He went on to say:

It appears to be in contravention of international law and the UN Charter. And it is being tested at a time of worldwide terrorist, making many countries wonder if they will soon be on our hit list or someone else's.

Byrd finished his speech by saying:

We are sleepwalking through history. In my heart of hearts I pray that this great nation and its trusting citizens are not in for the rudest of awakenings.

I truly question any president who can say that a massive, unprovoked military attack on a nation which is over 50 per cent children is "in the highest moral traditions of our country." Our mistake was to put ourselves in a corner so quickly.

Our challenge is to find a graceful way out of a box of our own making.

Discussion concluded.

BUSINESS OF THE HOUSE

Private Members' Statements: Suspension of Standing and Sessional Orders

Motion by Ms Meagher agreed to:

That standing and sessional orders be suspended to postpone Private Members' Statements until the conclusion of Government Business Order of the Day No. 9 [Fair Trading Amendment Bill].

FAIR TRADING AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Ms D'AMORE (Drummoyne) [5.02 p.m.]: I support the amendments in this bill, and I want to talk about the importance of the Fair Trading Act generally. I believe that most people do not realise the importance of fair trading laws. It is hard to imagine what the marketplace would be like without these laws. Consumers in this State are rightly confident that the majority of traders act according to the law and that they are not being misled or deceived. When we talk about shonky dealers and rogue traders we know that they are the exception rather than the rule and that the Fair Trading Act has, since 1987, been quietly underpinning a trading environment which has delivered great benefits to consumers and traders.

We should not forget that traders get as much benefit from the laws as consumers. If they have to compete against disreputable competitors, they are at a trading disadvantage. If there were nothing to stop traders making false and misleading claims about their goods, or about their capacity to supply those goods, or the price of goods and services, the reputable traders in this State would go out of business.

In relation to that issue, I am pleased that the substantiation provisions have been strengthened by the inclusion in this bill of a maximum fine of \$22,000 for being unable to substantiate a claim or representation. That is a significant deterrent to would-be dishonest traders who seek to gain a competitive advantage by unfair means. I also point out that the provisions relating to misleading and deceptive conduct are—together with the equivalent provisions in the Trade Practices Act—arguably the most used provisions on the statute books. It is often traders who use those provisions to ensure that their competitors are doing the right thing. The system works to the benefit of all, except the crooks, which is what good laws should do. Traders who do the right thing have nothing to fear from the Fair Trading Act or its amendments in this bill. While there is a new provision which allows a court to impose a gaol sentence of up to three years for serial fraudulent activity, that is not a step to be taken lightly.

The Office of Fair Trading will now have a range of enforcement options to fit the circumstances, including show-cause provisions that have the potential to put rogue traders out of business in this State. The capacity of the Local Court to issue meaningful penalties has also been increased to \$11,000. If traders have the view that they can just flout the law, no-one can have any confidence in the trading environment. It is important to note that fair trading is about balancing the rights of traders and consumers. For example, the direct commerce provisions allow generous trading hours to ensure that this type of seller is not disadvantaged. However, those provisions also give consumers the opportunity to return goods that they may have bought impulsively but cannot really afford, or to get rid of a door-to-door caller. They also allow consumers to say to telemarketers, "Don't ring me again for at least 30 days." Door-to-door salesmen and telemarketers are required to stop their spiel and go if consumers request it.

Again, in relation to balance, the small business community has for a long time been considered, simply by being business people rather than consumers, to have the capacity to look after itself. If we think about it, how many of our small shopkeepers or cafes have the capacity to take on big business? The Fair Trading Amendment Bill will give them that opportunity by allowing them to access unconscionable conduct laws in this State, when previously they could not. These provisions are all about the exploitation of the weaker party by the stronger one. With this amendment, traders who feel that by virtue of their weaker position relative to another business they have been forced or manoeuvred into a bad bargain will now have recourse to the law to get relief.

Society generally has become much more aware of the vulnerability of this very important sector, and I congratulate the Government on expanding the laws to take account of their situation. While it is unusual to

congratulate a consumer agency on its fairness to business, this bill and the Fair Trading Act generally, demonstrate that there can be a win-win situation and a balance between consumer and business interests, and that we are all beneficiaries of this approach. I encourage all members to support the bill.

Mrs PERRY (Auburn) [5.07 p.m.]: The purpose of this bill is to update the Fair Trading Act in order to reflect changes in the way transactions are undertaken, and to address the increasing sophistication of disreputable marketing practices. Legislation such as the Fair Trading Act plays an important part in facilitating pro-competitive conduct and the efficient operation of the economy. In summary, the bill will amend the Fair Trading Act 1987 to provide for an offence if a trader is unable to substantiate claims or offers made in the marketplace; that the director-general may impose a mandatory recall of a defective product; for the regulation of direct commerce, covering both traditional door-to-door sales and telemarketing contracts, providing for a five-business-day cooling-off period and prohibiting hours of business between 8.00 p.m. and 9.00 a.m. except by prior appointment; for extension of unconscionable conduct provisions to small business transactions; and that provisions on representations about country of origin, conditions and warranties in consumer transactions and time limits for taking action for damages arising out of a contravention of the Act mirror the relevant parts of the Trade Practices Act 1974.

The bill also provides for more stringent enforcement provisions, including three-year prison terms for repeated breaches of part 5 of the Act, which deals with unfair practices and requires habitually deceptive traders to show cause why they should be able to continue trading in New South Wales, and provides that compensation orders may be made by the Local Court upon the conviction of a person for a breach of the Act and for the repeal of the provisions relating to the Code of Practice.

The bill will repeal the Door-to-Door Sales Act 1967 and the Mock Auctions Act 1973 and include their provisions in the Fair Trading Act. The Government believes that, in dealing with what appears to be an habitually dishonest trader who deliberately avoids the possibility of consumers obtaining redress, the court should have the option of sentencing that person to a term in prison. In this respect it is difficult to draw a meaningful distinction between offences involving obtaining benefit by deception, as set out in the Crimes Act 1900, and the circumstances of serious or repeat breaches of the Fair Trading Act whereby dishonest traders may deliberately—and sometimes systematically—deceive consumers with a view to obtaining financial benefit.

The relevant Crimes Act offences attract a penalty of imprisonment for five years. This bill allows the court to impose a prison term of up to three years for repeated breaches of part 5 of the Act, which deals with unfair practices, in addition to or instead of a monetary penalty. Currently the maximum penalty which may be imposed by the Local Court under the Act is \$5,500. The bill amends the Act to provide a maximum penalty of \$11,000. This will enhance the capability of Local Courts to deal with more serious offences prosecuted by the Office of Fair Trading in Local Courts.

The bill provides for more stringent enforcement provisions that better address problems and issues which arise in today's marketplace or trading environment. The Office of Fair Trading commonly finds that disreputable traders who have taken orders and deposits for goods and services which have not been supplied become insolvent and leave many consumers out of pocket. A number of people have come to my electorate office complaining of that very thing. These traders may have a history of failed companies, often in the same type of business, and after each insolvency they start up again under another name, sometimes in another State or country, and repeat their dishonest practices. Moreover, consumers will have no recourse to compensation if traders arrange their personal affairs to minimise redress to creditors in the event that their business fails.

The bill inserts a new provision under which the Commissioner of Fair Trading may issue a notice to a trader who has engaged in unlawful conduct on more than one occasion, whether in New South Wales or elsewhere, to show cause why they should not be banned from trading. "Unlawful conduct" is defined to include conduct that would be a contravention of the Fair Trading Act, whether or not proceedings have been brought in respect of the contravention. The bill also provides that the Commissioner of Fair Trading may, after issuing the notice and taking account of any submissions made in relation to the matter, apply to the Supreme Court for an order prohibiting the person from carrying on business indefinitely or for a specified period.

Given new developments in technology and consequent marketplace detriment, the direct commerce provisions also apply to direct marketing carried on over the telephone, known as telemarketing. A number of honourable members referred to this matter earlier. I was present in this Chamber when the honourable member for Baulkham Hills spoke about his childhood days and about how technology has changed. He said that the bill

is a step in the right direction and catches up with technology changes. The bill provides also that direct commerce traders shall not make unsolicited contact with consumers between the hours of 8.00 p.m. and 9.00 a.m., seven days a week. Presently, the Door-to-Door Sales Act does not prescribe hours of contact; however several other States' Acts do. For example, the Queensland Fair Trading Act provides that traders may not make unsolicited calls upon consumers between 8.00 p.m. and 9.00 a.m. on Monday to Friday, between 5.00 p.m. and 9.00 a.m. on Saturday and not at all on Sundays or public holidays.

Although it is desirable to prescribe the hours of unsolicited contact, for the purposes of this bill it is not considered necessary to create additional regulation in relation to Saturdays, Sundays and public holidays. This is consistent with New South Wales trading hours, which do not prohibit Sunday trading. Moreover, industry advice to the national competition policy review of the legislation suggests that traders will not call on consumers at inappropriate times or on inappropriate days as this is likely to cause anger if consumers are disturbed.

Additional consumer protection is provided in the bill by making it an offence for a telemarketer to contact a consumer again within 30 days if the consumer advises that they are not interested in the offer; if a telemarketer does not immediately cease telephone contact once requested to do so; and if a dealer who calls at a consumer's home does not leave the premises at the request of the occupier as soon as it is practicable to do so. I congratulate the Minister for Fair Trading and her staff and the department in relation to these amendments. These are significant amendments that really reflect modern society today.

Ms SALIBA (Illawarra) [5.15 p.m.]: I support the bill and, in particular, the amendments that WILL increase efficiency and decrease the regulatory burden on traders by providing greater consistency between laws. Competition policy is not just about removing restrictions on competition. It is also about providing greater certainty for trader and regulator alike and also making laws consistent wherever possible. This is especially important in the Fair Trading Act, the consumer protection provisions of which were first developed to provide the States with the same powers to regulate the practices of unincorporated traders as those used by the Commonwealth under the Trade Practices Act to regulate incorporated companies.

Over time, changes may be made to Federal legislation which are not taken up at State level. That can be confusing, especially at State level, where both incorporated and unincorporated traders can be pursued under the Fair Trading Act. One such example of inconsistency is the country of origin provisions. The Fair Trading Act prohibits false and misleading representations concerning the place of origin of goods. The Office of Fair Trading sometimes has difficulty following up complaints about the labelling of goods because of legal uncertainties regarding the minimum requirements for country of origin complaints.

The Commonwealth addressed this issue by amending the Trade Practices Act to clarify the circumstances under which statements such as "made in Australia" or "product of Australia" may be used. It follows that the inconsistency between the Fair Trading Act and the Trade Practices Act may result in a competitive disadvantage to incorporated traders and traders operating interstate. As well, if a case is brought in this State for breaches of the Fair Trading Act, the courts have to look to another law for clarification. This bill will remove those uncertainties by mirroring the provisions of the Trade Practices Act in respect of country of origin and will create certainty for business, the legislator and the courts.

Another inconsistency will be removed by the proposed amendments in the bill to the unconscionable conduct provisions of the Fair Trading Act. In the Act those protections in section 43 are limited because the beneficiary of those provisions is described as a "customer", not "consumer", which is defined, and this applies to all other provisions. There is no definition of customer and there is therefore some confusion as to who is entitled to protection against unconscionable conduct under the Act. The amendment bill clarifies the intention of the Act by removing this apparent anomaly so that the unconscionable conduct provisions apply to a "consumer" as defined by the Act.

The bill also removes an inconsistency between the Fair Trading Act and the Trade Practices Act by amending the unconscionable conduct provisions to give small business the protection of those provisions in their dealings with suppliers. Many small business operators are very vulnerable in their dealings with big business. They are often no more able than consumers are to protect themselves from the power of the corporations. This bill amends the Fair Trading Act to mirror divisions 2, 2A and 3 of part V of the Trade Practices Act and, therefore, corrects an inconsistency with the Trade Practices Act and the anomalous situation of the Office of Fair Trading giving advice on a statute it does not administer. I am sure honourable members of this House will agree that consistency and simplification of laws benefit all concerned. I congratulate the

Government on these amendments, which serve to simplify the rules for traders and make it easier for consumers to assert their rights. I encourage all honourable members to support this bill.

Mrs PALUZZANO (Penrith) [5.19 p.m.]: I support the amendments in the bill, particularly the enhanced enforcement and penalty provisions. The purpose of the Fair Trading Act is to provide a rationale for consumer protection, and for the regulation of trade between traders and consumers in the New South Wales marketplace. It does so from market efficiency and social justice perspectives. In light of this the Government strives to create a balanced and fair trading environment for both consumers and traders. Currently the Act has provisions enabling the Department of Fair Trading to discipline or temporarily prevent rogue traders from operating in the marketplace. It includes the power to issue a penalty notice for a contravention of section 32 relating to the supply of goods subject to a banning order, or section 40 relating to dual pricing of the Act; suspend a business or occupational licence; and accept written undertakings in connection with the matter in relation to which the director-general has a function under the Act—where the trader refuses to give undertakings the director-general can apply to the Supreme Court for appropriate orders.

Further powers include issuing a public statement naming persons who supply unsatisfactory or dangerous goods or services, or who engage in unfair practices; and applying to the Supreme Court to grant an injunction restraining the person from trading or to put conditions on the person's ability to trade. The review also concluded that it is difficult to draw a meaningful distinction between offences involving obtaining benefit by deception as set out in the Crimes Act 1900 and the circumstances of a serious or repeat breaches of the Fair Trading Act whereby a dishonest trader may deliberately, and sometimes systematically, deceive consumers with a view to obtaining financial benefits.

The relevant Crimes Act offences attract a penalty of imprisonment for five years. The bill will allow the court to impose a prison term of up to three years for repeated breaches of part 5 of the Act, which deals with unfair practices, in addition to or instead of monetary penalty. The provisions I have outlined will provide stronger and more effective compliance measures to deal with rogue elements in the New South Wales marketplace. I congratulate the Government on its efforts to eliminate shonky traders and ensure the marketplace operates fairly for both consumers and traders. I encourage all honourable members to support the bill.

Ms MEAGHER (Cabramatta—Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [5.21 p.m.], in reply: I thank honourable members for their contributions. I thank the Opposition for their support for the bill. The honourable member for Burrinjuck raised a concern last night about the likely impact of the bill on the work undertaken by charitable organisations carried out door to door or over the telephone. I can inform the honourable member that the impact of the bill will vary according to the circumstances. If charities are merely soliciting donations then they are not selling goods or services and they will not be caught by the direct commerce provisions. If organisations are selling goods for charities for an amount less than \$100, again they are not caught by the direct commerce provisions.

If charities are selling goods or services for a value over \$100 then the direct commerce provisions apply. This ensures the laws that protect consumers are applied universally. As members of the House may be aware, proposed section 40B (2) provides a power to exempt any contract by regulation. This will allow charitable organisations, where appropriate, to seek an exemption. I thank all honourable members for their contribution to the debate and for their support for this very worthy bill, which will substantially enhance confidence in the trading environment in this State. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Pursuant to resolution business interrupted.

PRIVATE MEMBERS' STATEMENTS

KU-RING-GAI MUNICIPAL COUNCIL BIKE PARK

Mr O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [5.23 p.m.]: Recently I visited St Ives Village Green with my family. While my children were using the great playground equipment provided by

Ku-ring-gai Municipal Council I sat down and watched young people using the adjacent skate park. It was a remarkable experience of watching people on in-line skates and skateboards doing their tricks and manoeuvres in a well-instructed and challenging facility. Also present were five adolescent boys who were using the park, and putting on a great bike-riding display. As I was sitting there watching, one of their number rode over and inquired, if I remember correctly, if I was "that MP dude".

When I admitted to being so he then started to lobby me about the his plight and that of his mates and other local young bike riders. What I had not realised was that what he and his mates were doing was illegal under council's bylaws, that is, only persons using skates or skateboards were meant to use the park. As I noticed, the single council sign advised that bikes should not be ridden on the facility. My young constituent pointed out that when he and his mates tried to use the facility, despite the council prohibition, they were hassled by older users. As Ryan pointed out, that was unfair because they had no alternative local bike facility.

Indeed he and his four mates who had now joined him were keen for a new bike facility to be built nearby. By this stage I had been watching the three categories of users—bike riders, in-line skaters and skateboarders—happily use the park together for about 20 minutes without mishap or dispute. I inquired of these boys why they could not share the facility with other users. They agreed that they could, but continued to forcibly press me for a separate dedicated facility. When they had made their case and extracted from me the commitment to raise it with Ku-ring-gai council they left me to my family. The next day when I checked my email I noticed that the previous evening I had received the following message:

During the festival at St Ives shops, 5 of us approached you at the Skate park and asked if you could bring up at a meeting if St Ives could have a Bicycle Park. St Ives has a lot of bike riders who come to the Skate Park, but are told to get off it cause the skaters do not like us on it. And as you said the closest place for bikes is in Ryde or there is also one in Terry Hills. Both those places are most of the time hard to get to and also takes time to get there, too.

Us 5 guys ride there sometimes but takes times up to 1 hour and is dangerous having to ride along Mona Vale Road. So can you please try for us.

Ryan Todd.

I was impressed, not just with the speed of the follow-up but that Ryan had tracked down my email address and ensured that I was left in no doubt about the problem, and what he and his friends expected of me. I take up Ryan's case tonight after having raised the matter with Councillor Ian Cross, the Mayor of Ku-ring-gai, as I promised the boys on that day. Ryan and his friends have identified a hole in Ku-ring-gai's recreational structure. I know that many similarly aged bike riders would welcome the construction of a dedicated bike park for their use within the Ku-ring-gai municipality. I add a further omission from Ku-ring-gai's recreational facilities, a bike path for younger children. Presently, families who want to use a bike park suitable for toddlers and young children have to travel to either Hornsby or North Ryde.

I am keen for both types of facilities to be available locally, and neither need cost council huge sums. State Government funding sources are available that could help, and I am prepared to do all I can to ensure the success of any application lodged for these facilities. At a State Government level too little is done to provide a system of safe bike paths through and around the Ku-ring-gai area. The proposed bike trial within the North Shore rail line corridor, a facility that would greatly assist those wanting to use cycle transport, is taking too long to reach design and construction level. I take this opportunity to urge the Minister for Transport Services to accelerate the project. But, above all, this afternoon I want to honour my commitment to Ryan and his mates—Rhys Hume, Stuart Stark, Ben Strauss and Sam Alexio—by bringing this matter to the attention of the State Parliament.

Too often young people are ignored in this place. In part it is because, unlike Ryan and his friends, they either cannot access their members of Parliament or they do not know how to lobby them. That was not a problem with the five boys I met at St Ives skate park. They exhibited an ability to seize an opportunity, knew how to communicate a problem, proposed a solution and remembered to follow up. I do not know where the boys go to school, but they are the sorts of students I hope most of our schools produce. I do not know the boys' families or parents, but they can be proud of their sons: they were polite, direct and personable. I did not know the boys before this meeting, but I am proud to be their "MP dude".

EAST TIMOR INDEPENDENCE FIRST ANNIVERSARY

Mr TRIPODI (Fairfield—Parliamentary Secretary) [5.28 p.m.]: I wish to share with the House a significant moment for many people within the Fairfield community. Last Friday 23 May I had the honour of

attending the Monte Carlo Reception Centre in Fairfield to celebrate the first anniversary of East Timor's independence. The celebration was organised by a local organisation called East Timor Independence Committee, and I commend their efforts. In May 2002 the military intervention of the International Force for East Timor witnessed the birth of the world's newest nation, East Timor. This intervention constituted primarily of Australian forces to ensure the independence of East Timor after a referendum of the east Timorese voting for independence. It has now been one year since the East Timorese flag was raised for the first time and I am pleased to be associated with Australia's support for an independent East Timor.

Furthermore I am proud of the fact that our country's support for East Timor has been extended to those East Timorese who have settled here. New South Wales is home to 2,410 East Timorese, who are living mostly in suburbs around Fairfield and Liverpool, so it is fair to say that the people in our local community have been quietly involved in the historic creation of a new nation. These refugees, along with significant numbers of Australians, agitated for the independence of East Timor ever since its occupation by Indonesia in 1975. The East Timorese have integrated well with the Australian community. The New South Wales Government in particular has worked hard in providing assistance to maintain our special relationship with those people. Since East Timor's independence the New South Wales Government has assisted the new nation in many ways, such as in health matters.

The State Government has provided pharmaceutical products, basic medical aid to local children, doctors and continual direct support to the Head of the United Nations Transitional Administration in East Timor Health Office. The New South Wales Government has also provided assistance in establishing and maintaining law and order. Officers from NSW Police serve in East Timor and implement systems to assist with the restoration of law and order. The New South Wales Department of Education and Training has provided ongoing support by providing \$118,000 that was raised by schools in New South Wales to refurbish the schools in East Timor and also by providing a range of equipment which has been sent to East Timor.

The New South Wales Fire Brigade has donated and delivered two fire engines to East Timor to support its emergency services. The Department of Transport has explored, and will implement, ways to improve East Timor's transport infrastructure. Apart from the many obstacles that have been overcome to achieve what has been acquired to date, our community is still involved in the struggle to persuade the Australian Government to enable asylum seekers with temporary protection visas to be allowed permanent resident status. As I stated last Friday night at the function, I support permanent resident status being extended to East Timorese people who currently hold temporary protection visas. Many East Timorese seeking permanent resident status came to Australia as children or were born here. They have conformed to our local communities and have been our neighbours for years. It would be ridiculous to send them back.

This view is also shared by the many people who attended the celebration last Friday night. It is definitely the view held by most local residents of the Fairfield electorate and by most East Timorese who hold permanent resident status. I thank the local East Timor Independence Celebration Committee for allowing me to experience and share with them the traditions of their homeland. The celebration demonstrated the need for them to maintain a permanent connection with their home. It was a true celebration, though a long time in coming, and an event I was proud to be part of. People in the Fairfield community have played a special role over many years in achieving freedom for the people of East Timor. This celebration marked the end of one campaign and the beginning of another—the struggle to achieve prosperity for people of East Timor.

The Fairfield electorate has many different ethnic communities. The East Timorese people have a very strong presence in the area. They are people of incredible integrity. In a very peaceful manner they have been involved in ensuring that the people of East Timor secured their independence a year ago. They did that in a very co-operative, peaceful and constructive manner. Many of those people seek permanent resident status. They are concerned that the Federal Government has not made a final decision on whether they will be allowed to stay in Australia, even though many of them have lived in our Australian communities peacefully and in a co-operative manner for many years—some of them have lived here for well in excess of 10 years, and some have even been born in this country.

On behalf of the people of Fairfield I place on the record of this House that we are very honoured that many East Timor refugees who came to Australia chose to live in Fairfield. We have supported them morally and in every other way in their struggle to achieve independence for East Timor. It was a very rewarding and celebratory function that was held last Friday night. It was a great honour to host and be involved in the celebration of the first birthday of East Timor. [*Time expired.*]

AQUACULTURE INDUSTRY

Mr STONER (Oxley—Leader of the National Party) [5.33 p.m.]: I draw to the attention of the House the issues surrounding aquaculture in New South Wales. Aquaculture is an extremely important industry in the Oxley electorate. Producers carry on their operations at Kundabung, Rollands Plains and in the Nambucca shire. I recently spoke to a silver perch producer, Mr Allan Hambly from Kundabung, about some of the issues surrounding aquaculture in New South Wales. It should be borne in mind that he and other producers are meeting a demand in the market; indeed, there is a shortage of silver perch in the marketplace. By doing so, they relieve pressure on native fish stocks in this State. Mr Hambly told me that in two hectares of ponds aquaculture can produce what the commercial fishing industry would take from a whole estuary.

Mr Hambly also told me that the average investment in a fish farm is approximately \$800,000, with a 10-year break-even point before costs are recovered. However, the aquaculture industry in New South Wales is in decline. There were 126 farms just three years ago but that number has decreased to just 51 farms on a total of 88 hectares. I was told that it is harder to sustain a viable aquaculture industry and individual farms in New South Wales than in any other State in Australia owing to higher charges and a lower level of support from NSW Fisheries. I was told that this State has high levels of regulation. For example, Safe Foods New South Wales requires all materials to be made of stainless steel and the Department of Land and Water Conservation imposes very strict conditions on the use of water, including charges for water that is taken out of dams and effective processing of 100 per cent of fish farm effluent.

In addition to those charges, there are licence fees of \$450 and research fees of \$125. I am told that NSW Fisheries is the only Government agency that requires 100 per cent cost recovery from its users. Apparently the fees are five times the level of fees applied in other States. Both extension officers in New South Wales have been laid off and a lower level of service has resulted for aquaculture producers in this State. Queensland and Victoria are employing additional extension officers. I was told that no significant research has been undertaken by NSW Fisheries for small aquaculture farmers and that no genetic work is being done on fish stocks. It also appears that the policy of New South Wales Fisheries is that small family farms will not be viable in the long term, and only larger producers will be viable. Assistance from New South Wales Fisheries seems to be directed accordingly.

Mr Hambly told me that the costs of production, besides the licence fees and the cost of electricity, include the cost of fish food, which is \$1,500 per tonne currently. There are only two manufacturers of fish food in Australia. Because the number of aquaculture producers has decreased from 126 to 51, it is not viable for fish food manufacturers to produce the type of food that is required. Aquaculture producers understandably are concerned that this also will lead to an increased cost of production. Because aquaculture plays a significant role in regional development, fish stock generation and employment in regional areas, this is an important issue. I call on the Minister for Agriculture and Fisheries and the Minister for Rural Affairs to develop policies to provide assistance to aquaculture producers throughout New South Wales, particularly those who own smaller family fish farms that are of great benefit to electorates such as Oxley. The Government should give consideration to freezing charges and providing concessional rates for electricity. Moreover, it should do whatever it can to reduce the cost of fish food and develop any other policies that may assist the development of this valuable industry.

MARIST COLLEGE, PENSURST, FIFTIETH ANNIVERSARY

Mr GREENE (Georges River) [5.38 p.m.]: On Friday 6 June it will be my privilege to attend the fiftieth anniversary mass of the school I attended, the Marist College, Penshurst. Most appropriately, the mass will be celebrated on the feast of Saint Marcellin Champagnat, the founder of the Marist Order. The function will be held at Our Lady of Fatima Church at Kingsgrove. The mass will be celebrated by Bishop David Cremin and I look forward to attending. When I was first a student at Marist Brothers Penshurst and later a teacher there, Saint Marcellin Champagnat was referred to as Blessed Marcellin Champagnat. A couple of years ago he was canonised a saint.

On Saturday 7 June I will attend the fiftieth anniversary dinner of Marist College Penshurst at Club Menai, which will coincide with the launch of a book that has been written by Brother Tony Butler entitled *Everybody Knows Me Here*—a 50-year history of the school. I look forward to that launch and to reading that book. Brother John McDonnell, the principal of the school, Brother Tony and the staff have put an enormous effort into organising the functions. I am sure the dinner and book launch will be well attended by the current teachers, parents and former students.

My first contact with Penshurst Marist, as the school was then known, was in 1966 when my father would referee school football games on Thursday afternoons. I first attended the school as a year 5 student in 1969; I was in class 5A with Brother Howard. I have great memories of that year. At that time we participated in the 20-mile walkathon—not 20 kilometres as it is now—on a Sunday, so we all had to give up that day. I remember that a bottle drive was held to raise funds for the school, and its cricket nets were filled with bottles. I will never forget the annual fete when, at night, games such as unders and overs, crown and anchor, and others, were played. Fortunately, the police did not know that those activities took place. As students we appreciated those cricket nets, something we did not have at our primary schools. The use of the woodwork rooms was another new experience for us. In 1969 I remember going to the school's music room to watch Neil Armstrong land on the moon. In year 9 at Penshurst, I coached the under-11B football team, because no primary teacher was available.

Mr George: They never won a game.

Mr GREENE: The honourable member for Lismore is correct, they did not win a game, but that was a great experience for me. In year 10 I was part of a team that appeared on the television show "It's Academic", hosted by Andrew Harwood. I also participated in "The Naked Face", a play adapted by our English teacher, Brother Brendan, from the book of that name. The play was to be performed on four nights, but it was so successful it ran for an additional season. In year 10, I began to appreciate school and became involved in various organisations including the St Vincent de Paul Society and the school council. As I reflect on my time as a student at Penshurst Marist, I realise that that time was most enjoyable. The principal at the time I commenced at the school was Brother Simon and when I was in my final year there, year 10 in 1974, the principal was Brother John Thompson. He is now the Provincial of the Marist Brothers order.

In 1978 I attended the school's silver jubilee celebrations. At that time I was coaching the under-12 rugby league team, which I am proud to say became the Marist Brothers champions. That year at St Joseph's College, Hunters Hill, my team beat all the other Marist Brothers teams. In 1981, I started casual teaching at the school and in 1982, I was given a year 5 class by Brother Salvius. He was one of the greatest members of the Marist Brothers. For five enjoyable years I taught at Penshurst. I remember organising the school walkathons and coaching rugby league, Australian rules, soccer, athletics, and swimming teams.

A number of the teachers with whom I worked at that time, including Mick Worth, Julie Dechaineux, Wendy Jones and Barry Ford, are still teaching at the school. Barry began teaching at that school when I attended as a year 8 student in 1972. My son, Ben, attended that school. Each year, as a member of the Illawarra Catholic Club, I go to the school to present the Pat Mullane scholarship to a year 10 student. A number of famous people have attended Penshurst Marist. One who springs to mind is Johnny Greaves, the Australian footballer. When the school's athletics records were updated from 100 yards to 100 metres, Johnny Greaves's record for 100 yards was retained as the 100 metres record.

ULLADULLA HIGH SCHOOL

Mr CONSTANCE (Bega) [5.43 p.m.]: I call on the Government to address the significant ongoing problems faced by teachers and students at Ulladulla High School. In doing so, I acknowledge the attendance in the gallery this evening of Patricia White, the President of the Ulladulla High School Parents and Citizens Association, and welcome her to State Parliament. During my inaugural speech I said that education is the silver bullet that lowers unemployment, improves economic growth and engenders social change for the better. I also said that if the direction and ideas on education in New South Wales are coming from the top down, from those who cannot even get the maintenance of buildings right, how can we enthuse the people of New South Wales, and the Bega electorate in particular, to play a pivotal role in improving the quality of their education?

Ulladulla High School was built in 1974. After 28 years it is no longer coping. Currently, 1,180 students attend the school, which was built to house 750 students. The massive growth in the Ulladulla region will continue. We have heard much talk about the Carr Government's stand on public education, but it continues to con the people that everything is all right in public high schools. That is not the case. I have been advised of a number of problems that the Ulladulla High School is facing. The school has 11 demountables, demountable toilets, a music block that has plywood holding the brick walls together, and a tiered learning area that has no foundations. In wet weather the classrooms and hallways are flooded.

Since July 2002 the parents and citizens association has approached the Department of Education and Training on an ongoing basis regarding future plans and proposals for high school education in the Milton and

Ulladulla regions. However, as yet the department has not agreed to a meeting to discuss that problem. I attended the school's speech night and met its wonderful school community. The teachers and parents all want to do their best for their children. I look forward to embarking on a meet the schools program during the Parliament's winter recess. I plan to meet with the principals and teachers of all the schools in my electorate. However, I am disturbed that the last three Labor education Ministers—the Hon. John Aquilina, the Hon. John Watkins and the Hon. Dr Andrew Refshauge—have been approached by parents to visit the school and see its shortfalls at first hand, but they have not taken up that invitation.

I wish the school good luck in getting the current Minister to attend, given that he has not been able to visit schools in his own electorate, let alone schools in country New South Wales. On the other hand, the Federal Minister has visited the school and has written to the State Minister on three occasions in relation to its needs. I seek an assurance from the Minister for Education and Training that he will respond to his Federal counterpart so that the students, the staff and the parents of Ulladulla are treated with the respect that they deserve. Given the state of the school, their concerns should be addressed. On three occasions the Federal Minister has written to the State Minister requesting a revision of the schedule for capital funding through the Commonwealth program so that Ulladulla High School can be put onto the schedule for 2003 and the Commonwealth can provide the necessary funding.

To my knowledge the Federal Minister has not received a response. I hope that the State Minister will show the people of Ulladulla the respect they deserve, put the school on the schedule and ensure that capital funding is made available. The capital projects that are necessary for the Ulladulla High School will then be able to go ahead. I acknowledge the contribution of the teachers and staff at the school, who are working in tough conditions. The media constantly picks up on these issues and presents them to the public. Ulladulla deserves a lot better than it currently is getting from the Carr Labor Government. [*Time expired.*]

ENFIELD INTERMODAL PORT FACILITY PROPOSAL

Mr STEWART (Bankstown—Parliamentary Secretary) [5.48 p.m.]: I raise strong concerns about a proposal by the Sydney Ports Authority to construct an inland intermodal port facility at Enfield, which is in my electorate of Bankstown. Over the past two years I have strongly opposed the proposal because obviously it will have a severe impact on my electorate, particularly on residential, traffic and business amenities. I expressed my concern in the community and I was rewarded by being re-elected as member for Bankstown with nearly 80 per cent of the two-party preferred vote. At the time of the last election one of the significant issues that was being debated was the intermodal freight terminal proposal at Enfield marshalling yards.

Today I strongly reaffirm my opposition to that development proposal in its current form. Thanks to the former Minister for Ports, Carl Scully, the proposal was suspended because of concerns the Minister had about the way in which it would impact on businesses and residential amenities in the area. As a result of the strong representations made by me and the newly elected member for Strathfield, and as a result of community support and support from Bankstown and Strathfield councils, we were able to convince the Minister that this development, which was not needed in our area, should be carefully reviewed. The Minister announced an independent review of the proposal, which was conducted by former Liberal transport Minister, Mr Milton Morris, AO. He conducted a thorough review of the intermodal terminal proposal at Enfield and raised significant concerns about the development. He said in the preamble to his report:

While my report concludes that the scale and traffic impact of Enfield alone make the current proposal unacceptable, these other issues necessitate detailed and urgent attention before progressing any intermodal terminal proposal.

As such, in many ways, this is an interim report. While I provide a clear recommendation that the current Enfield proposal cannot proceed, there is much further work to be done on the intermodal terminal demand and container logistics. I trust that my recommendations will provide some guidance in this regard.

The key recommendations in his report include:

- The current proposal for an intermodal terminal on the Enfield site not proceed.
- That a major reassessment of an intermodal terminal demand and potential sites should be urgently conducted involving all relevant bodies.
- That the Commonwealth Government should immediately release funding to improve freight rail access within the Sydney Metropolitan area and specifically to enable the construction of the Chullora-Macarthur freight line.

Those important issues are being addressed by the new Minister for Transport Services, the Hon. Michael Costa. I have spoken to his office about my concerns and the concerns of my local community about this proposed development. There has been some distortion of the position of the Labor Party. The No Port for Enfield group, or NOPE, as it is known, has good intentions, but it might have distorted some of these issues. The group issued a brochure in my electorate two days before the State election which stated that the Labor Party's position on this development was to stall it but that the Labor Party did not actually state that it opposed it. The local Labor Party strongly opposed this development. I issued no fewer than six press releases strongly opposing it. On 28 June 2002 I issued a press release that was headed "Bankstown MP opposes Enfield Intermodal Freight Terminal." My opposition could not have been any clearer. I stated in that press release:

There are approximately 30,000 local residents that surround the site for this proposed development.

Any development of this scale would have an adverse impact on local amenities. We do not want development of this sort in my electorate. I will continue to fight against it. I ask the Minister to review this issue and I ask all community groups to work together constructively to fight the proposal and obtain the best results for our community.

KU-RING-GAI ELECTORATE BUILDING DEVELOPMENTS

Mr HUMPHERSON (Davidson) [5.53 p.m.]: Tonight I raise concerns expressed by residents in the St Ives area about the proposed development at the Camellia Grove Nursery site, a significant site located at the junction of Mona Vale Road, Killeaton Street and Link Road. The proposed development, which will result in the partial demolition of the existing nursery and the development of a McDonald's and a Boston Market, is viewed with substantial concern by the community. A number of residents have written to council and objected to the development application. I concur with the views they expressed. The proposed development will have a significant and adverse impact on amenities in this residential area.

Development of that site will lead to an increase in the volume of traffic into and out of the area, and that in turn will increase the risk of accidents in the evening. Late night noise levels will also increase. While there are existing traffic movements to and from this nursery it is relatively few in number for a commercial site. Any development of this nursery site, which is located on Mona Vale Road, will include car parking areas and night lights. That will change the ambience of the area. It is no surprise that there has been strong community opposition to this development.

As I said earlier, the noise of traffic flowing into and out of the area will increase and impact on nearby residences, even though the Roads and Traffic Authority has said it will try to control the traffic flow. Several small retail precincts are located along Mona Vale Road, but most of this area is residential development. There are substantial and compelling grounds for council to reject this development application. The Minister must find a long-term solution to this problem. Previous development applications have included a proposal to put a service station on that site. I am sure that development applications will continue to be lodged by prospective developers.

Residential development of some form, probably medium-density development, would be the best option. That would be consistent with development in the area and would comply with Ku-ring-gai council's demands. It would also result in far less traffic movement. One proposal is to close Killeaton Street between Link Road and Mona Vale Road. However, the Roads and Traffic Authority said that would compound some of the problems at the Link Road and Mona Vale Road intersection. Whilst I would like that small section of Killeaton Street to be closed to through traffic, I acknowledge that that would have some adverse consequences. We need to find a long-term solution to this problem. We must continue the battle and object to developments that should be rejected by council. [*Time expired.*]

WYONG SHIRE COUNCIL DEVELOPMENT APPROVALS

Mr CRITTENDEN (Wyang) [5.58 p.m.]: I draw the attention of honourable members to a private member's statement I made on 4 September last year concerning the proposal for a seven-storey high-rise at the corner of Hargraves Street and Fravent Street in Toukley. Honourable members who were in the Chamber on that occasion may recall that 2,300 people from Toukley, Norville and Norah Head objected to the proposed development, which would create a substantial precedent in the Toukley area. They expressed concern mainly about the bulk and scale of the development, as well as its impact on traffic flow. I also pointed out on 4 September that on 8 April 2002 the Wyong Shire Council consulted the local community about planning and

development issues in the Toukley, Noraville and Norah Head areas. Some 120 residents attended the council-organised meeting and, as I understand it, all but three of them made it abundantly clear that they thought anything more than a three-storey development in the Toukley area would be totally inappropriate.

On 4 September I urged the members of Wyong Shire Council to reject the development application in its entirety. Eight councillors heeded my advice but the two Liberal councillors, Councillor Eaton and Councillor Pavier, voted for this obscene seven-storey development. Interestingly, on 12 March 2003 the mayor of Wyong Shire Council moved to change zoning in the Toukley area to medium density. I point out to honourable members that the development application was rejected in November or December 2002, the consultation meeting with the community was held on 8 April 2002 and the mayor of Wyong Shire Council moved on 12 March 2003 to change the zoning to medium density. I support the actions of the mayor and the council in that regard, and I am pleased that support for the rezoning motion was unanimous.

Although I remain concerned about haphazard planning, it is important to note that the council has also initiated a new planning study to update a wide range of planning controls for the areas around Toukley, Canton Beach, Noraville and Norah Head. That study aims to identify traffic management, water quality, coastal protection, flooding, vegetation management, heritage and other local issues. The mayor points out in his letter to ratepayers, of whom I am one, that the study will take up to 12 months to complete and will involve extensive community consultation. There has already been community consultation. I accept that following its resolution of 12 March the council applied to the Department of Urban Affairs and Planning for a section 65 certificate, which was granted on 23 May. The mayor wrote his letter to ratepayers on 14 May.

It is important that the current process does not take another 12 months but is expedited as quickly as possible. The process involves public exhibition and consultation but we must take a holistic approach to all planning and development issues in the Toukley, Noraville and Norah Head areas. I am aware that the council has had a problem retaining urban planners in its employ. I urge the State Government to work with the council—if it is acting in good faith and notwithstanding some tardiness—to expedite the process. The State Government moved expeditiously to issue the section 65 certificate in order to produce a worthwhile result and prevent inappropriate development in the Toukley area. Appropriate development is vital for residents. This study must be undertaken and we must stop haphazard, crazy development on a picturesque part of the Central Coast.

Ms BEAMER (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [6.04 p.m.]: I congratulate the honourable member for Wyong on making representations on behalf of the people of Toukley, Canton Beach, Norah Head, Noraville and, indeed, the entire electorate of Wyong. Development in growing council areas must involve consultation and deliver clear planning outcomes. The honourable member is aware that, after receiving the draft local environmental plan [LEP] for Toukley, the Department of Urban Affairs and Planning issued a section 65 certificate last week. This will allow the LEP to be exhibited to the community and residents will be invited to comment on it.

The aim of the draft LEP is to reduce development in certain areas of Toukley from high to medium density. The honourable member for Wyong has consulted me about this issue on several occasions on behalf of his community. I give him an undertaking that when the LEP returns to my department it will be dealt with expeditiously. I hope that the Wyong Shire Council will play a constructive role and accede to the community's wishes, which will be revealed through public meetings and other consultation. I congratulate the honourable member on his persistence in raising this issue with me. I am pleased that the section 65 certificate was issued. When the consultation period ends council will assess the findings and return it to the department so that the LEP can be put in place.

RURAL FIRES AND ENVIRONMENTAL ASSESSMENT REGULATION COMPLIANCE

Mr J. H. TURNER (Myall Lakes) [6.05 p.m.]: A variety of organisations and individuals in my electorate are concerned about the impact of the Rural Fires and Environmental Assessment Legislation Amendment Act 2002 on many developments in my area, particularly retirement developments. The Act is affecting not only developers but mums and dads. People have come to see me complaining that their land is now worthless because it backs onto a national park. They paid big money for the land to build their dream home but now cannot comply with the regulations that apply because the land is adjacent to a national park. One constituent is building a home at Hallidays Point. Following an assessment of the block next door, which is identical to his land—he describes it as comprising, at best, scattered regrowth or vegetation of a sparse

nature—my constituent is required to undertake a 40-metre clear felling of all vegetation and build his house according to a level three level of construction, which I understand is the highest fire protection standard.

I know the area personally and I am sure that such measures are not required. I am worried that the bureaucrats administering this Act are being overzealous as a result of fire problems in other parts of the State and enforcing too many restrictions and requirements that are not necessary in many applications. I am particularly concerned about those regulations that affect the development of aged care facilities in my electorate. According to the census, my electorate comprises the oldest population in New South Wales. So obviously aged care services are a significant factor, particularly for those who wish to move to the area. Two groups have been affected by the legislation. GLAICA is a community-based, not-for-profit organisation that has been operating a successful aged care facility of 51 beds since 1985.

GLAICA has received funding from the Federal Government to extend its worthwhile facility but the development has been stymied by requirements in the fire protection legislation. It has done everything correctly. It employed consultants in an attempt to comply with the legislation. The land adjacent to the development site, which poses the potential fire risk, is a cemetery and I am amazed that it would be classified as fire-prone land. GLAICA has made an arrangement with the local council that either it or the council will clear the land to a satisfactory standard, but unfortunately it has not been able to proceed with the development to date. GLAICA says that if it loses its bed licences it will have a severe impact.

In other words, they will not be able to proceed and will have to hand back their funding for this project to the Federal Government unless they get a reasonable answer shortly. Previously I have spoken about the problems facing the Myall Lodge Aged Care Facility, which is also affected by this legislation. They have ten aged care units in the Hawks Nest area and have been given Commonwealth Government funding for another 20 units in this high demand area, yet they have now been told that their application to the Rural Fire Service to build in the manner in which they want has been rejected. Other matters in relation to the Coastal Protection Act are outstanding but I will not discuss them because I do not have the time. The Myall Lodge Aged Care Facility wrote to the Minister for the Hunter, Mr Costa in the following terms:

Our plans were for the continuation of a homely type environment with residents coming together for meals, activities and entertainment. The last thing we need is to have two free-standing buildings with elderly residents pushing their walking frames along what would be an inconvenient 25 metre corridor, at least three times a day, creating a "them and us" syndrome.

They are but four cases I have enunciated but I have many more examples in my electorate. The Government must show leadership, bite the bullet, and overcome the problem of the overzealousness and plain impracticality of this legislation.

TRIBUTE TO MR SID HARDING

Mr GAUDRY (Newcastle—Parliamentary Secretary) [6.10 p.m.]: I express my thanks and those of the Labor movement in Newcastle and the northern region of the State for the lifelong commitment of Sid Harding to the improvement of working conditions and the quality of life of the people of this State. Mr Acting-Speaker Mills, you and I were friends of Sid Harding and greatly respect his work as an organiser for the Federated Engine Drivers and Firemens Association [FEDFA], as an executive member of the Newcastle trades Hall Council, as senior Vice-President of the Newcastle Workers Club, and as a lifelong worker for the betterment of the people of this State.

Sid Harding was born in Bruce Street, Cooks Hill, on 15 July 1930 and passed away on Sunday 18 May 2003 after a long and painful struggle with cancer. I and every trade unionist and supporter of the rights of working people in Newcastle have benefited from the work and friendship of Sid Harding. Sid's encouragement and support helped me greatly, as did his willingness to criticise any moves by the Australian Labor Party [ALP] away from its fundamental principles of support for workers.

Sid Harding retired in 1995 after a 20-year career as an elected organiser for the FEDFA, with responsibility for northern New South Wales. He dealt on the job and in the Industrial Commission with a great range of workplace issues facing workers in sugar mills, open-cut mines, construction sites, abattoirs, power stations and dairy factories. On many of those sites his negotiating skills and his ready humour and success in dispute resolution allowed him to recruit workers into joining the FEDFA, and to greatly improve their conditions. At his retirement dinner delegates from Broadwater, Harwood and Condong sugar mills said many words of thanks to Sid Harding, including these:

... as a front man representing the union to the rank and file he would invariably be the first to get any blame and the last to get any credit.

... he earned the respect and goodwill of all he came in contact with.

... the mere mention of his name caused trepidation among management, and often brought hasty and satisfactory resolution to a dispute.

... many a hopeless situation was turned to victory, despite the overwhelming odds of hostile and aggressive management opposition.

... to many he represented the best of our union, and his actions and image did much to influence attitudes of members old and new, for this is clearly reflected by the strong and active commitment of present rank and file towards the concept of unionism; his act will be hard to follow.

Sid's early life was not easy. He lost his father when he was aged two and his mother when he was aged 10. He then lived with his sister and later his older brother through a difficult adolescence. After having worked in a range jobs he took up a position at Cortoulds as a labourer, and then a boiler attendant. He moved from membership of the Federated Ironworkers Association into the FEDFA, and that was the commencement of a lifelong involvement in the trade union movement and a great career as a union organiser. Sid Harding and his wife, Val, formed a very powerful team in the Raymond Terrace branch of the ALP. Their work for the ALP has been recognised by the granting of dual life membership. Sid's life membership of the Newcastle Workers Club and the Newcastle Trades Hall Council indicates the great respect in which Sid Harding was held. One could not have a greater advocate for the betterment of the life of ordinary people.

Sid's commitment was clearly demonstrated when 20,000 people marched in opposition to the war in Iraq. Although he was desperately ill with cancer, Sid insisted on joining us in the solidarity march right to the last moment. My last image of Sid was of my wife, Barbara, and another friend holding him up during the march. I celebrate his life today, as I know you do, Mr Acting-Speaker. I am sure all honourable members of the Labor movement, both the political arm and the trade union arm, respect and honour the name of Sid Harding. *[Time expired.]*

OXLEY HIGHWAY UPGRADE

Mr OAKESHOTT (Port Macquarie) [6.15 p.m.]: Once again I want to talk about the importance of the Oxley highway realignment to the community of Port Macquarie. Today as a result of an update from the Minister's office, the Roads and Traffic Authority [RTA] officials, and my input, I am pleased to say that the matter has progressed rapidly in the past six months. I spoke to the General Manager of Hastings Council today. He is also impressed by the progress and he expressed his goodwill towards the RTA. The several options will go on public exhibition in shopping centres in Port Macquarie, such as Settlement City and Port Central, in the middle of June. The options are mainly three separate routes with some variations combining some of the routes. This is a very important matter, and I take this opportunity to strongly encourage the local community to comment on the options. The RTA will examine the comments made by the public and hopefully the Minister will make an announcement towards the end of the year as to the preferred route selection.

The Oxley Highway is, without doubt, one of the major planning issues for the future of Port Macquarie. The urban growth strategy of Hastings Council is centred around the area where the Oxley Highway currently cuts through from the Pacific Highway. Therefore, there are more broader implications than just a new highway selection at stake, because the future planning of Port Macquarie is dependent on the route selection. There will obviously be environmental impact study issues but hopefully they will be resolved in consultation with organisations such as the National Parks and Wildlife Service and various community groups during the coming year. I hope they will remain good partners in this project and recognise the broader strategic importance of benefits for the Port Macquarie community in resolving this matter.

Currently the Oxley Highway is a goat track which has proven to be particularly dangerous consequent upon the growth in the population of Port Macquarie. There are approximately 9,000 traffic movements a day on the Oxley Highway between the donut and the central business district of Port Macquarie. That is just shy of the traffic movement figures for the Pacific Highway. This is a very busy highway. It was not built for the traffic flows it is carrying at the moment. It is the major gateway to the town of Port Macquarie, which now has the biggest population on the North Coast north of Newcastle. To service that growth we need a dual carriageway that is safe and much quicker than the present road into Port Macquarie. We really are progressing very quickly. This process is real, and it is happening. The Roads and Traffic Authority is getting on with the job. We have just come out of the community consultation stage that led to the preferred options.

Those options will be on public exhibition for only a week from mid-July, so this is but a brief opportunity for the broader community to have their say. I will be putting in a submission once the options are on public display. I stand by my personal preference, which is commitment to the original deviation route. I know the Minister is also interested in that route. I encourage others to put in their choice as well. Hopefully, as many people as possible will stick by the original option. I take this opportunity to put out a call to the local community: keep your eyes open for the Oxley Highway options that will be on public exhibition from the middle of June, and participate in the process. [*Time expired.*]

GLEN INNES CELTIC FESTIVAL

Mr TORBAY (Northern Tablelands) [6.20 p.m.]: Today I want to draw the attention of the House to the Glen Innes Celtic Festival, an example of the determination and commitment of a group of people from a country town and district that has suffered more than its share of difficulties over the years. The Glen Innes and district economy has always been rural based. Fine wool, prime lambs and cattle production have been the mainstay of the area. As we are well aware, the drought, severe bushfires, and the downturn in the rural commodity market have all combined to undermine many rural economies, and Glen Innes and its surrounding district have recently experienced all three at the same time.

A factor in rural districts experiencing decline has been the difficulty of reworking the local economy, finding new industries and markets, and adapting to changes to the traditional way of life. Country people value their traditions, and in Glen Innes, as its name suggests, there is a very strong Celtic tradition which dates back to the original settlers from Scotland, Ireland, England and Wales. In 1991 the local tourism manager, Lex Ritchie, and strong Celtophile John Tregurtha negotiated the right to erect in Glen Innes the Australian Standing Stones as a monument to Celtic settlement in Australia. By 1992 the 38 giant granite monoliths, replicating ancient monuments abroad and marking the solstices, the longest and shortest days of the year, and incorporating the Southern Cross, were in place at Centennial Park overlooking the town. It was opened by the then Governor of New South Wales, Admiral Peter Sinclair, in February of that year to recognise the contribution the Celtic nations have made to building Australia into the nation it is today.

The following year Glen Innes held its first Celtic Festival, and it has been growing every year. In May this year the eleventh festival attracted 4,000 domestic and international visitors, who injected around \$250,000 into the local economy. Accommodation outlets in Glen Innes, Deepwater, Emmaville and Guyra were booked out and many visitors stayed further out in Inverell and Armidale. I have attended the festival every year since I was elected and am such a enthusiastic supporter that they have even suggested that I invent a Torbay tartan or at least get into a kilt for next year's event. During the festival it is hard to find anyone who is not wearing tartan, some of the street signs are now in Gaelic, and people from all over Australia come to celebrate their Celtic family associations.

From an initial local scepticism, this festival now has enormous community support, with volunteers working with great enthusiasm and professionalism to organise and grow the event. Lex Ritchie is still involved as the protocol officer, John Tregurtha is currently chairman of the organising committee, local historian Ian MacDiarmid is a member of the management board, John and Desley Matthews organise many of the events, Merran McLarren is the performance co-ordinator, and tourism officer Wendy Fahey puts in an enormous effort to promote and help with the running of the festival.

The festival has the strong support of the Celtic Council of Australia, whose members from all States attend each year along with representatives from Mosman, which is Glen Innes's sister city. It has the strong support of the Mayor of Glen Innes, Councillor Bob Dwyer, who is also the Chairman of the Standing Stones Management Board, and the Mayor of Severn Shire, Councillor Rob Schroder. Both of those gentlemen participate enthusiastically. As well as the dawn service at the Standing Stones and official dinners and luncheons, there is a poet's breakfast, a grand street parade, concerts, Celtic yard dog trials, Kirking the Tartans at the Standing Stones, and a Scottie dogs picnic. Young people fill the pubs to listen to Celtic rock bands; restaurants and cafes serve special food, and there is Celtic dancing and singing at many venues in the town.

Through this festival, Glen Innes has become to Australia's Celtic population what Tamworth is to country music, with a similar history of growth through the efforts of local people and limited outside funding. It is a credit to the vision, commitment and determination of a small group of enthusiasts who have managed to unify the community behind their efforts. It has enormous potential to grow, and this year the organisers have matched their first funding of \$15,000 from the Department of State and Regional Development to develop marketing possibilities for the town's business community. They are seeking a further \$20,000 of regional

flagship funding from Tourism NSW to promote and grow the festival to its next stage, and a further \$10,000 from the Department of State and Regional Development to fund an assistant to help with co-ordinating next year's event.

The town community has also applied to the Commonwealth Regional Assistance Program for funds for lighting and audio facilities to develop the educational potential of the Standing Stones. All of these applications are fully endorsed by the Celtic Council of Australia, with five members, including Roger Thomas, the convenor of the Celtic Council, making a special visit to Glen Innes late last week to show the Celtic Council's commitment to further enhancing the objective of the Australian Celtic Festival Committee. This is a magnificent event, supported by the New South Wales Government. We would like more support from the Government and the Commonwealth Government for this outstanding event in the Northern Tablelands.

Private members' statements noted.

BILL RETURNED

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

Victims Legislation Amendment Bill

[Mr Acting-Speaker (Mr Mills) left the chair at 6.26 p.m. The House resumed at 7.30 p.m.]

BUSINESS OF THE HOUSE

Inaugural Speeches

Motion by Mr Scully agreed to:

That the business of the House be interrupted to permit the honourable member for South Coast to make her inaugural speech forthwith.

INAUGURAL SPEECHES

Mrs HANCOCK (South Coast) [7.30 p.m.] (Inaugural Speech): Madam Acting-Speaker, fellow members, friends and family: May I first and foremost welcome and thank my friends and family from the South Coast who have travelled such a long way to be part of this auspicious occasion and to join us this evening in the gallery. You have indeed thrown caution to the wind by travelling along the underfunded, neglected and notorious section of the Princes Highway between Milton and Nowra. Your presence for me enhances this occasion, and your friendships have enriched my life.

I address this House as the last of the class of 2003, those 20 or so members from both sides of politics who were newly elected to this Parliament on 22 March. We all assembled here from distant and disparate electorates some weeks ago to undergo our two-day induction seminars: the new kids on the block who, like students beginning high school, were nervous, subdued, eager to learn, careful not to ask stupid questions, in fact careful not to ask any questions.

I think we all felt some sense of camaraderie despite our different political backgrounds, and many of us began friendships that would cross party lines. We learned about setting up offices, hiring staff, allowances, procedures, and this place. We lunched together, were photographed together, chatted together, dined together, and swapped stories about the areas we represent. We were united in ways that we had never imagined. But, sadly, we would all in this place become opponents in the gladiatorial game called democracy.

The first week in Parliament saddened me immensely. There we were, the class of 2003 who had come together in those first days united by our pride in our election success, our unswerving commitment to our electorates, and our enthusiasm, and in the knowledge that our lives henceforth would be forever changed. My sadness deepened as the realisation hit home that the things that inextricably united us in those first few days together would make way for the more ephemeral things that would forever divide us. We would be divided by our parties, by this table, and by the system which, by definition, pits party against party and requires us to partake in abusive dialogue, to speak when opponents are speaking and to hurl abuse across this table at each other. In the words of an unremarkable and entirely forgettable man, Kelvin Throop, "If people behaved like governments, you'd call the cops."

In that first week I felt I had made a wrong decision. I could not cope with the discordant sounds of our political institutions clanging against each other. Those bitter sounds of democracy at work dismayed and disturbed me. An overwhelming sense of isolation and loneliness hit me hard, but that was, in hindsight, part of a normal process of adjustment. I listened in awe and admiration to many of the inaugural speeches from the class of 2003. We had been given no particular guidelines for these addresses, except, perhaps, that we should not make personal or critical comments about individuals from opposing benches, nor should we use this opportunity to criticise the current Government. I quite early dismissed the notion of criticising the Government. After all, the severe time limitation of 20 minutes would be grossly inadequate for such a feat.

But the class of 2003 shone brightly in their first speeches here. From both sides we listened to the stories of our varying campaign experiences, the journeys that led us to this place, and the unbelievable lives of many that had culminated in this humbling experience. Virginia Judge spoke dramatically about her long-term quest to arrive here. Linda Burney spoke proudly about the people she represents, and I shared her obvious joy in being the first indigenous person to be elected to the New South Wales Parliament. Who could forget Steve Cansdell, the artist on the canvas, or Gladys Berejiklian, the new member for Willoughby obsessed with a margin of 144 votes, who struck us all with her intelligent understanding of all things economic. I have found in Gladys, despite the differences in our ages, a friend and a person of shared beliefs.

Last week we heard from my friend Andrew Constance, the boy from Bega, who, like me, had experienced not only a bitter preselection but also an equally challenging campaign, overcoming the odds to be the youngest member of the class of 2003 and a man who will, I know, devote himself to the people of the Bega electorate. Then Greg Aplin exploded onto this stage with a brilliant inaugural address. He was followed by Steven Pringle, who stunned us all with his passionate and dramatic performance. The class of 2003 will make their mark in this Parliament and in this place. Tonight, as part of my inaugural address, I would like, in this limited time, to pay tribute to them all and express my wish that the sense of camaraderie that united us all in those first few days will in some way endure and unite us in our future quests.

Now it is my turn to tell my story. Shelley Hancock, the member for South Coast—it sounds good—described in the *Sydney Morning Herald* as the lone Liberal who pierced Labor's armour, an unlikely hero. My life compared to others has been singularly unremarkable. I grew up in Chatswood on Sydney's leafy North Shore. But my father and mother instilled in me that my address made me no better or worse than anyone else. They taught me to hate prejudice and intolerance, and above all else to value education. My dad had grown up in a working-class background in Maroubra, leaving school early to work in a bank to support his single mum and two sisters. He studied at night to gain his law degree, and entered the legal profession, where he remained until shortly before his death some 20 years ago. My mum also emerged from a working-class background in Carlisle, England. Mum and dad's relationship was one of those Hollywood-style wartime romances begun when dad was on leave from the RAAF during World War II.

My sister and I were the luckiest of children, growing up in the happiest of homes where our parents never fought. They loved each other deeply until they were parted by dad's death. Everything I am I owe to them, two wise and immensely clever people. I attended Chatswood Primary School and was selected to attend the OC class at Artarmon Primary School. Following this were six immensely rewarding years at North Sydney Girls High School, a selective high school then and now that instilled in its female students the belief that we can aspire to anything, and we did. I was a somewhat cheeky and overly garrulous student—surprise, surprise—with no particular ambitions. I stumbled into an Arts Degree at the University of Sydney because it seemed like a good idea at the time. I then stumbled into a teaching career, which also seemed like a good option at the time.

Surprisingly enough, teaching would be an immensely rewarding and enjoyable career for me. I seem to possess a natural affinity with students and an ability to pierce the often impenetrable exterior of that most feared group of people, adolescents. My experiences at Ulladulla High School provided me with joy, tears, and rewards beyond bounds. They are fantastic kids, and to this day the staff are devoted to them and to our community—a staff like so many others in schools throughout New South Wales, giving so much more than most people realise. Lorraine Robertson joins us tonight in the gallery. She is one of the best staff members and teachers I have ever known, and a long-time colleague and friend. It is my commitment to the teachers of New South Wales that has in so many ways led me to this place. For them I will always be a strong voice and supporter.

Without doubt, though, my greatest achievements and the greatest joys of my life have been my three children. My son, David, now 24, possesses a wonderful, caring nature. My two beautiful feisty daughters, Kate and Rachel, are both currently studying at the University of Wollongong. Motherhood convinced me that mine

is the privileged gender. Motherhood for me was happiness beyond bounds. I thank my great kids and my husband, Ossie, for their love and absolute acceptance of my recent aspirations to contest the seat of the South Coast and for their encouragement to do so.

While I could never have left my children when they were little to take on this challenge, I do so now, assured that they have almost broken free from my apron strings—something that saddens me more than it saddens them. Life for us will never be the same. The lives of my husband and my son, David, at home in Mollymook have already changed. In my absence they have taken on the intellectually challenging tasks of loading the washing machine, they have learnt to remember garbage nights and, to my absolute amazement, they do the shopping. In the first two weeks of Parliament I stocked the refrigerator with the usual meat, vegetables and fruit, et cetera, but after two days when the food had gone, David and Ossie decided to do the shopping—a new experience for them, which resulted in a fridge well stocked with several varieties of beer.

My campaign to win the seat of the South Coast from the Labor incumbent began some seven months ago. I was still teaching and in my fifteenth year as a councillor on Shoalhaven City Council, and I had not even contemplated the challenge of State politics. But for a number of reasons, I did—and of course the rest is history. I had lived in Milton since my marriage. My children were born in the Milton hospital and they are part of a fortunate group of children who grew up in the most beautiful electorate in this State, the South Coast. The electorate stretches from Nowra-Bombaderry in the north to Mollymook and Milton in the south, and encompasses some of the most breathtaking areas one could ever see, including perhaps the jewel in its crown—Jervis Bay. With undulating, seemingly evergreen rural landscapes, magnificent beaches with the whitest sands in the world, coastal villages and towns each with its own character as well as charm and history, we have it all.

The South Coast electorate is entirely within the local government area of Shoalhaven City and also entirely within the Federal electorate of Gilmore. The overwhelming natural beauty of this area attracts thousands of tourists each year. We gladly share our rivers, lakes, beaches, attractions, walking trails, festivals, with the visitors. Of course, tourism is the lifeblood industry of the South Coast. However, we also have myriad other successful businesses and industries, large and small, which continue to grow and prosper. Development pressure in this electorate will continue to be an issue for all of us, and getting the balance right between the need to grow and the protection of our environment remains the great challenge in this area for leaders of all tiers of government.

So far we have done well. But it is the people of the South Coast who make it the place I doubt that I shall ever leave. They are people who have moved there to retire, or who were born there, or who have made it their workplace, or who have come to join the numbers of defence forces personnel who are stationed at HMAS *Albatross* and HMAS *Creswell*. Nowra, the largest town in the electorate, is often referred to as a defence town. Joanna Gash and I are proud of that title and of the young men and women of the defence forces.

The people of the South Coast are not particularly well off, but they devote themselves to helping those who are less well off. A list of our voluntary associations would be too long to mention here, but every day our volunteers are either fighting fires, undertaking marine rescues, helping in emergency incidents, delivering meals to others, raising funds for facilities that governments will not provide, and sitting by the bedside of people who are sick or dying. Our people and our citizens are simply the best. I am so humbled and so proud to represent them. I met many of them while doorknocking during those interminable and insufferably hot days last summer. [*Extension of time agreed to.*]

Patricia White, my friend and campaign secretary, joined me every day throughout the whole campaign. We had some laughs and some tears, and it was Patricia who so often kept me going. She joins us this evening. I thank her very much for her companionship, her advice and her help. She is one in a million. Patricia will be elected as a councillor of the Shoalhaven City Council in March next year. She will take my place—just mark my words. Another lady who is truly one in a million and who is here as a surprise for me tonight is Joanna Gash. She is simply one of the best people I know. She has set the bar at an almost unattainable height for all of us who wish to truly represent our people in the best way possible.

Jo also joined me on the doorknocking trail on a hideously hot day just before Christmas. When we met up after a couple of hours of doorknocking torture, Jo was breathless, red-faced and obviously ill. I remember praying very hard that day, "Oh please God, don't take her now. Her supporters will string me up somewhere! Please God, don't take her now. She will only cause you trouble up there." But she bounced back and was ready for action shortly after. That is Jo Gash: She never stops, and just keeping up with her will be the greatest of all my future challenges. Joining me also to meet and greet the people of the South Coast were Jillian Skinner,

Michael Gallacher, Michael Richardson, Patricia Forsythe, Peter Debnam, Senator John Tierney, John Turner, Lexie Meyer, Brad Hazzard, Chris Hartcher, George Souris, Don Harwin, the Women's Council members, the shadow Cabinet, the tireless Young Liberals and, of course, John Brogden and his beautiful wife, Lucy.

I thank very much all of them and the polling workers, the booth workers—everyone—for their immeasurable contributions to my campaign. I had the very, very best people working to wrest the seat back from Labor, including David Smith, my campaign manager who joins us this evening. I thank him as well as David Gray, Bruce Davis, Carl St Leon, who is one of the cleverest young men I have ever met, and of course Gareth Ward, who taught me a great deal about this system and this place. There is not much that Gareth does not know about politics, or any other subject for that matter—according to him, at least. I thank also Faye Lawrence, Margaret Hoschke, Josi Young, Sandy Smith, Noeline Melville, Helene Murphy, Jan Natt and Mary Reeves, who all made me believe that I could do this, which meant so much to me. I thank also everybody who worked so hard on my behalf. This has been the sweetest of victories. I offer my thanks to all of them and those I could not have named. We did it! We won! Against the odds, we won!

In conclusion, there are three men to whom most particularly I attribute this glorious victory—three exceptional men, without whose inspiration and motivation I would most certainly not be standing here tonight. For the benefit of those who apparently read inaugural addresses after members of Parliament die, they will need to know, if they are reading this after I am in the grave, that these men were my heroes: John Brogden, Don Harwin and Frank Cowling, my dad. I saw John Brogden for the first time on television shortly after he was elected as the New South Wales Liberal Party Leader in March last year. My husband, Ossie, and I were simply struck with his remarkable eloquence, charisma and warmth—as well as his good looks, of course. He is a remarkable man who possesses a triple-X factor—a man who relates to people, to whom people instantly warm and to whom people are instantly drawn. John drew me to the New South Wales Liberal Party. Over the next four years he will continue to draw others. And he will sweep away the old and the arrogant, just wait and see.

I have said much about Don Harwin and tonight I must say more. I know that I would not have won the seat without him. He is an incredibly intelligent and sensitive man whose friendship I will always value. I learnt so much from him. The Liberal Party should treasure him for his commitment to all of us and for his unbelievable knowledge of all things political. I have spoken before of the tragedy of there being only one Don Harwin—but then he is one of a kind. I thank him for putting up with me and for guiding my campaign to victory. He is simply the best.

Finally my thoughts are with my dad, who is not here tonight. He passed away 20 years ago and, sadly, did not see his grandchildren grow up, nor could he share in this special night. But there would have been no prouder person watching from the gallery this evening. Maybe from some higher place he is looking down. My dad was not only the greatest man I have ever known, but also the man who somewhere throughout my life must have planted the Liberal seed. He worshipped at the altar of Sir Robert Menzies and could quote him verbatim—which bored my sister and me on most occasions. Dad and I argued very little, except perhaps about trade unionism.

But in our home, one did not mention the Labor Party, except in quiet, derogatory terms. The saddest I ever saw my Dad was the day when Bob Hawke was first elected to power. He just said very quietly to my mother, "Well, Betty, that's the end of the country", to which Mum, in her usual comforting way, replied, "Come on, Frank, it can't be that bad." He replied, and he was never rude to Mum, "Betty, don't talk nonsense." If Dad is watching, I want to say to him, "Dad, I am now a member of the Liberal Party that you loved so much and the State MP for the South Coast. Ain't that something! I will do my very best in this new role, as you always taught me to do, and I will do that in your memory." I thank everyone.

Madam ACTING-SPEAKER (Ms Andrews): I congratulate the honourable member for South Coast on her inaugural speech and welcome her as member of the class of 2003.

DEATH OF MR JAMES ARTHUR CLOUGH, A FORMER MINISTER OF THE CROWN

Mr SCULLY (Smithfield—Minister for Roads, and Minister for Housing), on behalf of Mr Carr [7.53 p.m.]: I move:

That this House extends to Mrs Clough and family the deep sympathy of members of the Legislative Assembly in the loss sustained by the death on 20 May 2003 of James Arthur Clough, a former Minister of the Crown.

I was saddened when I heard of the death of Jim Clough, despite the fact that he lived to 86 years of age. He was not from our side of politics and I did not personally know him, but I can say that he was a hard-working member for Eastwood. Some of my colleagues on the other side of the House may know that for a short period I lived in Eastwood. Whilst living in that electorate I did not vote for Jim Clough but as a member of Young Labor during the 1981 election I handed out how-to-votes, trying to impress everyone that I was fighting the faith. I was particularly impressed with a poster of a very young, Paul Newman look-alike Liberal candidate. I thought: No wonder this character keeps winning, with those ruddy, handsome good looks. However, I recall an occasion when this old bloke got out of a car, wandered up and said, "Good morning, how do you do. I am the member for Eastwood."

I remember thinking that the photo with which I was most impressed must have been taken 35 years earlier. I have a lasting memory of the contrast between the real man and the photograph. I have never known of the practice of members on either side of the House using early photographs of themselves to put on posters! Certainly, I have never done that. In the short time I was in Eastwood, Jim Clough was spoken of highly as a very hard-working and effective member of Parliament. He was a member of this House for a sustained period. I believe he was the uncle of Mick Clough, a Labor member who drove those of us on this side of the House nuts. If Jim Clough were as much a menace to Coalition Ministers as Mick Clough was to Ministers on this side of the House, he would have been a very effective member of Parliament indeed. Our thoughts are with the Clough family during this difficult time. Jim was well regarded. I am not sure how many of the present members knew Jim personally, but I pass on the best wishes of all members of the Legislative Assembly to his family, who are present in the gallery tonight.

Mr BROGDEN (Pittwater—Leader of the Opposition) [7.56 p.m.]: On behalf of the Opposition, and particularly the New South Wales Parliamentary Liberal Party, I extend to Jim Clough's family, many of whom are gathered in the gallery this evening, sincere condolences. I take the opportunity tonight to pay tribute to the late Jim Clough. Jim was the member for Parramatta from 1956 to 1959 and the member for Eastwood from 1965 to 1988. In total, he was a member of this House for 26 years. He joined the Liberal Party for its first ever Federal campaign in 1946 and was a member of the party until the day he died. He was a member of the party from the time Bob Menzies was an Opposition leader right through to John Howard's prime ministership.

Mr Clough was part of a generation that we will not see again in this House—men who lived and worked through the Depression, lived and fought through the war and went on to serve their communities in Parliament. For me, as a younger member of Parliament and someone who has a great interest in Australia's history through the Depression—and especially that of my own family during that time—those events were a generation ago. I am sure Jim Clough would have agreed that we will never again see such times. We are certainly pleased that we will never live through such a level of depression, suffer such a war or see our young men fight and die off our shores in such numbers for such a purpose.

Jim Clough served in this Parliament after a very interesting political apprenticeship. It might surprise some members of both sides of Parliament that Jim Clough's first reported political involvement was as a 14-year-old chairing a public meeting supporting an independent candidate for Inverell in 1930. To give a sense of Jim Clough's history and involvement in New South Wales politics and its extension into the far reaches of time, that election saw Jack Lang returned as New South Wales Premier. Fortunately for New South Wales and the Liberal Party that flirtation with independent politics was just a passing teenage fad. As a young man, Jim Clough went out during the 1930s looking for work. Jim travelled and worked through the northern districts of New South Wales as a station hand and in shearing sheds.

Like so many of his generation Jim joined up in 1939 and served with the Australian Imperial Force [AIF] until 1943. He retired from active service as a regimental sergeant major [RSM]. Two of those years in the AIF he spent overseas. In 1945, the year the Second World War ended, he married Patricia. They were married for 58 years and had eight children—a remarkable achievement. Being part of such a distinguished generation that contributed so much to our State and to our nation, Jim Clough was always known to people of my generation, particularly in the Young Liberal movement as I was then, as Mr Clough. Mr Clough always carried himself with great dignity and grace that commanded respect. He also represented values that so often seem lost today. I want to highlight just one, and that is the loyalty he gave to the Liberal Party.

It is a modern phenomena on both sides of politics that people walk away from their party, or indeed active involvement in the community, when things in political life do not go the way they would like when they leave public life. When Jim Clough left Parliament after 26 years in this place he did neither, and he stayed an

active member of the Liberal Party and his community. Indeed, as I am sure the honourable member for Epping will detail in his presentation to the Parliament, he was a man for whom this party had the highest respect. The statistics say it all: 26 years a member of Parliament; 57 years a member of the Liberal Party; 58 years a devoted husband and later a father. He was loyal through good times, but tested and true through tough times when loyalty really does matter. That says to me a great deal about the man, his values and what he represented. The Liberal Party here in New South Wales, the people of New South Wales and, in particular, I am sure, the people of his former electorates of Eastwood and Parramatta recognise that we have lost a great servant in Jim Clough. On behalf of the Liberal Party I extend my condolences to Mrs Clough and the Clough family.

Mr STONER (Oxley—Leader of the National Party) [8.01 p.m.]: On behalf of the National Party I extend our sympathies to the family and friends of the late Jim Clough, the Liberal Party member for Parramatta and then Eastwood from 1956 to 1988. Jim Clough was a long-time friend to the old Country Party, himself having been born in Warialda in 1916, the son of a station overseer. He worked as a station hand in the northern districts and learned at first hand the vagaries of life on the land, the sequence of fire, drought and flood. It was here in 1930 that Jim Clough, aged 14, had his first taste of politics at street level when he chaired a meeting for an Independent candidate in the main street of Inverell. His candidate did not succeed in the election, which returned Jack Lang as Premier of New South Wales.

It was Jim's experience of rural hardships in his youth that drew him into many long conversations with his friends in the Country Party here in Parliament House, or rather the old Parliament House on this site. To better his lot, Jim Clough took up a position in a Warialda store and was then promoted to a relief manager with McIlwraiths store in Sydney. He studied accountancy by correspondence to further improve his talents but then went off to war with the Second AIF from 1939 to 1943, serving with the 2nd/1st Battalion in North Africa, Syria and Palestine, reaching the rank of regimental sergeant-major. After the war, Jim Clough worked as a trainee accountant, at the beginning of a period of advancement during which he became a Fellow of the Taxation Institute of Australia, a Fellow of the Australian Institute of Management and a Fellow of the Commercial Education Society of Australia—a long way from being a station hand at Warialda.

His political life began in 1956 when he won the seat of Parramatta for the Liberal Party. Jim Clough was Parliamentary Secretary to the Premier in the Lewis-Cutler Government in 1975 and 1976. He was appointed Minister for Youth, Ethnic and Community Affairs in January 1976 in the Willis-Punch Coalition Government but his tenure was cut short when that Government lasted only four months. In later years Jim Clough was shadow Minister for Finance, shadow Minister for Health, Secretary to the shadow Cabinet, shadow Minister for Police and Emergency Services and Assistant to the shadow Treasurer, Nick Greiner. Jim Clough married Patricia McNamara in Sydney in 1945, a marriage that produced five daughters and three sons. As a confirmed family man with six of my own, I share that family background with Jim. The members of the National Party extend their sincere sympathies to the family and friends of the late Jim Clough, very much a son of the soil.

Mr TINK (Epping) [8.05 p.m.]: I would very much like to extend my condolences to the Clough family on the passing of Jim. He became well known to me as I moved to enter the Parliament. It is fair to say that my early days coming here were not easy, but Jim, without fail, showed me the greatest courtesy and respect. He was always a thorough gentleman and a very strong supporter of the Liberal Party. As time went on, we grew into a friendship and I came to value his advice. There are a number of occasions on which I specifically sought him out to get his advice and I was always very grateful for it.

Jim was extraordinary in many ways. He may have been the first Catholic member of Parliament for the Liberal Party. He was certainly one of its very early Catholic members of Parliament. In those days that was quite an achievement. Interestingly, since 1983 I believe that every leader of the Liberal Party in this Chamber has been a Catholic. But in the days when Jim first became a member of Parliament that was a matter of some note. He was a very strong and highly regarded member of the church and a Catholic leader. Monsignor Rayner said at his funeral Mass last week that Jim's was a great Catholic life. I think that is the case and sums up Jim very well indeed.

I would specifically like to mention a couple of other matters. Previous speakers have referred to Jim's war service. He was a member of the 2nd/1st Battalion. Perhaps that is not well understood these days, and I admit that I had to do some research on this matter. That means he was in the Second AIF and in the first battalion raised. He was one of the very first Australians to go overseas in the Second World War. I am indebted to Mick Lardelli, who holds the record as the longest serving mayor of Ryde, for this information. Mick went overseas in the 2nd/1st Field Regiment. He and Jim went over on the same ship, the *Orford*, I am told, leaving Sydney on 10 January 1940.

When we remember that the war began in September 1939 and there was that phoney war period of a couple of months when nothing much seemed to happen, that was the very first embarkation. According to Mick, they landed at El Kantana in the Suez in early 1940, within a couple of weeks went by rail from Palestine and, as the Leader of the National Party said, served with great distinction in the Middle East thereafter. According to Mick, at a recent Anzac Day service, an informal roll call was made of the people left from those early days of the Second World War and they are down to the teens. There are very few servicemen left from the time he went over on the first ship.

As has already been said, Jim served on Baulkham Hills council. Bernie Mullane, a great friend of my father when he practised medicine in Castle Hill, was at the service the other day. Bernie, who was a longstanding member and the longest serving president of Baulkham Hills shire, also had great respect for Jim at a local government level. Jim served in the Parliament from 1956 to 1959 and then was re-elected in 1965. I read the speech he made on 31 August 1965. When he was about halfway through his speech just before the dinner break there was an interjection from R. J. Kelly. Jim was not extended the usual courtesy because he had already been in the place once and returned in 1965. From what I can tell from *Hansard* it was business as usual. Kelly interjected quickly and said:

You have won once in eight starts.

Mr Clough said:

I assure the honourable member that from now on it will be the other way round.

Indeed, it was, when one looks at Jim's Parliamentary record. He was elected on 3 March 1956, and was re-elected on 1 May 1965, 24 February 1968, 13 February 1971, 17 November 1973, 1 May 1976, 7 October 1978, 19 September 1981 and 24 March 1984—eight elections. I do not know what Mr Kelly did to Jim but in line with the interjection Jim had exactly eight starts from 1965. As the member who succeeded Jim, I learned about the high esteem in which Jim was held and the great respect that his community gave him. And it was more than that, because for many years he continued to be involved in a number of local organisations. He was the president of the Epping district scouts for many years, and I remember going to their annual general meetings. As Jim was a very senior and well-experienced accountant there were always some probing questions about the state of the accounts at those annual general meetings.

Many of us are honorary members of Rotary, but Jim was a very active member and turned up at most meetings. At his funeral I was interested to see a strong contingent of people from the Epping Rotary club in attendance. Jim was a fantastic supporter of the Eastwood Rugby Union Club and a senior office bearer. For those in the Eastwood area one of the best days of our lives was 1999 when the club finally won a premiership after many, many years. Tony would know about that, he is at most of their matches. I remember that Jim would sit towards the front of the stand on the aluminium seats, usually with Jim Millner, the son of T.G. Millner, who was a legend around the place. With them was Major General Pearson. The three of them would watch the rugby.

In a funny way our careers have run in a strange parallel. We share the same birthday, 13 July; we have both been shadow Minister for Police; we have both been chairman of the Public Accounts Committee; and we have both been Parliamentary Secretary to the Premier. However, as Pat would know, there have been only three members for Eastwood and only one became a Minister. The first was Eric Hearnshaw, and he was the member for a long time. Then I admit to a fair stretch, and Jim was in the middle. Jim became a Minister, the only member for Eastwood to do that. I do not know what Don Harwin has in mind for the next redistribution, but I suspect it is not to recreate Eastwood. That has been and gone, and something that Jim can have on his own, and good on him for that.

As I get a little older I tend to judge people by looking at their families and staff. For me, my family has become most important. One of the most outstanding things about Jim is his family. It was extraordinary that all of them were at the service last week, and many of them had travelled long distances to be there. To gauge what this man was all about, it was obviously about people and they were all at the service. I say to Tony, you did him proud in what you said in the eulogy. At times it was humorous, at times it was reflective, at times it was deferential—your superb effort said everything. I have done that myself, and I know that it is one of the hardest jobs any child could be called upon to do. But Tony, you were superb, and you represented the family fantastically well.

I can find out a lot about a person through their staff. Jim retained his staff and was very close to them. I know that, because my electorate secretary, Margaret Zappala, was Jim's electorate secretary. She must be one

of the longest serving staff members for any member of Parliament. I think Margaret first worked for Jim in his accounting practice and worked for him in the electorate office when she was able to. Margaret has been working since 1976, and came to work for me after Jim retired. Margaret reflects the sort of man that Jim was. I have a continuing understanding of that through the work I do with Margaret. However, it is a bit hard to get her to adopt my way of doing things. She has a quaint way of replying to constituents, along the lines of, "It is this day advised that I have made representations on your behalf to the Minister." I have tried to modernise her a bit, but I cannot. She is set in her ways. She has marvellous qualities and was so well trained by Jim that I will never let her go. I extend to Pat my sincere condolences on Jim's passing. It has been marvellous to know him, and to know you. You and the family will remain very much loved and respected around the Eastwood and Epping areas.

Mr ARMSTRONG (Lachlan) [8.16 p.m.]: I speak on this condolence motion as one of the few members who served in Parliament with the late Jim Clough. At the outset I extend my deepest sympathy to his widow and family on his death. We have heard from the Leader of Government Business, the Leader of the Opposition and others that Jim Clough had a very colourful and demonstrative record of service to the people on the land, where he started his career; and in the defence of the country, where he finished up as a regimental sergeant major [RSM]—and regimental sergeant majors are legends in themselves. Many a book has been written about the role of the RSM, particularly in World War II. Jim was then elected by his peers to serve in this, the oldest working Parliament in the Commonwealth, and he rose to one of the highest offices, that of Minister. As of tonight there have been less than 500 ministers in the service of the State of New South Wales. It is no mean achievement to attain that honour.

His greatest achievement was that he was happily married to the same woman and she bore him eight very happy children. In this day and age that is somewhat of an achievement, and a great example. When one reflects on one's personal life and on one's friends and associates, one can appreciate that good health and happiness are the most two important ingredients in life, even more than becoming a Minister or an RSM. Jim Clough certainly was the epitome of a healthy and happy family man. I remember well when I came to this place and met Jim; he was quite a big man, with a strong jaw. He always had an opinion, particularly in the party room, and never backed off from an argument. He did not look for an argument, but if one came his way he was quite happy to match it any time, anywhere. One knew exactly where one stood with Jim; there was no second-guessing him. What he said, he meant, and he carried through.

Jim was an achiever, as demonstrated by the list of societies that he belonged to. He was a certified practising accountant and a Fellow of the Australian Society of Accountants, a Fellow of the Taxation Institute of Australia, a Fellow of the Australian Institute of Management, and a Fellow of the Commercial Education Society of Australia. His social life was full. He was a member of the Red Shield Appeals Committee, the New South Wales Art Gallery Society, the Australian-American Association, the Sydney Club, the Sydney Catholic Club, the Epping RSL Club, the Epping Rotary Club, member and patron of the Eastwood RSL Sub-branch and a member of the Oatlands Golf Club—something after my own heart. He was a member of the Lavalla Bowling Club and the Eastwood Bowling Club and was an active vice-president of the Eastwood Rugby Union Club.

Jim also travelled quite widely—to Malaysia, Japan, China, the United Kingdom, Europe, Canada, the United States of America and the Middle East. It is not unusual today to have in one's curriculum the statement that one has travelled widely, but it was unusual in those days. Thirty years ago travel was still relatively novel. The average person did not travel very much, in particular, station hands who were born in northern New South Wales. My career was somewhat similar to the career of Jim. I spent my early years as a rouseabout in shearing sheds and then as a wool classer, so I know that Jim's rise to stardom was not without the odd bruise.

I suspect that, when Jim started working, he would have been earning about \$1 a week, plus tucker. He would have had to supply his own blankets but he would have been given a chaff bag, which he would have had to fill with straw and that would have served as his mattress on the regulation iron stretcher provided in the shearers' hut. If he was lucky his hut would have had solid walls and not upright slabs. At Emmaville and places in New England the wind used to blow in through the gaps in those slabs. After looking at the parliamentary record I established that Jim spoke often and well on many subjects. Whenever the opportunity arose Jim used to speak in debate on the Necropolis Act; he was a great expert on it. Jim had a great friend in Fred Caterson. Jim and Fred, who were elected as members of Parliament at about the same time, had many common interests.

When the Parliament was debating any issue relating to the Necropolis Act no-one dared to cross them. Jim would lead in debate and Fred would back him. Jim's contribution to debate on that Act was significant. I have often said in this place that one of the greatest honours in life is to be respected by one's peers. Jim was

always respected by his peers. If he had not been respected he would not have been appointed to so many bodies nor would he have been appointed to the position of RSM during World War II, let alone making it through the Liberal Party ranks. After World War II there was fierce competition, with all those men coming back from military service and seeking to establish themselves professionally and in the political sphere.

Jim, who was determined, tough, highly intelligent and focused, attracted the support of his peers throughout his life. That is why I say tonight without hesitation that I admired Jim Clough. When I was elected in my forties as a member of Parliament, Jim was a good role model on which to fashion my early career. I recognise the contribution he made to New South Wales, to the parliamentary system and to the good governance of this State. I express deep sympathy to his family.

Mr RICHARDSON (The Hills) [8.24 p.m.]: I join other honourable members in expressing condolences to the family of the late Jim Clough. When I first joined the Liberal Party in 1975 Jim was my local member. I was one of those people who was recruited by Gough Whitlam—good days for the Liberal Party. Jim and I enjoyed some quite spirited discussions about what we believed Gough had done to the country. At the end of 1975 Malcolm Fraser had that landslide election when Labor was swept away. In 1976, very soon after that, the Willis Government lost power in New South Wales. In 1978 we had the Wran slide, just after Malcolm Fraser won his second huge victory in Canberra.

I was a member of the Marsfield branch. The booths in Marsfield were swinging booths; they went with whichever side won government. In those days there were enormous swings one way or the other and we could actually tell how the election was going on the basis of the results in those booths. Jim stuck it out through thick and thin—through good times and bad. He never lost his nerve. That is a characteristic of the man as I knew him. We heard earlier about Jim's military experience. I was not aware, until I was given some notes earlier, that Jim chaired his first political meeting at the age of 14. He was really keen. I did not come to the conclusion that the Liberal Party was for me until I was in my twenties, but Jim stuck to his guns from an early age.

In 1945 Jim married Pat. That marriage, which lasted 58 years, was one of the great marriages. My wife, Cherry, and I have always admired Pat for the terrific effort that she made over a long period on behalf of the people of Eastwood, her family and the Liberal Party. Jim had a long and distinguished parliamentary career spanning 26 years. He contested the Federal seat of Reid unsuccessfully in 1949 and 1951 but he struck gold in 1956 when he became member for Parramatta. In those days the seat was much bigger than it is now—it extended through to Kellyville, which is in the electorate of The Hills, and to Kenthurst.

In 1956, Jim, in his maiden speech took the fight to the then Cahill Government over issues such as the need for a major teaching hospital at Parramatta—which came in the shape of Westmead 19 years later; the Cumberland County Scheme that was then nearing its death throes; the lack of town water in Kellyville, Rouse Hill and Kenthurst, problems that we have fixed; and traffic congestion in Parramatta town centre. I do not think that the latter problem has been addressed. One unusual thing that Jim pursued was the notion that some employers were spending such an excessive amount of money on high-class, opulent, working places with tiled bathrooms and perfumed toilets that it was causing workers to eschew the environment of their substandard homes and repair to the pub. That, thundered Jim, was "to the ultimate moral and financial detriment of employees".

One thing of which we could never accuse Jim Clough was understating a case. He was also concerned that shorter working hours would create problems because people "were far from competent in their use of leisure". The same thing could never be said of Jim. We heard about his activities outside this Parliament. Various, he was a member of the Red Shield Appeal Committee, the New South Wales Art Gallery Society, director of the Hospitals Contribution Fund, director of Parramatta District Hospital, councillor of Macquarie University, member of Epping Rotary and countless other community organisations, with whom he continued after he left this place. Despite his concerns for the moral and financial wellbeing of his constituents, Jim was defeated in the February 1959 election, bloody but not bowed.

He contested the local government elections, won at those elections, and became a councillor on Baulkham Hills Shire Council—a position he held until 1965 when he came back into this place as member for Eastwood. Jim was certainly a man of strong conviction, a man who had passionate Christian beliefs—he was a practising Catholic, as we know. His closest friend in this place was Fred Catterson who was member for The Hills from 1976 to 1990. I left the Eastwood area and joined Castle Hill branch, where my father was president, but through Fred and also through the State council of the Liberal Party I kept up with what Jim was doing, how

he was going and how things were going for him. During much of the time that I was most closely associated with Jim, as a member of the Marsfield branch of the Liberal Party and subsequently president of the Marsfield branch, Jim was a frontbencher.

He was made Minister for Youth, Ethnic and Community Affairs under Eric Willis in 1976; he was shadow Minister for finance from December 1977 to October 1978, which made a degree of sense, given his accountancy qualifications, as did his chairmanship of the Public Accounts Committee between 1968 and 1975. He became shadow Minister for Health under John Mason until July 1980 when Bruce Macdonald was elected leader. He was shadow Minister for Police and Emergency Services in 1983 and 1984. Jim was a forthright man—as those who knew him and saw him in action would know—and he certainly was not scared to get stuck into the Labor Party. He always saw the Labor Party as the enemy, as I suppose those of us on this side of the House do—but perhaps not always in the same forthright manner as Jim.

I remember Jim ringing me excitedly one day in 1978. I had written some material for him about prisons—I do not remember exactly what it was—and we distributed it from street tables around Eastwood. One flyer found its way into the hands of a Government member and Neville Wran took Jim apart in question time. Jim kept saying, "Well, it's all true" and the upshot was that Speaker Kelly threw him out of the House. Jim rang to tell me about it. Of course, that sort of thing does not happen nowadays under the present Speaker, nor did it happen under Speaker Murray.

Jim was always concerned about the wellbeing of the Liberal Party. Those of us who were members of his conference will recall the large Christmas function and fundraiser held each year at Jim and Pat's house at Yaraan Avenue, Eastwood. Those functions were quite something in their day—anybody who was anybody was there; anybody who was not there was clearly not worth knowing in Eastwood—and they raised significant amounts of money for the Liberal Party. We were all grateful to Pat, in particular, for her efforts on those occasions. Jim and I had something else in common beyond the Liberal Party, and perhaps our feelings about the Labor Party. We shared the same birthday. The years were different but we were both born on 13 July. In fact, Jim is the only person I have ever met who shared my birthday.

Ultimately, Jim Clough will be remembered as being an utterly loyal and dependable member of the Liberal Party and of the New South Wales Parliament. He will be remembered as a man of strong principles: he was not afraid to stand up for them and for what he believed was right. There is no question but that the people of Parramatta and Eastwood and of New South Wales as a whole were well served by having Jim Clough represent them in this place. I offer my sincere condolences to Pat and his family. Jim is gone but he is certainly not forgotten.

Mr CORRIGAN (Camden) [8.32 p.m.]: I do not know Mrs Clough so I will not be presumptuous and call her Pat. I offer my condolences to the Clough family. I did not know Jim but I know his son Tony. We used to play football together in the Domain for the Culture, Sport and Recreation Rugby League Football Club. We won a premiership in division three of the old public service football competition. Tony also played rugby union for Eastwood. It was a challenge to play league during the week and union on the weekend. I did the same thing for a few years: I played rugby union for Northern Suburbs on the weekend and rugby league in the Domain during the week. We used to jibe Tony about his father being a member of Parliament and our being public servants. Tony always took it well.

I must confess that on occasions I mixed up Jim and Mick but Tony quickly set me straight. I apologise to Tony now for sometimes confusing Labor and Liberal members. In those days I was just a simple public servant and a unionist and I did not understand the complexities of Parliament or the mix of Labor and Liberal members. As far as I was concerned, a member of Parliament was just that. I often judge people by their children. Tony Clough is an excellent man. He was a pleasure to play football with—I cannot speak more highly of anyone than that. He was a good team man and a loyal man. I could rely on him: I knew that when my back was turned I was safe with Cloughy on my side. I am sure that all his siblings are the same, which is a credit to Jim and Mrs Clough. I offer them my sincere condolences.

Mr MERTON (Baulkham Hills) [8.34 p.m.]: I am privileged to speak to this condolence motion for the late Jim Clough. Jim was born in 1916, two years before the end of World War I. He lived through the 1920s and the horrific days of the Great Depression. He sought work in country New South Wales; he was a country boy, born at Warialda on a sheep station. In 1939, after the world had survived the Great Depression, it faced the challenge of the Second World War. Jim, like many thousands of young Australians, heard the clarion call to serve his country. He joined the Second AIF, in which he served until 1943, when he was discharged as

medically unfit. Jim returned to Australia when his distinguished war service ended, first to seek employment and then to set himself up in business.

In 1956 Jim won the seat of Parramatta for the Liberal Party. Parramatta in 1956 was a different place from Parramatta in 2003. It is perhaps ironic that I should be speaking to this motion for Jim tonight because I worked for his predecessor, Kevin Barry Morgan, whom Jim beat in 1956. Kevin Morgan, the Labor member for Parramatta, held the seat from 1953 to 1956. He used to constantly tell young Wayne Ashley Merton, who was his law clerk, "Merton, I would have held the seat if the Department of Housing had been a bit quicker getting those people out to Dundas Valley." But they did not get there in time and Jim Clough won the election. He held the seat for three years and then the demographics changed—Morgan was right. Jim left Parliament in 1959.

But Jim was never a quitter; he was a fighter to the end. If he believed in a cause he would go the extra mile to ensure victory. He was a man of determination, conviction and commitment. He made a comeback in this place in 1965. Some people might say he was a glutton for punishment but it was more than that: Jim had a passion for serving his State and his country. From 1965 until 1988 Jim was the member for Eastwood. That is a long time. When Jim first joined the Liberal Party in about 1946 Menzies was not yet Prime Minister and we were three years away from beating the Chifley Government in 1949.

If I recall correctly, the Coalition was in government from 1965 to 1976, and Jim became a Minister after working hard as Chairman of the Public Accounts Committee and holding many other distinguished roles in this Parliament. Politics is a funny business: Malcolm Fraser had a magnificent Federal victory in December 1975, yet only months later the New South Wales Coalition Government was defeated and Jim lost his ministry. Jim served the community well as the Minister for Youth, Ethnic and Community Affairs. Politics is a tough game but to demonstrate the background, the era and the feeling of what was happening when Jim came into this Chamber I will refer to his first maiden speech, which was delivered at 5.12 p.m. on 12 June 1956. I do not know what his second maiden speech should be called. Jim was a humble man and he began by stating:

I enter this House with a sense of pride and humility and in a spirit of fellowship towards all honourable members. I am grateful to the electors of Parramatta for electing me to this place of distinction. I acknowledge my debt to them and hope that even if I am unable to maintain their continued electoral support, I shall at least comport myself and discharge my duties in such a way as to earn and retain their respect.

That was the humble Jim Clough: he was grateful for having been elected and was passionate about serving his electorate. When he stood in this Chamber on 12 June 1956 he reminded us of what Parramatta was like. He said:

Parramatta has much to remind the visitor of the past, and the ancient and the modern are curiously intermingled. Old George street is almost a museum piece where one may see roomy cottages of the colonial type of architecture, which is timeless, as well as examples of all the building styles of a century and a half. The city of Parramatta and the electorate of Parramatta have, of course, different boundaries. Apart from the city area, the electorate includes the industrial Rydalmere, the residential Ermington and Dundas, and portion of the shire of Baulkham Hills, which covers the rural areas of the electorate, including the beautiful strip known as The Hills District, as well as Kellyville and Rouse Hill, which are both situated on the historic road to Windsor.

That area of Parramatta comprises many electorates: Baulkham Hills, The Hills, and Wentworthville. It also comprises part of the Hawkesbury electorate. Jim referred to the Windsor Road, which has probably been referred to more than any other road in this Chamber.

Mr Ashton: Never heard of it.

Mr MERTON: Even the honourable member for East Hills knows about the Windsor Road! Jim continued:

My electorate is studded with a large complement of diverse industries of almost every conceivable category ...

The problems that existed in Parramatta almost 50 years ago are still there today. Jim referred to the problems with the hospital and said:

Within a few years the city will need a 600-bed hospital—one providing nearly three times as much accommodation as the existing hospital. Another problem that is causing concern in my electorate is the Cumberland County Council scheme.

Health and planning were issues in 1956, and they were still issues in the last State election. Jim continued:

Most people agree that some form of orderly planning is necessary to provide for future development, but many persons are, with very good cause, critical of the Government's Cumberland County Council Plan. The scheme contains many anomalies and is causing much hardship and even injustice. A complete review of it is essential. Parts of my electorate—the Kellyville, Rouse Hill and Kenthurst areas, in particular—are suffering the disadvantage of not being connected to the city water supply.

Jim spoke about the hardship endured by poultry farmers and orchardists, who were being forced to sell their properties because of unfavourable seasons and high working costs. Little has changed. Jim was aware of those problems and spoke about them eloquently. I must admit that having had a legal practice in Parramatta for many years I relate to the parking problems in Parramatta at the time to which he referred. He also said:

Consequent upon the renaissance and tremendous development of Parramatta, street parking and traffic congestion are serious problems. The local council has, by the provision of some free parking space—

These days we do not hear much about that, but it was there in 1956—

contributed to a solution, and some commercial parking space is available. The position nevertheless remains grave, and though further provision is essential, a complete solution obviously can never be found to meet the main shopping periods, which are usually Friday and Saturday, when the great majority of car owners shop on wheels—unless, of course, a tremendous expansion of home delivery services is initiated.

That was the era when mum and dad went to town on Friday and Saturday. My grandfather was a dairy farmer at Toongabbie. He would drive his 1939 Buick into town and have a great day. He would drop off his wife, and it is only through God's mercy that he would get home at night. Jim identified Friday and Saturday as shopping days when farmers would also come to town. Jim referred to the housing problems and said that many builders were anxious to commence work. It must be remembered that Jim was a pioneer when he spoke about an important issue that was to keep the building industry in New South Wales going for many years. Indeed, he was a pioneer when he spoke about co-operative building societies.

The honourable member for Camden, who is in the Chamber, has had a background in home finance and he would know about what I am talking. Jim spoke about building societies and project schemes, things that kept the building industry going through difficult times of recession: government-based loans, Starr Bowkett or lending institution loans which had interest rates of 5.25 per cent and people paid a membership or a subscription that enabled them to buy a home in the Parramatta district. People were looking for a nice smart two-bedroom or three-bedroom fibro home with a tile roof in Parramatta. It was a great achievement to get a home like that and people took great pride in them. That was approximately 10 years after World War II when building materials and motor vehicles were in short supply. Jim had an insight into those issues and talked about building societies engaging in project building schemes to finance the purchase of houses at the completion of the project. Indeed, Jim was a man of great commitment and philosophy and he would let people know of his beliefs. In relation to housing he said:

We should put first things first. A man's home should be his castle and we should help him not only to get it but also to own it as his own private property.

That is not to be confused with the film *The Castle*, which was released so many years later. Jim continued:

To man's existence the owning of a suitable home is second only in importance to a firm and proper belief in Divine Providence.

Those strong words are right and they are applicable today. Jim spoke about the 40-hour week. He said he was a keen exponent of free enterprise and believed that people should be able to succeed and should put their best foot forward to ensure that they made the best of their lot in life. Jim Clough left this House some years ago. I became a member of Parliament in 1988 as a friend of the honourable member for Epping. Jim maintained a true belief, allegiance and loyalty to the Liberal Party. He maintained an association with members of Parliament and remained true blue to the end.

Jim will leave the great legacies of a man of principle, a man of commitment, and of a person who went the extra mile, applied himself and gave all to his calling as a local member. But, above all, he will leave the legacy of a great family man for his wife, Pat, their three sons and five daughters. I have not had the privilege of meeting the sons and daughters, but I have met Pat on a number of occasions. What they say is true: behind every good man is a strong woman. Pat and Jim were a great team. I think the electorate got a great package deal: they paid one salary for which they got two working members. Theirs was a great team effort. It was that team effort that no doubt kept Jim going in his long parliamentary stints from 1956 to 1969 and 1965 to 1988.

Make no mistake: Jim Clough essentially devoted his working life to Parliament. It was his life's mission and destiny. All that he stood for was demonstrated in his attendance at this Parliament and in his work in the electorates of Parramatta and Eastwood. He may have gone, but his memory will live on. It will live on in the hearts and minds of all in the electorate who knew Jim Clough, his achievements and his family members. They will say, "By gee, that Jim wasn't a bad guy." I have already said that Jim was a keen proponent of free enterprise. He was also known to quote Abraham Lincoln, who said:

You cannot further the brotherhood of man by encouraging class hatred. You cannot help the wage earner by pulling down the wage payer. You cannot help by destroying the rich.

Well done, Jim Clough! Jim Clough, forever in God's care.

Mr PRINGLE (Hawkesbury) [8.52 p.m.]: I join my colleagues in expressing condolences to Jim's wife, Pat, and their family. I acknowledge the presence in the gallery tonight of Mr Bob Raymond, who has been a friend of Jim Clough's for some 40-odd years. I know that friendship was particularly highly valued by Jim, as it is by the entire family. I want to identify my first contact with Jim Clough. It was when I was seeking to become a Justice of the Peace, which I finally did achieve. That experience summed up what Jim was all about. I recall going into Jim's office. He was concerned that I should know the precise duties that a JP must discharge—should he agree to put me forward as a JP—and to emphasise to me that I should do so to the utmost of my capabilities, and with dignity and honour. He spent quite some time talking to me about that.

Jim was very much a people person, which I think sums up his entire public career. Like the honourable member for Epping, I remember fondly Mr Jim Clough and his attendance at various scout and guide annual general meetings. Imagine the set-up, sometimes fairly informal. Invariably the question would be asked, "Mr Clough, will you please move (or second) the adoption of the reports?" Rather than just going through the motions, or giving a fairly cursory report, Jim would have already prepared for the event by having gone through the financial statements in particular with a fine-tooth comb. Many scout and guide groups would attribute the integrity of their financial statements, their competence, and their solvency perhaps, to the efforts of Jim Clough. Not only did he work very hard to make sure the accounts were right, he also made sure that meeting procedures and practices were absolutely spot-on. It was not acceptable that the reports be merely received; they had to be adopted. And the meeting had to be conducted in a business-like fashion. The survival of many groups depended on Mr Jim Clough.

I am also reminded of Jim's humble country background, which a number of members have mentioned tonight. He took that background with him into the position of the member for Eastwood. As the honourable member for Baulkham Hills mentioned, we are talking about a different era—an era when there were many poultry farms and a large amount of agricultural produce in the Eastwood electorate. In fact, this was at the time that the Macquarie University was being established. Jim Clough carried his country attributes down the main street of Eastwood, Rowe Street. When Jim walked down that street, he would know virtually everyone he passed—all the shoppers in the street! I have been told of a number of occasions on which Jim was attempting to make his way from the car park to his office, which did not have a parking space attached to it; it was at a separate location. In that couple of hundred yards between the car parking space and the office Jim would be literally accosted by a large number of people. So much so that, after an hour, Jim had to say to one person who wanted to talk to him, "It has taken me an hour to walk from the car space to the office; I have an appointment that I must get to." That illustrates the make-up of the man: very much a people person.

As the House has heard, Jim was also a pioneer in the Liberal Party, as well as a strong Catholic very much involved in his local church. He was not a shrinking violet. I understand that as part of his local church activities he submitted to the parish priest a list of people who were sick and a list of persons unfortunately deceased. Jim's name was below the list as the provider of the details of parishioners who needed to be kept in people's prayers. On one unfortunate occasion the priest seems to have become confused and included Jim's name among those further up the list on that bit of paper, and announced Jim Clough as one of the deceased. Jim, not being a shrinking violet, immediately jumped to his feet and said, "No. The member for Eastwood is well and truly alive and well, and well and truly the Liberal member for this area!"

Jim Clough remained interested in community groups throughout his life. He strongly supported community groups and, as the honourable member for Epping has pointed out, was the patron of many of them. He had a lifelong love of learning. He was, indeed, one of only a few lifelong learners. But, if he did not know something, he would do his absolute best to find the answer. He genuinely cared about his local constituents. On what would seem to many to be minor points, he would make sure that his constituents got the best deal that they could possibly achieve. He also supported his local school groups. Many physical hardware items in the electorate are the result of Jim Clough's efforts. They include improvements to the Ryde Hospital and improvements to local schools and pedestrian crossings. Safety and children were important to Jim.

Being a people person, Jim knew how to work a room in some of the traditional political senses. All in the room would know that Jim Clough was there, and that he was a people person who cared for his constituents. I want to conclude by saying that I share the sentiments of all of my colleagues. Jim Clough will be fondly remembered by his local community. He was part of Eastwood. His contribution to the Eastwood area and to the New South Wales Parliament will long be remembered.

Mr HARTCHER (Gosford) [9.00 p.m.]: Many people have spoken tonight in tribute to Jim Clough and I want to make two observations. First, Jim was a friend of my father, Bede Hartcher, who spoke very highly of him and regarded him very well. When I became a member of Parliament I was privileged to meet Jim for the first time in 1988 and to attend his large and appreciative retirement function at Eastwood, where he spoke so eloquently and so well. Jim was appointed to a mining committee by Neil Pickard and subsequently interviewed me about a mining matter. Jim struck me as a classic old-world gentlemen from the old school: very refined, very gentlemanly and very supportive of younger members of Parliament, as I then was in the early days.

Second, I want to refer to how history has changed. Jim's winning the seat of Parramatta in 1956 was significant because, to my understanding and my father's understanding, he was the first Catholic elected to the Parliamentary Liberal Party in New South Wales since its formation in 1944. He was the only State Catholic member. The only Federal Catholic was Sir John Cramer, who represented the seat of Bennelong, now represented by the Prime Minister, Mr Howard. In 1956 when Jim was elected it was regarded as quite a breakthrough that the Catholic community had one of its members elected to the Liberal Party. To the discredit of the Liberal Party, it had had a history of intolerance. Jim broke the glass ceiling and was elected to Parliament. He proved himself to be an exemplary Liberal and an exemplary member of Parliament.

I had a friend at Riverview, Chris Morgan, and it was his father, Kevin Morgan, from whom Jim took over the seat of Parramatta. Kevin Morgan had attended Riverview in the 1930s and his father, Charlie Morgan, had been the Federal member for Reid until he lost a preselection battle with Tom Uren in the early 1950s. It is important to acknowledge Jim's trailblazing role, like Sir John Cramer's, in making Catholics part of the fabric of the Liberal Party. That was to change even more rapidly in the 1960s when Sir Robert Menzies and Sir Robert Askin broke the 80-year anti-Catholic ban on State aid to independent schools. Since then the Liberal Party has become truly the party of all Australians. I am very proud to be a member of the Liberal Party.

Jim did not make a big issue of his religion. I note that in his inaugural speech he said nothing about it. But he proved himself to be a good loyal Australian, an Australian who came from very humble origins in the bush, an Australian who served his country in the war. He worked his way up to be an accountant and maintained high ethical standards as an accountant. He was well regarded by those who knew him in that position. He proved himself to be an excellent politician and an excellent local member, and a strong servant of his church and his party. In every respect he proved himself to be a worthy Australian and, therefore, a worthy member of Parliament and a worthy upholder of the traditions of the Parliament.

His inaugural speech is quite an interesting read. In some ways it is quite philosophical. It reveals that Jim was quite a deep thinker and a person of strong personal loyalty and personal faith. In many respects Jim had a wonderful life. It was certainly a long life. It is great that his family is with us here tonight. It is great that we can join in the tribute to Jim. In the words of the scripture quoted by my friend the honourable member for Baulkham Hills in a different text, I say, "Well done thou good and faithful servant."

Members and officers of the House stood in their places.

Motion agreed to.

CRIMES AMENDMENT (SEXUAL OFFENCES) BILL

In Committee

Consideration of the Legislative Council's amendments.

Schedule of amendments referred to in Legislative Council's message of 27 May

No. 1 Pages 5 and 6, Schedule 1 [12] (proposed section 73), lines 30-33 on page 5 and lines 1-7 on page 6. Omit all words on those lines. Insert instead:

73 Sexual intercourse with child between 16 and 18 under special care

(1) Any person who has sexual intercourse with another person who:

- (a) is under his or her special care, and
- (b) is of or above the age of 16 years and under the age of 17 years, is liable to imprisonment for 8 years.

- (2) Any person who has sexual intercourse with another person who:
 - (a) is under his or her special care, and
 - (b) is of or above the age of 17 years and under the age of 18 years, is liable to imprisonment for 4 years.
- (3) For the purposes of this section, a person (*the victim*) is under the special care of another person (*the offender*) if, and only if:
 - (a) the offender is the step-parent, guardian or foster parent of the victim, or
 - (b) the offender is a school teacher and the victim is a pupil of the offender, or
 - (c) the offender has an established personal relationship with the victim in connection with the provision of religious, sporting, musical or other instruction to the victim, or
 - (d) the offender is a custodial officer of an institution of which the victim is an inmate, or
 - (e) the offender is a health professional and the victim is a patient of the health professional.
- (4) Any person who attempts to commit an offence under subsection (1) or (2) is liable to the penalty provided for the commission of the offence.
- (5) A person does not commit an offence under this section if the person and the other person to whom the charge relates were, at the time the offence is alleged to have been committed, married to each other.

No. 2 Page 6, Schedule 1 [15], line 18. Omit "7 years". Insert instead "8 years".

No. 3 Page 7, Schedule 1 [20], lines 12-15. Omit all words on those lines. Insert instead:

Omit section 91D (2).

No. 4 Page 7, Schedule 1. Insert after line 15:

[21] Section 91D (3)

Omit ", except as provided by subsection (2)".

No. 5 Page 7, Schedule 1 [21]. Insert after line 23:

50 Defence under section 91D (2)

Section 91D (2), as in force before its repeal by the *Crimes Amendment (Sexual Offences) Act 2003*, continues to apply to offences committed before its repeal.

Mr SCULLY (Smithfield—Minister for Roads, and Minister for Housing) [9.05 p.m.]: I move:

That the Committee agree to the Legislative Council's amendments

Mr TINK (Epping) [9.05 p.m.]: The Coalition agrees to the amendments, as they have been agreed to in the upper House. However, I make the point that they should never have been necessary; the bill should have been drafted properly in the first place. This is the second problem that has emerged. The first was the retrospectivity element in the bill. I hope that the Government and particularly the Attorney General can do better next time.

Motion agreed to.

Legislative Council's amendments agreed to.

Resolution reported from Committee and report adopted.

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

LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL

Second Reading

Debate resumed from 21 May.

Mr FRASER (Coffs Harbour) [9.07 p.m.]: I lead for the Opposition. On the surface this legislation appears somewhat innocuous. It appears as though it is tidy-up legislation that the Government, in its wisdom or

otherwise, has tried to tell the people of New South Wales and this House was put in place initially to enable local government elections to be moved outside the same year as the State Government elections. The Premier and the Minister claimed that following representations from the Local Government Association, which were made on a Friday, the Government was acceding to the request of the association.

This is the fastest we have seen the Government move on anything, because by the Monday the Government had declared publicly that it would act in accordance with the request of the association. The Government declared it had the support of the Local Government Association, but I would suggest that the Government had the support of the executive of the Local Government Association and I would further suggest that the agenda was driven by Peter Woods, who chaired that organisation for some time. His influence through that association has carried on to the current chairwoman, who is, I would suggest, now doing the Government's bidding. This legislation will give the Government the opportunity to force amalgamations. That has been denied, and, unfortunately to some extent, I had to back-pedal a little bit on that issue today and admit that the Government did not have an agenda of forced amalgamations—in fact, the Government has an agenda of dissolving councils!

Honourable members were made aware today of a letter to the Yarrawlumla Shire Council from the Minister for Local Government stating that the shire had been divided into two. The half of the shire that has the majority of ratepayers is to go to the Queanbeyan City Council and the other half is to go to the Yass Shire Council. The Yarrawlumla Shire Council had no opportunity, either by referendum, which would be the case currently, or by plebiscite of any kind, to give its residents a say in their shire's future. That shire will be dissolved. What amazes me is that the Premier and the Minister for Local Government claim that it really is not a forced amalgamation or a dissolution because it was done by the application of the Yass Shire Council and the Queanbeyan City Council for a change of boundaries. An entire local government area is wiped out in one fell swoop—not a bad change of boundaries!

The Yarrawlumla Shire Council has not had an opportunity to put its case to its constituent ratepayers, the Government, or anyone else. The Minister and the Premier have told us that the Local Government Boundaries Commission will make an impartial decision on whether that council has been dissolved or forcibly amalgamated. However, I question the impartiality of the boundaries commission. I suggest that the boundaries commission has two members who are not totally impartial. One is Leo Kelly, who is a councillor of the Blacktown City Council and a well-known official of the Labor Party—and has been for many years—and the other member is Edith Hall, who is a well-known card carrying member of the Labor Party and chairwoman of the Mid North Coast Area Health Service. Obviously those two people are there to do the bidding of the Government and will not act with the impartiality that any member or I would expect of a person who is in a position to make a decision affecting the lives and the hip pockets of the ratepayers of New South Wales.

Those people are card-carrying members of the Labor Party and they carry, by two votes to one, every decision that the Local Government Boundaries Commission makes. The boundaries commission does not have an independent staff to advise it; it gained its staff and receives its advice from the Department of Local Government, which is a servant of the Minister. At the end of the day, any impartiality in decisions on forced amalgamations or dissolutions, which are now on the Government's agenda, is laughable to say the least. Residents of the Yarrawlumla shire pay rates of \$312 a year on a block of land with an unimproved capital value of \$52,900, whereas residents of the Queanbeyan City Council who own land with an unimproved capital value of \$52,900 pay more than \$725 per year. The people who live in the Yarrawlumla shire have not even had a say in this decision that the Government has visited upon them, yet a rate hike of 150 per cent will be imposed on them. What will they get for that? They will not receive anything in real terms.

Ms Hodgkinson: They will be forgotten,

Mr FRASER: As the honourable member for Burrinjuck says, they will be forgotten. They will be given services similar to those they perhaps now receive, but they will be given the bill for a new shire centre at Queanbeyan, which currently stands at \$160,000.

Ms Hodgkinson: According to the latest report.

Mr FRASER: As the honourable member says, the latest report indicates that it will cost \$160,000. In addition, they will receive a bill for increased rates. One wonders whether the dissolution, or boundary amendment, or forced amalgamation—whatever one wants to call it—was done in the interests of the bureaucrats of the Queanbeyan City Council because that council overspent its budget and wants to build a new

shire chamber. The Queanbeyan City Council can see assets coming from its neighbouring shire to prop up its poor management over the past 12 months.

What is being presented as a simple bill to bring legislation into line by the creation of a transparent process for an election, as the Minister stated, is nothing more than an excuse for the Premier and the Minister to deliver to this State a policy that was not a plank in Labor's election platform. Both the Premier and the former Minister for Local Government emphatically denied during the recent election campaign that any forced amalgamations would be foisted upon the ratepayers of New South Wales. This so-called innocuous piece of legislation has bought time and opportunity for the Government to bring forward local government amalgamations.

I ask honourable members of this House to consider this: If the proposal by the Yass Shire Council and the Queanbeyan City Council in relation to the Yarrowlumla Shire Council was so spontaneous, why was the Minister able within a couple of days to present a full boundary change for both shires? Obviously the plan was in the bottom drawer of the previous Minister and signed off by the Premier. This is the hidden agenda that was not revealed to the people of New South Wales either prior to or during the recent State election campaign. This legislation is tarred with the same brush that tainted the Crimes Amendment (Sexual Offences) Bill and other legislation for which this Government has no mandate.

The Opposition is also concerned about registration for elections. Under existing rules, a political party must have 100 members if it wishes to run a ticket in the next local government election, and those members must be registered with the State Electoral Office by 31 May. If the date of an election can be transferred from September to March, why can the date of registration of political parties or groupings not be shifted to December? Advice I received today from several councillors in several local government areas of Sydney is that the anomalies in this legislation may result in the disqualification of a person who may be a member of a political party—the Liberal Party, the Australian Democrats, the Greens or the Labor Party—and wishes to form a residents group to run a ticket on a campaign of potholes, kerbing and guttering during local government elections.

According to State legislation, a list of members of each political party must be registered with the State Electoral Office. If a cross-check is made of the list of members of the ratepayers group on a local government ticket, any person on that list who is also a member of a political party will be ruled ineligible because he or she is already a member of another political party, despite the fact that the local government group is a small "p" political group, a small group of concerned residents. If the members of that small group have their names registered on 31 May, the Labor Party will, in its subterfuge, ensure that that check is carried out. The group will be ruled ineligible because it will have only 99 or fewer members, not 100 members as required by the legislation that this Parliament passed last year. The group will be ruled ineligible and its members will have to run as individuals instead of as a group during the election.

I suggest that that will be of no advantage, except to the Labor Party. Under this legislation the Government has decided that a council may decide by resolution to reduce the number of councillors in a local government area or within the wards of a local government area. On the surface I suggest that there are many ratepayers and constituents, me included, who would say, "Good, reduce the number, reduce the costs, reduce the arguments in the council chamber, and we will end up with more efficient local government." When that proposition is studied closely, a Labor ward in a Sydney local government area that currently has three members may have two Labor members and one Independent, Liberal, Democrat, or Green member. Now, because of the way the votes are apportioned, the numbers can be reduced to two. If it were a Labor-orientated council the constituents could be disadvantaged. It is obvious to me and anyone else who looks at that from a democratic point of view that the two Labor candidates will be elected and the one Independent will not, because of the weighting of the politics in that local government area. That is a gerrymander!

That is an example of the Government imposing its politics on councils within the Sydney Basin. That council will not be fully representative of the people; in fact it will owe its allegiance to the Premier and the Labor Party, and that is not democratic. I am on record as saying that I do not believe that political parties should be involved in local government. The day we start politicising potholes is the day we start creating problems within the electorate. I was brought up in the Lake Macquarie shire. A fellow by the name of Wal McDonald was president of the Lake Macquarie council. He lived on Kahiba Road and was not a bad bloke. My father was president of the local Kahiba Road progress association for many years, and the one bugbear of the citizens was kerbing and guttering. It is amazing that when Wal McDonald became president, the southern side of Kahiba Road from Kenibea Avenue to the service station was kerbed and guttered, and the tail was taken to Wal's place. That is partisan politics on an individual basis.

[*Interruption*]

The honourable member for Charlestown grew up in that area; he knows that the Labor Party has politicised Newcastle council for years. Labor Party politics are such that Newcastle council would love this bill to pass through the House, because that would make sure that any ratepayer or residents groups, such as the one that Don Geddes and others ran for many years, would not survive. The Government is forcing partisanship into local government. It is sending a very clear message to regional and rural New South Wales that it wants to politicise councils. It has done a fair job in Coffs Harbour and achieved the majority vote with so-called Independents, but they all have Labor connections. The same could be said of Queanbeyan. This bill formalises the politicisation of local governments, something I do not agree with. As I said, if we start to politicise potholes, Labor Party politics will take precedence over all genuine, independent local government issues within a local government area, and win.

For example, the Government cut the Country Towns Water Supply and Sewerage Program by \$50 million a year, but members of local government will keep quiet. That is what the mayor of Coffs Harbour did; it was the general manager who approached me. I then went to the then Minister for Land and Water Conversation, the Hon. Richard Amery, and asked him to give us some more money. He said, "I am spending \$1 million a week." I said, "Your budget is \$2 million a week." The Coffs Harbour City Council funded the Government's commitment to the Coffs Harbour water supply and sewerage system. If you have a Labor-dominated council that will not criticise the Government, that is a gerrymander. The State Government provides the majority of the funds and the legislative framework for local government. As long as it does so, it can ensure that Labor councils are in place. That is a gerrymander, and that consequence has been foreshadowed if this bill passes through Parliament.

There will be no criticism of the State Government, especially on important issues of water supply and sewerage to country towns. As a result, a Labor council that has been elected to represent its ratepayers will effectively run Labor Party politics and say nothing. That happened prior to the 1988 election, when Neville Wran sacked all the regional hospital boards and replaced them with Labor members. Labor governments have had that attitude since then. This bill is yet another example of local government being stymied by the Government's legislating to suit its own purpose. If that is not the case, I challenge the Government to withdraw the parts of the bill that will restrict the time limits on when political parties can nominate. I challenge it to withdraw the provision in the bill that will reduce the number of councillors. That can be done by resolution of the council and the public display of the resolution for 21 days.

The bill provides that a summary of submissions from the public must be forwarded to the Minister—but I would not trust the summaries that will be forward by Labor councils. The Minister may then make a recommendation, which will be adhered to. The recommendation will be for a reduction of councillors as long as that suits the political purpose of this Government. The bill appears on the surface to be fairly innocuous. However, it will result in the politicisation of councils and a lack of representation for ratepayers, and not only in Sydney. I have been told that many Sydney council areas, including Hurstville, Randwick, Waverley, Sutherland, Liverpool and Rockdale, will be directly affected by the bill. We all know the history of Rockdale council, and we all know about thumbs in pies and partisan politics.

On that basis the Coalition will not and cannot support the bill. Having spoken to several upper House crossbenchers, I suggest to the Minister that this bill will not pass through that House. The smaller parties, who will be severely disadvantaged by the bill, will vote against it. I suggest that the Minister should think about it and delete the parts that are offensive. If he wants to extend the date of enactment until next year, then do so. But if he wants to run an agenda of amalgamation and dissolution, of politicising councils and ensuring that the Labor Party has the majority of council members, he should push the bill through.

The media has had enough of the grandstanding of this Government and has seen through the facade of its presentation to the electorate prior to the election. This is yet another straw on the back of the camel, and pretty soon the electorate will turn. The Government may gain an advantage in the short term, but I guarantee to members that come 2007, when we are returned to government—and we will be, because the general public has seen the Government's agenda—we will amend the Act to ensure that ratepayers are properly represented with equity and fairness, rather than represented by a political party that wants to further its own future within the political sphere. The Opposition will not support the bill.

Mr ASHTON (East Hills) [9.30 p.m.]: I support the Local Government Amendment (Elections) Bill. Nothing that the honourable member for Coffs Harbour and shadow Minister said would prevent me from doing

so. When the honourable member contributed to debate on this bill I was tempted to take a couple of points of order because he said nothing about the bill. He talked about proposed council amalgamations, dissolutions and takeovers. The honourable member predicted that virtually every local government authority in New South Wales would be under Labor control by 29 March next year. I wish that were true, but that will not occur as we do not have a majority of Labor councils in New South Wales. It is State Government policy that there will be no forced council amalgamations or dissolutions.

I believe that the Local Government Amendment (Elections) Bill, which is only six pages long, is the smallest bill ever introduced in this House. Contrary to what the honourable member for Coffs Harbour said, this bill will not force any council amalgamations in New South Wales. The object of this bill is to amend the Local Government Act 1993. Next year council elections will be held on the fourth Saturday of March rather than on the second Saturday in September. The ordinary election that would otherwise have been held on Saturday 13 September 2003 will now be held on Saturday 27 March 2004. That amendment, which is not dramatic, will not disturb too many cobwebs. Council elections, which would have been held in September this year, will now be postponed for six months. All honourable members like to think that they are important and that everyone in their electorates wants to vote for them. At the last election voter participation in the East Hills electorate was the highest in Sydney and the second highest in New South Wales. I am appreciative of the fact that people in my electorate are keen to vote for me.

It is a well-known fact that people do not like too many elections. We take our democratic rights for granted. All we are saying is that there should be a year between council and State government elections—an issue that I believe will be endorsed by the public. The bill will amend proposed section 294 by omitting 1 January and inserting instead 1 April—a difference of three months, which will not end local government as we know it. The bill will be amended to extend the term of office of councillors, mayors, deputy mayors and chairmen of committees until March next year. There was discussion earlier about whether popular mayors and deputy mayors elected to office by councillors should remain in office until March next year and whether their office should not become vacant until September. The Government believes that it is better to have one system for everyone.

I have not received one letter or email to the effect that that is an outrageous attack on local government. This sensible measure gives most people what they want—additional time between State and council elections. The bill does more than that. When new councils are elected next March they will have more time to plan their budget and to work with new staff rather than working within budgets that were implemented by former councils. As the Easter holidays could confuse the ballot the Minister will have the power, under section 288 of the Local Government Act, to defer elections for up to 28 days to avoid such a conflict. Amendments to this legislation will also enhance a council's accountability. Councils will be able to better manage and implement financial plans in the first year of their term of office.

Without straying too far from the leave of the bill—which is something that the shadow Minister did—I remind honourable members that the recent Federal budget gave \$2 billion, in small amounts, to rich people, largely in an attempt to spend the budget surplus. When the Labor Party is elected to office in Canberra there will be no budget surplus to spend on Medicare and education. It is quite possible that a conservative council, recognising that it will be thrown out of office in March next year, could say: "Let us spend every dollar that we have. We will not leave anything for the mob that takes over." The honourable member for Coffs Harbour referred earlier to the fact that Independents who want to be elected have to have a number of people registered as members of their party.

The history of Bankstown council goes back a long way. In 1973 Russ Duncan, a member of the Liberal Party and one of the so-called Independent councillors, and Ray Buchanan, another member of the Liberal Party, introduced a ballot paper—the tablecloth—with 110 names on it to prevent the Labor Party from getting an extra seat in the Senate at the 1973 election. That was a good tactic on the part of those so-called Independents, but we no longer allow people to deceive anyone at State or council elections. Anyone forming a political party—

[Interruption]

The honourable member for Coffs Harbour, who is attempting to interject, should sit in his proper place in the Chamber. Savings could also be made by reducing the number of councillors. A councillor will put such a motion to council and, if it is adopted, it will become council policy, but only after public consultation. The honourable member for Coffs Harbour said that Coffs Harbour council was recently taken over by Labor Party

people backed by Independents. Is that not sad? Coffs Harbour, which has never been better represented, has a council that is not dominated by the honourable member for Coffs Harbour.

Mr Fraser: It has been dominated by me.

Mr ASHTON: The only part of Coffs Harbour council that is reasonable is the part that is controlled by the Labor Party.

Mr Fraser: Point of order: The honourable member for East Hills just admitted that the Labor Party controls Coffs Harbour City Council.

Mr ACTING-SPEAKER (Mr Lynch) Order! There is no point of order. The matter raised by the honourable member for Coffs Harbour is a point of debate. I suggest that the honourable member for East Hills remain within the leave of the bill and not incite interjections.

Mr ASHTON: Prior to 31 December 2003, councils may apply to the Minister to approve a reduction in the number of councils. A council of five is far too small. Some years ago the membership of Sydney City Council was 27. A few different political parties were represented on that council, which was more like a government of a small territory. There were more councillors on Sydney City Council than there were members of Parliament in the Northern Territory. But we do not want that sort of stupidity. Let us find the right number of councillors. Earlier the honourable member for Coffs Harbour referred to great opposition by certain councils. I was on a council in Bankstown that had 170,000 people on the rolls. Hunters Hill council has 12,000 people—the same figure that existed 25 or 30 years ago. I am not the spokesman for the Government but we should have an adequate number of councillors in local government areas.

What is wrong with doing better business? I will not say that amalgamations are not government policy, but there should not be a difference in the size of councils. I do not know the exact figures, but Blacktown has many councillors. There must be some way to rationalise these figures. This legislation is not a Labor plot. Nothing in this legislation refers to dissolutions or amalgamations. It will simply ensure that mayors and deputy mayors who are elected for the mayoral term, and councillors, continue in their offices until the next council election. The honourable member for Coffs Harbour foreshadowed that some amendments might be moved in the upper House. The Government might find that those amendments have some merit. There is no point in this Government just extending the term of office of mayors, deputy mayors and councillors when the majority of councils are not Labor councils. I see that the honourable member for South Coast is in the Chamber. I welcome her to the debate. I think she will be speaking later. She had better not interject on me before she makes her inaugural speech.

Mrs Hancock: I can because I have made my inaugural speech.

Mr ASHTON: I apologise. I will read it in *Hansard* tomorrow. I sometimes holiday on the South Coast, and the people down there talk about the dark side of the council. Some councillors come from the Narrawallee-Ulladulla area and others come from the Nowra area. We would like to get rid of that council and put Labor in control.

Mrs Hancock: That is my council you are talking about.

Mr ASHTON: Yes, Shoalhaven council. Local residents refer to the dark side—the evil side—of the council.

[Interruption]

Mr J. H. Turner: Point of order: In light of the interjections, I wish to confirm that the honourable member for East Hills said that he wanted to get rid of the council of which the honourable member for South Coast is a member.

Mr ACTING-SPEAKER (Mr Lynch): Order! There is no point of order.

Mr ASHTON: We certainly do. We want to get rid of the dark side that controls Shoalhaven council and replace it with Labor councillors. Let us remember that some councils have a very bad reputation—and Shoalhaven is one of them. Residents of the South Coast talk about people who run funny businesses from the

back paddock of their farms and so on. I think those members who are former or serving councillors should confine their remarks to the bill in this debate. They should not waffle on about dissolution or amalgamations. This bill is more innocuous than they think. Because members opposite do not have much else to say, they have seized upon this bill as prescribing some end-of-the-world scenario for local government. That will not happen. This bill introduces arrangements for separating State and council elections in an appropriate manner while giving ratepayers a chance to see what their councils are up to and to consider whether there are too many councillors in their local government area. Perhaps the ratepayers will want more councillors—who knows? I commend the bill to the House.

Mr J. H. TURNER (Myall Lakes) [9.42 p.m.]: The honourable member for East Hills just stated clearly and concisely that the Local Government Amendment (Elections) Bill is about amalgamating local councils. He admitted that Shoalhaven council—of which the honourable member for South Coast is still a member—will be amalgamated. That is the essence of this bill: it is seeking to buy time to enable the State Government to amalgamate local councils.

Mrs Hancock: He wants to abolish our council.

Mr J. H. TURNER: The honourable member recalls the exact words of the honourable member for East Hills: The Government wants to abolish councils. That is clearly what this bill is about. As the honourable member for Coffs Harbour said, why was this issue not raised during the election campaign or even before then? Why is this one of the first pieces of legislation to be introduced by the Government in this parliamentary session? It is because amalgamating councils is on the Labor Party's agenda. As a member of the National Party I know that that will mean the amalgamation of any number of country councils because Labor wants to control local government.

Hand in hand with the Government's agenda of deferring elections and amalgamating councils is its desire to reduce the number of councillors. The Government wants to gerrymander the system, get more Labor people voted onto councils and then accept Labor councillors' calls to reduce their number. The bill states under the heading "Reduction in number of councillors" that the Minister may approve an application without amendment or reject the application. That would make it very easy for the Minister. If the numbers stacked up and the Labor Party had an ultimate majority on a council—the Minister would accept the application and it would be a gerrymander. If it were clear to the Minister that a council should retain its existing number of councillors because it would give Labor a better chance of controlling that council in future, he or she would reject the application.

It is clear that the Government framed this deceitful legislation after the State election for the purpose of convenience. The Government claims that local government elections should not align with State elections to enable people to think more clearly. That is an insult to the people of New South Wales. They know the difference between local, State and Federal governments. When the bill's provisions take effect next year—and the moon and the stars align, as the Labor Party would like us to believe—local elections will align with the Federal election. That will happen from time to time. It is a pretty poor excuse for the Government to claim that this bill will take local elections out of the State election cycle and put them in a cycle of their own. This is a clear case of the Carr Labor Government trying to deceive the people of New South Wales and to embark upon its amalgamation agenda.

If Gloucester Shire Council is amalgamated as part of this amalgamation process—that is what this is and I am sure that Coalition members' fears will be realised in the next nine months—I will oppose it with every fibre of my being. Gloucester Shire Council is a proud council, and it is concerned about this legislation. It is worried that it will be targeted for amalgamation by the Carr Labor Government. We will not entertain any possibility of amalgamation. The council is viable and it is one of the best run councils in New South Wales—I know because I was shadow Minister for local government and I travelled through many local government areas. We will regard any amalgamation proposal as an act of war against the local area.

I do not know how the Government intends to work out commonality of interest in the amalgamation proceedings that will ultimately follow the passage of this legislation. But I assure the Government that it will have a fight on its hands in country New South Wales. The State's regional areas are run by local government. Sometimes councils may be led to the table to discuss amalgamation. Nundle Shire Council is happy to discuss amalgamation but because it has a litigation problem hanging over its head it has not proceeded. That is fine; I have no problem if councils want to go down that road. However, forced amalgamations will be opposed in country New South Wales and the odium of those amalgamations will work against members such as the

honourable member for Monaro, who saw the problems begin with notice about the dissolution of Yarrawlumla Shire Council.

It is clear that the public has not been consulted on this issue. This bill will be steamrolled through Parliament at the peril of Labor members who represent country electorates. There is nothing more parochial than the local council. Before I came to this place in 1988 I served on Cessnock City Council—I was one of the forces for good and opposed the forces of evil, the Labor councillors. I resigned from the council in 1987 to contest the State election in 1988. An inquiry was initiated into Cessnock council following much outcry about its handling of roads and other local issues. From memory, I think the then Minister received 1,500 letters and 4,500 people signed a petition. The Minister decided to institute an inquiry into the council, and the tide of community opinion against it turned almost immediately.

It was incredible: It was the people's council, warts and all. The ratepayers might not have liked it but, when the Coalition Government decided to initiate an inquiry with a view to perhaps dissolving the council, they turned on the Government and said, "We might have complained about it and we might not have liked it, but it is our council and we will defend our right to keep it." When this Labor Government starts amalgamating councils in country New South Wales and in the city the people will turn around and say, "You cannot dictate to us from the top down; we want grassroots government." This bill is clearly about giving the Government some breathing space so that it can amalgamate a number of councils throughout country and city New South Wales. The Government will rue the day that happens.

Mr MORRIS (Charlestown) [9.49 p.m.]: I was amused by some of the comments from members of the Opposition in relation to the bill, which tries to improve the efficiency of the operations of local government. As a member of Lake Macquarie City Council, to which reference was made earlier, I see a lot of benefits from this legislation for the community, for council in better preparing itself and, more importantly, for newly elected councillors. The Government is committed to ensuring that local government is able to properly service the community that it represents, which the amendments contained in the bill will help local councils achieve. By amending the Local Government Act 1993 in relation to the timing of the ordinary elections of local councils, the Government is addressing the current unsatisfactory situation in which newly elected councils are bound by the budgetary and policy decisions made by the outgoing council. This situation arises because councils are currently elected in September, and do not have the opportunity until the following year to participate in the strategic planning process which is settled in June the following year.

This bill proposes to move ordinary elections to 27 March 2004 and then every four years thereafter in the year following a State election. Currently, ordinary elections are held every four years in September in the year in which State elections are held. Councils will continue to have fixed four-year terms. The Government is committed to consulting with the local government sector, and I am pleased to inform the House that these amendments are the result of representations on the issue to the Government from the Local Government Association of New South Wales. Changing the date of ordinary elections to March will mean that newly elected councils will be able to commence work on budgetary and strategic planning as soon as they are elected. Newly elected councils will have greater financial responsibility and greater control over budgets, and be more accountable to ratepayers.

Since councils' financial year is from 1 July to 30 June, it makes sense to have council elections in March so that councils can prepare and settle their budgets for the next financial year. This timing may also provide the opportunity for important issues like council budgets and strategic planning to become more relevant to the election processes, particularly as the March election date would fall within the period when councils are developing their budgets and strategic planning for the future. The change in dates will also mean that local government ordinary elections will not be held in the same year as the State election, easing the workload of the State Electoral Office and ensuring that the voters of New South Wales do not have to go to the polls for State-based elections twice in one year. Current councillors, mayors, deputy mayors, chairpersons and deputy chairpersons of county councils and general members of county councils will continue to hold office until the elections in March 2004.

The bill also contains minor consequential amendments to the timetable for the phasing in of the new membership requirements for the registration of local government political parties that were introduced by the Local Government Amendment Act 2000. These proposed changes to the Local Government Act are consistent with the Government's policy of ensuring that the local government sector remains financially accountable and is better equipped to deliver efficient and effective services to ratepayers—the crucial element to this matter. I can relate firsthand my experience in September 1999 when I was first elected to Lake Macquarie City Council.

It was extremely frustrating to be locked in and hamstrung by previous council decisions, both good and bad, and one could not make significant changes for better outcomes for the community one served. It is important to give newly elected councillors a fundamental opportunity to be part of that critical budgetary process.

Finances are limited and honourable members recognise that local government is the essential service provider: the arm of government that provides services which people see and use day in, day out. It is absolutely vital that new councillors have the opportunity to be part of the budgetary process of council. I recognise that they will be on a fast learning curve but it is no different to any other time frame. People expect their elected representatives, regardless of their position, to get on top of issues fast so that they may be represented, whether at local, State or Federal government level. I commend the bill to the House, and I strongly encourage honourable members to support it wholeheartedly, as I do. It is about good outcomes and greater opportunities for newly elected councillors.

Mr BARR (Manly) [9.55 p.m.]: I promise that I will not politicise potholes in my contribution. I foreshadow two amendments, one of which flies in the face of the thrust of this legislation. I do not accept the proposition that, after an election has taken place, by legislative fiat the date for the next election is changed. When voters vote they should know if an election date is to be changed. My first amendment will delay the change of dates so that people who go to the elections and people standing for election will know that they will be in office in essence for 4½ years from September. It should not be done in a retrospective sense. I am opposed on principle to the goal posts being shifted after the event. The arguments for it are, first, that incoming councillors will be faced with the budget of the previous council and, second, that it is better not to have council elections in the same year as a State election. They are spurious reasons but if the Government agrees with them the process should be delayed until after these September elections. My first amendment flies in the face of this bill because fundamentally there are some democratic principles involved, and I do not accept what is happening.

My second amendment is a pet issue of mine, that is, the number of terms that councillors are entitled to stand. My amendment will attempt to limit the number of terms to two. Some people will say that is not democratic and that it should not happen because everyone should have the right to stand for re-election every time. In reply I say that there are two good grounds for restricting the number of terms. The first is to limit to cronyism that goes on in councils, especially as councils become more and more entrenched. Some councils have family fiefdoms where father hands on to son, and even to grandson. I do not know whether any councils have been handed on from mother to daughter yet. We should not kid ourselves.

Because the public is not aware of the various candidates and what they represent in council elections, the incumbent councillors have a strong advantage over those who are not, and the public become vaguely aware of names or parties and will continue to vote them back in. Fundamentally, it is more democratic to limit councillors to two terms because that allows more members of the public to take part in their self-government. The longer that councils are entrenched, the more that people are restricted in participation in their own self-government. If two terms are good enough for the President of the United States of America, two terms should be good enough for councillors. I would also distinguish councils from State Parliament in the sense that councillors are like directors on a board: they are not full-time occupants of the position, whereas members of Parliament are elected into a full-time job. I know that some honourable members do have other jobs on the side, so to speak.

I do not for a moment suggest that that should hold for State Parliament. The idea of local government is enabling local people to participate in local affairs, and we should encourage as many as possible to take advantage of that opportunity. That is more democratic than an entrenched group of old men who remain as councillors for years and years. That invites cronyism, corruption, insider trading and all those sorts of things. In one fell swoop we could eliminate some of the problems that some members of the public perceive local councils to have, including that they are a bit dodgy, that councillors have been there a long time and they must be getting benefits from that process.

The Local Government Act fails dismally to cover this vast grey area of councils that may be sailing close to the wind. Few matters have gone before the Pecuniary Interests Tribunal—in fact, I think only one in the past two or three years. So, basically, not much has been done under the Act to circumscribe certain behaviour by councillors that may be inappropriate. Restricting councillors to two terms is a neat way of addressing that issue. That, I think, would be much more democratic than allowing people to be entrenched on councils for long periods of time. The amendments contain provisions to deal with circumstances in which, for example, an insufficient number of candidates are available to take over from old, long-serving councillors. The amendments contain provisions allowing ongoing councillors to continue in those circumstances.

I do not expect the House to pass my amendments. Not in my wildest dreams do I expect that. Last time I put this proposal forward, I was in the minority of one. But in so rejecting my proposal this House shows itself to be out of step with the community. It is a popular idea in the community to limit councillors to two terms. It has strong support in my electorate, as I know it has in other areas throughout the State. When I last put it up, I got favourable responses from all round the State. So, even though honourable members of this House may wish to retain the present system, I say they are out of step with the community. But I will debate that further when the amendments are being considered.

Mr CORRIGAN (Camden) [10.02 p.m.]: I have a few comments to make on what some honourable members said, but firstly I would like to ask all honourable members to read the overview on the front page of this simple three-page bill. It states:

The objects of the Bill are to amend the *Local Government Act 1993*:

- (a) to provide that the ordinary election of councillors for an area is to be held every 4 years on the fourth Saturday in March, rather than on the second Saturday in September, so that the ordinary election that would otherwise have been held on Saturday 13 September 2003 will now be held on Saturday 27 March 2004, and
- (b) to give councils the opportunity, before 31 December 2003, to reduce the number of councillors without having to go through the process of a constitutional referendum, and
- (c) to make other amendments of a minor or consequential nature.

Somehow this rather innocuous bill has been quite wrongly portrayed by the honourable member for Coffs Harbour, who forever after would have this bill known as the politicising of potholes bill. It is disgraceful that the honourable member stood in this place and impugned the character of two fine members of the Boundaries Commission who work independently and quite often make recommendations that are not popular with whatever side of councils, whether they be Independent, Labor or Liberal. The bill has nothing to do with amalgamation or dissolution of councils. Its objects are quite simple. Personally, as a sitting councillor, I do not like the provisions of the bill; I would rather finish in September this year. I am sure that some colleagues on this side of the House and the other side of the House who are currently councillors would much rather finish in September.

Ms Moore: Then you should support the amendment of the honourable member for Manly.

Mr CORRIGAN: I certainly do not. But I understand the import of the legislation, the aim of which is to move the elections to next year, thus avoiding the necessity for people to vote in two elections in one year and to have those elections in separate years. In the long term, that will be a good thing. In the short term, it is inconvenient for me, for the honourable member for Strathfield, the honourable member for Hawkesbury and for the honourable member for Lane Cove. But in the long term it is the right thing to do for good governance. If the Government were keen on amalgamations or dissolutions it would simply have followed the example of Victoria and the Liberal Government of Jeff Kennett, who amalgamated a large number of councils. We are now seeing the downside of some of those super amalgamations. The New South Wales Government has clearly said that amalgamations will be entirely voluntary. I am happy with that policy, and fully support it. We cannot foist amalgamations on councils, but we give the opportunity to amalgamate to those that want to do so. The second object of the bill is to give councils the opportunity to reduce the number of councillors, rather than go through the constitution referendum process provided for in the Local Government Act of 1993.

I turn now to an amendment foreshadowed by the honourable member for Manly. If councillors are limited to two terms, surely State and Federal members must be limited to two terms. I am the only member of Camden council who has served on the council since 1991. That council has a regular turnover of councillors. It is not a political council. I was elected as an Independent member, though people knew I was a member of the Labor Party. The council has one elected member of the Labor Party. Camden has a long history of not electing to council people who are members of either the Labor Party or the Liberal Party. That has proved to be good for the council area. I happen to agree that we would be better off if all local government was entirely free of partisan policies. Unfortunately, the reality is that people cannot afford to run for local government and operate effectively in some inner city areas if they do not belong to political parties.

Ms Moore: Some have.

Mr CORRIGAN: Most councils in this State, as was mentioned by the honourable member for East Hills, are not controlled by either the Liberal Party or the Labor Party; they consist of independent people who take their own views to council. The Government is saying to those people and to inner city and other councils:

If you want to think about amalgamation, you are free to do so. The honourable member for Manly raised two other points. I think he underestimates the perception of the Australian people. It is my experience that we should never underestimate the voters. They seem to me to always get it right. Whether it be Federal, State or local, people are able to distinguish between the three levels of government and are able to make the right selections. In my first term at Camden council there were people who I thought were outstanding councillors, but they did not get re-elected—not because they were members of any party, because none was a member of the party at that time, including me, but because of how the public viewed their performance. They were not re-elected as a consequence of public perception about their performance.

The second matter raised by the honourable member for Manly was that perhaps only one matter a year was referred to the Pecuniary Interests Tribunal. I suggest that the honourable member read the report of the tribunal, because it receives a number of referrals each year, many of which are vexatious and proceed no further than their referral to the Pecuniary Interests Tribunal or do not even get past the Department of Local Government, which decides whether to refer the matter to the Pecuniary Interests Tribunal. One councillor from my council has been the subject of three or four referrals to the Pecuniary Interests Tribunal over the past two years as a result of complaints by people whom I think are probably vexatious. The Pecuniary Interests Tribunal deals with a lot of these issues over time. The requirements imposed upon local government so far as pecuniary interests are concerned are certainly a lot more stringent than are those applicable to State members.

The requirements to report are entirely different and a lot tighter, which is as it should be, because local councils are a lot closer to the people. The perception of possible corruption was one of the reasons for the 1993 amendments. Perception of corruption is most often false; rarely does it come to the surface. In the cases in which it has, the Department of Local Government and the Government have dealt with it swiftly and properly. I have no problems with this simple bill, which contains three parts. It is not a precursor to an amalgamation or dissolution. It is a simple bill to move the elections to next March and to allow councils, if they wish, to reduce their members.

Ms MOORE (Bligh) [10.10 p.m.]: I contribute to the debate as a strong supporter of local government—a democratic, non-party politicised local government. I agree with the comments of the honourable member for Coffs Harbour—the first time in more than a decade—about party politicising of local government. It is rare for me to support the honourable member for Coffs Harbour. I say to the honourable member for Camden, someone for whom I have a great deal of respect, that it is not an innocuous bill. It is of great concern to all those who are strong supporters of democratic local government. The bill will defer the next local government election to the fourth Saturday in March 2004 and standardise local council elections to that Saturday every four years, with all council office-holders, mayors and committees remaining in place until the election.

The Minister's second reading speech argues that the bill will give new councils immediate control by being able to plan for the next budget cycle. It argues that pressure will be taken off voters and the State Electoral Office if local elections are not held within six months of the State election. I agree with that principle. Now, thanks to the independent charter of reform and the four-year fixed term that was supported resoundingly by the New South Wales community, we have our elections on the third Saturday of March every four years. I agree that we should not have a fixed four-year local government election in the same year. It is sensible for both candidates and electors to have the elections a year apart.

However, if the electoral cycle is to be changed, the fairest way to do it would be to extend or reduce it to the next term so that councillors and voters have full knowledge of what is happening. It should not be announced and/or legislated for, then imposed from above. As the honourable member for Manly said, it is shifting the goal posts. Although I agree with it in principle, it can be done in a better way. We should also consider the point made by a number of speakers about the proposal to extend the term of councillors for six months without any reference to local communities. That is a particular problem for South Sydney City Council, which, as all honourable members would know, was emasculated by recent boundary changes.

South Sydney City Council now has a serious excess of councillors. A number of councillors no longer have an area to represent, and that will continue until next March. In the meantime the new residents of the City of Sydney, thousands of my constituents, will have no directly elected representatives. As honourable members would realise, the Kings Cross-Darlinghurst- Woolloomooloo area has serious local government issues that need serious representation, yet it will not have elected representatives. The change creates serious problems for councillors who do not intend to contest the election and will be forced to continue in a job beyond the time they planned to retire. I know of a number of councillors who fall into that category.

There are real problems about the way in which the Government has gone about this. It is important that the Minister reconsider an approach to what is a sensible idea. I note that the Local Government Association support the principle of the bill. I have received a letter of opposition from the council at Manly, which makes a relevant point: the council wants appropriate consultation. The problem I have is that when State Government manipulates local government it shows contempt for local government and, thereby, contempt for the communities within that local government area. I strongly oppose extending the time for which a council vacancy can be left unfilled from 9 months to 12 months. It is undemocratic and will leave a gap in representation for a community and an area. It should be deleted from the bill.

I am concerned about proposing an easier alternative to a referendum for the reduction in the number of councillors. It is absolutely undemocratic and I absolutely oppose it. The Minister's second reading speech gave no rationale for the provision other than it being effective and efficient. Everyone in this Chamber, and many of us have been in local government, would agree that local government should be effective and efficient. However, we live in a democracy and local government is meant to be democratic. It should not be the plaything of any party and it should not be manipulated by State Parliament. I am absolutely opposed to that provision. I am also concerned that any reduction in the number of councillors will make it more difficult for non-party political candidates to be elected. That is also undemocratic.

The Labor Party has a sorry history of manipulation. I have experienced it. I was elected to South Sydney City Council. I was amalgamated into the city to try to resolve an Australian Labor Party factional dispute. Our elections were postponed because the Wran Government could not make up its mind which gerrymander it would go for. The council was then dismissed for political reasons. The Greiner Government then came in and carved up the council. We have had another recent carve-up. The people who suffer in the process are those who live in the city. I strongly oppose what the Australian Labor Party has done in the inner city in the past 20 years. I hope that, given the opposition to the bill in its current form—although it contains at least one proposal that is worthy of support—it will be either withdrawn or amended to introduce the necessary changes.

Mr WHAN (Monaro) [10.16 p.m.]: I had not intended to speak in the debate, but I was inspired by the shadow Minister's contribution to do so. Before I tackle some of his comments I will address some legitimate and genuine questions raised with me by local councillors about legislation. I have had a lot of discussion with local councillors in the Monaro area and, for the most part, they are happy with the legislation and the delay in the elections. It is a simple but sensible bill. It is bemusing to listen to the Machiavellian plots that have been wound into the bill tonight. A couple of local councillors who had planned to retire in September were concerned about how the delay would affect them and their retirement plans. The legislation enables them to retire or resign after September without the need for a by-election. The bill also provides for reduced quorums, should that be necessary. I know that their local communities would not begrudge their going, because they have served the community well.

We heard a lot of comments from the shadow Minister about the provision in the bill to allow councils to reduce the number of councillors for a period of time—as if it were some sinister Labor Party plot, the Machiavellian part of the bill, as if it has never been done. It is interesting to note that it has been done. Previously, the option was extended to councils in 1993 when the Coalition was in government. Was that a Machiavellian plot for a Liberal Party takeover of our local councils? Hypocrisy in action! If it were a Machiavellian plot to take over the councils, it did not work too well.

As speakers on this side have pointed out, the bill has nothing to do with amalgamations or council boundary changes. The comments of the shadow Minister contained amazing inaccuracies about councils in my local area. One of the most important reasons I have been elected to this House is because I am always willing to talk to people in the local area. I do not just stick my head in the sand in the hope that problems will go away.

Mr ACTING-SPEAKER (Mr Lynch): Order! The honourable member for Coffs Harbour will come to order.

Mr WHAN: As a local political representative, one has to be willing to lead and look at the future of a shire.

Mr Fraser: Sure, and you are going to ring the shire president back.

Mr WHAN: In response to the persistent interjections being made by the shadow Minister, I point out that I spoke to the shire's mayor this afternoon, as I spoke to him on Monday and previously on a number of occasions. I have arranged for him to meet the Minister.

Mr ACTING-SPEAKER: Order! The honourable member for Coffs Harbour will come to order. He may make a personal explanation at the appropriate time.

Mr WHAN: Among the amazing comments made by the shadow Minister during the debate was his attack of the Queanbeyan City Council. He suggested that it needed the amalgamation to obtain money for the new shire chambers that it wants to build. Queanbeyan City Council is not building new shire chambers. There are no plans for the Queanbeyan City Council to build new shire chambers. Did the shadow Minister mix it up with the Yass Shire Council?

Mr Fraser: Probably.

Mr WHAN: Probably? Accuracy is fairly important.

Mr ACTING-SPEAKER: Order! The honourable member for Coffs Harbour will come to order.

Mr WHAN: It is terrific that the National Party can be counted on for one thing: no change.

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

Mr WHAN: Let us not look at anything that might benefit a local area! I point out to the shadow Minister that there is an important principle involved. During the recent election campaign, I stated clearly to people who live in the Monaro region that the Carr Government would not force amalgamations on them. I also stated that as a local leader I would always be willing to work with local councils to improve administration in our region. The reality that people in Monaro know very well is that the doughnut council—it has two holes in it with Queanbeyan and the ACT—is not a practical, long-term solution.

Mr Fraser: You have resolved to double their rates.

Mr WHAN: Here is another example of the National Party spin that has been put on the rates issue. We are invited to compare the rates in Queanbeyan to some that are paid in the Yarrowlumla shire. However, the shadow Minister forgot to add in Yarrowlumla shire levies, which mean that a Captains Flat resident pays more than a Queanbeyan resident in overall rates, yet lives in a small miner's cottage. I guess one of the reasons that I am the State representative for Monaro is that, unlike members of the National Party, I am willing to talk to members of the community and I am willing to look to the future of good government of the area. The shadow Minister would have us believe that the process that the Queanbeyan City Council and the Yarrowlumla Shire Council are undergoing is complete, but there is an opportunity for both shires to put their cases and for the local people to put in submissions.

The important point to remember is that Queanbeyan City Council has foreshadowed for some time that it wants to make boundary changes. As a parliamentary representative who is interested in the future of the region, I believe that when the Boundaries Commission is adjudicating on boundary changes, it should look at the long-term future of councils and how ratepayers will obtain the best value for their money in the long term. By looking at those issues now rather than continually looking at a number of small boundary changes, it will be possible to ensure that not only will the ratepayers of the Yarrowlumla and Queanbeyan areas get the best value for money but that they will have the most effective representation and the best services.

It is a great delight to me that day after day members of the National Party come into this place and say "No change" to everything. It explains why I was elected. Members of the National Party fail to change with the communities in their regions. I was elected because the people of the Monaro region want better services and sensible council boundaries. That is what they will get out of the process provided for in the bill. As I stated earlier, much of what has been said during this debate has nothing to do with this sane and sensible bill that will make minor changes for the term of this Government. I urge honourable members to support the bill.

Mr HAZZARD (Wakehurst) [10.24 p.m.]: As indicated by the shadow Minister, the Opposition is concerned that the Government has an agenda for local government areas throughout the State and is not being entirely up front. The shadow Minister made the point that the dissolution of a council is tantamount to a forced amalgamation. In the event that the State Government pursues a course of dissolutions as a backdoor method of amalgamations, local communities throughout this State will be extremely concerned. Local communities must have the right to determine their own futures and what they want from local councils. There are some communities throughout the State that are frustrated with their councils and may wish to have changes in them, but it is not up to the Government or anyone in Macquarie Street to make those decisions.

Ms Moore: Exactly! It is up to the local community.

Mr HAZZARD: As the honourable member for Bligh says, it is up to the local community. This bill suggests that some other agenda is on foot. As a State member of Parliament, I place myself in the position of the local councillor who deals with issues on a day-to-day basis. I would be extremely concerned if the State Government moved to give effect to a surreptitious agenda for the destruction of local government. Although there are a number of matters involved, I do not wish to take up the time of the House other than to say that a number of the issues raised by the shadow Minister and the honourable member for Bligh are entirely appropriate for discussion. There is a commonality of suspicion that the State Government may following other agendas.

The amendment foreshadowed by the honourable member for Manly seeks to limit a councillor to two consecutive full terms of office. I am not sure that there is great logic in that amendment. At one early stage after I entered Parliament I briefly entertained the view that the number of terms for parliamentarians should be limited, but the real issue is whether the community, through a democratic process, wants to re-elect somebody. That is what the issue comes down to. The honourable member for Bligh has been re-elected five times. Although that may not always be what I would like to happen, one must acknowledge that some members of this place—irrespective of whether they are Liberal members, Labor members or Independent members—have been elected because the people they work with think they are doing a good job.

To some degree, members grow into the job. It is possible to become stale. Some people do, but many others grow into the job and develop skills as well as a rapport with their communities. It would be counterproductive in the level of government that is closest to the people—namely, local government—to simply say that a member of a council cannot be re-elected because of an arbitrary line had been drawn. Where is the logic in that? I did not hear any logic from the honourable member for Manly. I am disappointed that as a former local councillor in Manly he has not shown an appreciation of the capacity of local councillors to perform their job as they improve their relationship with their constituents. If the amendment is pursued, I will most vigorously oppose it. I do not think that makes any sense at all.

Mr Barr: It makes a lot of sense.

Mr HAZZARD: The honourable member for Manly thinks it makes a lot of sense. He has done a few things in Manly which I think do not make a lot of sense.

Mr Whan: But he keeps winning.

Mr HAZZARD: He does. He is good. He worked with some people in the local area associated with a document known as the *Manly Times*, just before the local council election, and he did an excellent job.

Mr Barr: Point of order: The member is impugning my character by saying that I was involved in the production of a publication, which is certainly quite untrue. This is an important issue.

Mr ACTING-SPEAKER (Mr Lynch): Order! The honourable member for Wakehurst may continue.

Mr HAZZARD: If the member wants to be absolutely accurate, in the *Manly Daily* he is quoted as saying that he thought it was humorous that there was a dirt sheet that made ill-based and unsubstantiated attacks on his colleague Jean Hay. He is a councillor on Manly Council and he should be working with people; he has a duty.

Mr Barr: Point of order: I ask the member to come back to the leave of the bill, and be relevant, instead of attacking me.

Mr HAZZARD: I was responding to your interjection. If you kept your mouth shut you would not have had to do that.

Mr ACTING-SPEAKER: Order! The point of order is probably well founded, but I am sure that the remarks of the honourable member for Wakehurst were passing references only.

Mr HAZZARD: Well, I was working up. Obviously the honourable member for Manly is very touchy, because he knew far more about it; it was his people who put those so-called *Manly Times* documents into letterboxes. He was in it up to his eyeballs, along with his predecessor.

Mr Barr: Point of order: The member for Wakehurst has a rather sad obsession about everything I do in Manly. He should come back to the bill and not attack me. He is quite incorrect in what he is saying.

Mr ACTING-SPEAKER: Order! The honourable member for Manly took a point of order and I ruled in his favour. If the honourable member for Wakehurst wishes to continue his remarks he should avail himself of the standing orders that provide the necessary forms and procedures relating to substantive motions. I will not allow him to continue in his present vein.

Mr HAZZARD: Point of order: The standing orders provide that I cannot launch a substantive attack against a member in his capacity as a member. I was delivering a commentary about Councillor Barr. He holds a full-time position under the Local Government Act as an elected local government official, and I am entitled to raise those issues in this place. If he was up to scurrilous behaviour, and he was, in allowing the *Manly Times* to be published two days before an election, I am entitled to raise that issue.

Mr ACTING-SPEAKER (Mr Lynch): Order! That is not only a totally unmeritorious point of order, it also canvasses my ruling. I remind the honourable member for Wakehurst of the ruling I have just made.

Mr HAZZARD: The point is that a limit of two terms for someone who is doing a good job is inappropriate. Perhaps Councillor Barr expects to have only two terms. He is probably right. However, the rest of us deserve more.

Mr NEWELL (Tweed—Parliamentary Secretary) [10.32 p.m.], in reply: I thank members on both sides of the House for their contributions to this important debate. However, there was some rather vigorous debate, and I ask some honourable members to reconsider their comments, particularly the later comments of the honourable member for Wakehurst. I foreshadow a Government amendment that will clarify a drafting technicality in relation to making consistent the provisions for the timing of an election for a new mayor following an ordinary local government election.

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

The House divided.

Ayes, 46

Ms Allan	Mr Greene	Mrs Perry
Mr Amery	Ms Hay	Mr Price
Ms Andrews	Mr Hickey	Dr Refshauge
Ms Beamer	Mr Hunter	Ms Saliba
Mr Black	Ms Judge	Mr Sartor
Mr Brown	Ms Keneally	Mr Scully
Ms Burney	Mr McBride	Mr Stewart
Miss Burton	Mr McLeay	Mr Tripodi
Mr Campbell	Ms Meagher	Mr Watkins
Mr Collier	Ms Megarrity	Mr West
Mr Corrigan	Mr Mills	Mr Whan
Mr Crittenden	Mr Morris	Mr Yeadon
Ms D'Amore	Mr Newell	
Ms Gadiel	Mr Orkopoulos	<i>Tellers,</i>
Mr Gaudry	Mrs Paluzzano	Mr Ashton
Mr Gibson	Mr Pearce	Mr Martin

Noes, 35

Mr Aplin	Ms Hodgkinson	Mr Roberts
Mr Armstrong	Mrs Hopwood	Ms Seaton
Mr Barr	Mr Humpherson	Mrs Skinner
Ms Berejiklian	Mr Kerr	Mr Slack-Smith
Mr Cansdell	Mr Merton	Mr Souris
Mr Constance	Ms Moore	Mr Tink
Mr Debnam	Mr Oakeshott	Mr Torbay
Mr Draper	Mr O'Farrell	Mr J. H. Turner
Mr Fraser	Mr Page	Mr R. W. Turner
Mrs Hancock	Mr Piccoli	<i>Tellers,</i>
Mr Hartcher	Mr Pringle	Mr George
Mr Hazzard	Mr Richardson	Mr Maguire

Pairs

Mr Bartlett
Mr Iemma

Mr Brogden
Mr Stoner

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clause 1 agreed to.

Mr BARR (Manly) [10.44 p.m.], by leave: I move my amendments Nos 1 and 3:

- No. 1 Page 2, clause 2, line 6. Insert ", being a day that is, or days that are, not earlier than 11 October 2003" after "proclamation".
- No. 3 Page 3, schedule 1 [1], lines 6 and 7. Omit "the fourth Saturday of March 2004 and on the fourth Saturday of March in every fourth year after 2004". Insert instead "the fourth Saturday of March 2008 and on the fourth Saturday of March in every fourth year after 2008".

These amendments will do away with the retrospectivity that is inherent in the Government proposal to conduct elections as they were conducted when people voted for councils in 1999—that is, a four-year term for councillors who are elected in September. People who stand for council, and the public, would then know that the next election will take place in March 2008. Everyone should know the rules at the time of an election. As things stand, the rules have been changed along the way to extend the term of councillors to March 2004. When people voted for those councillors in 1999 they were not aware of those changes. If the Government is keen on having elections in March rather than September—in the year following a State election—that is what should occur, but the public should be aware of it.

These amendments, and my consequential amendments Nos 4, 5 and 6, will ensure that council elections are held in September this year. There is no retrospective component, because everyone knows what the situation is; the goal posts are not moved; and the next council election will take place in March 2008. I moved these amendments because I object in principle to changing the rules along the way. The bill as drafted would override the democratic processes that led to the election of local councils and it would override the wishes of many councils and councillors. I commend the amendments to the Committee.

Mr O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [10.46 p.m.]: I have not seen such a sanctimonious performance from an Independent in this House since the Independents controlled the balance of power in this place. See no evil, hear no evil, speak no evil! The Independents held this State to ransom from 1991 until 1995. Let me inform the honourable member for Bligh, the honourable member for Manly, and the Country Labor Independents who sit on the backbench about the reality of these amendments. The only way that people are elected to local, State or Federal government is by the democratic decision of electors. Why does the honourable member for Manly want to impose on State, Federal and local council elections a decision that should be made by the community?

The honourable member for Manly parades himself in this Chamber as an unaligned Independent, but during the recent State election campaign he orchestrated the cash payment of a dirt sheet on the Mayor of Manly, who served that community well. The honourable member ensured that the document was authorised by a person who did not live at the address that was given. The honourable member, who authorised a dirt sheet, said in this Chamber—

Mr Scully: Point of order: The Deputy Leader of the Opposition knows the rules and standing orders. If he wants to speak to his amendments, he should refer to them and either support or oppose them. This is not an opportunity for him to whinge about the re-election of the fine member for Manly.

Mr O'FARRELL: To the point of order: The honourable member for Manly sits in this place not only as a State member but as a local government councillor. We should analyse his actions, his sanctimony, and his hypocrisy in both roles.

The CHAIRMAN (Mr Price): Order! I uphold the point of order.

Mr O'FARRELL: I say to the Minister for Roads, and Minister for Housing, who apparently went to Chatswood High School, which is a fine public school: I might not have gone to Chatswood High School, but I can read. The fundamental point that the Clover Moores, Peter Macdonalds, David Barrs and John Hattons never understood is that, at the end of the day, we are all sent here by residents who voted in a democratic process. That decision ought to be made by those people, in whatever capacity; it ought not be dictated to them by a sanctimonious jerk.

The CHAIRMAN (Mr Price): Order! I suspect that those words are unparliamentary. I will not tolerate the use of such language.

Mr FRASER (Coffs Harbour) [10.49 p.m.]: The honourable member for Manly has not made his position clear. If we pass these amendments there would have to be an election in September, and another in 2004. However, judging from the honourable member's explanation to the Committee, he does not want any elections until 2008. He has not made his position clear and the Opposition will not support the amendments.

Mr NEWELL (Tweed—Parliamentary Secretary) [10.49 p.m.]: the Government does not support the amendments. We are committed to maintaining a close dialogue with local government, particularly through peak bodies such as Lgov NSW, and the Minister has received representations from Lgov NSW supporting a change to the election date. Furthermore, the Government has received advice from the State Electoral Commission that this change to the election date will result in the more efficient use of resources. That is because local government elections will be held in the year following a State election rather than in the same year. Given the support from the local government sector and the opportunity to manage resources more efficiently, the Government sees no reason to delay the deferral of local government elections.

Amendments negatived.

Clause 2 agreed to.

Clause 3 agreed to.

Schedule 1

Mr BARR (Manly) [10.51 p.m.]: I move my amendment No. 2:

No. 2 Page 3, schedule 1. Insert before line 3:

[1] **Section 277**

Omit the section. Insert instead:

277 May the holder of a civic office be re-elected?

- (1) Subject to this Act, the holder of a civic office is eligible for re-election.
- (2) A person who holds a civic office for 2 consecutive full terms of office is not eligible for re-election to that office if such re-election would result in the person holding the office for a third consecutive term.
- (3) Subsection (2) does not apply to a person seeking re-election for a civic office if, at the relevant election, there are fewer eligible candidates (being candidates not disqualified by subsection (2)) standing for office than positions available to be filled.
- (4) For the purposes of this section:
 - (a) *a full term* of a civic office does not include a term of office that commenced with a by-election to fill a casual vacancy, and
 - (b) the office of a councillor is a different civic office from the office of a mayor elected by the electors.
- (5) This section does not apply to a term of a civic office that commenced before the commencement of this section as substituted by the *Local Government Amendment (Elections) Act 2003*.

I seem to have caused a bit of heartburn among some members on the Opposition side of the Chamber, but I sleep easy at night. This amendment seeks to restrict councillors to having two terms in office. This is not a sanctimonious proposal but a way of bringing greater democracy to local government by allowing more people to stand for election to councils. It prevents the entrenchment of councillors over many years, which is not healthy for the democratic process. I know that honourable members will say that a considerable number of councillors are constantly re-elected but I point out that many voters do not know much about their councils or councillors—that may bruise some egos in this place. The essence of my argument is that, on balance, it is more democratic to allow a greater number of people to have a say in local government. Local government is, by its nature, a grassroots process and we should maximise the opportunities for people to stand for their councils and represent their community interest. That is why I have suggested a two-term limit.

The amendment makes allowances in circumstances where there are not enough candidates, and it will not apply to popularly elected mayors. The point is that everyone will know the rules from the outset. The same two-term limit also applies to the United States of America presidency. I have said before that this proposal is popular among the general public, who support it. Honourable members will be out of step with the people if they vote against it—although I am a realist and I know that they will. The last time I broached the subject I was in a minority of one, and I expect much the same result tonight. I think this is a significant amendment that the Committee should take seriously. Even if the amendment is not passed, I believe we will consider the issue again. I think it is the way to go. We should limit councillors to two terms and give more people a chance to have an input into local government.

People have asked: What about members in this place? I distinguish local government from the Legislative Assembly in the sense that members of the House are full-time members who represent their constituents. Members must serve an apprenticeship, learn the ropes in this place, and then perhaps become Ministers. The situation is different for councils; it is more analogous to a board of directors. Councillors have a part-time job and there is no reason why their terms should not be restricted in the way that my amendment suggests. It is different in this place and I do not propose a similar arrangement for State Parliament. I commend my amendment to the Committee.

Mr FRASER (Coffs Harbour) [10.55 p.m.]: I look forward to seeing the honourable member for Manly leaving this Chamber in another four years when his two terms in this place have expired. I suggest that he leave if he believes that local government representatives should resign after two terms or be forced out by legislation. The honourable member suggests that people who wish to represent their local communities on councils, and to give of their own time, should have the opportunity to serve for only two terms.

In many local government areas in regional Australia, people who have an interest in serving their local community, and the opportunity to do so, remain on councils sometimes for 20 years. The honourable member for Manly is seeking to dictate to them and tell them that they cannot serve for more than two terms. He is a hypocrite. If he really believes that, he should get out at the next election. This sort of amendment should not be accepted by local, State or Federal governments. The voters elect those people whom they want to serve as councillors. If this amendment honestly reflects the honourable member's attitude, he should tell that to the electorate and he will not be in this place beyond the next election.

Mr HUMPHERSON (Davidson) [10.56 p.m.]: By moving this amendment the honourable member for Manly has demonstrated that he has no confidence in democracy. He has no faith in the voters of this State having the ability to choose people to represent them. Every person in this State should have the right to offer himself or herself for election to a council. The honourable member wants to restrict that right. He has no confidence in the ability of the voters to choose the best people to represent them. He wants to manipulate the system artificially to deny certain people the right to stand for council election and represent the very citizens whom we represent in this place. What a dictatorial approach! It is yet more of the sanctimonious crap that he has given us in his time in this Chamber!

I challenge the member for Manly to offer himself as a candidate in the local government elections in March next year and let the ratepayers of Manly judge him. He should let the voters of the Manly local government area judge him on his record. There is no grubbier party in local government than the residents and friends party. The dirty tactics of the honourable member for Manly and his mates in the residents and friends party prove that. Let the member be judged by the electorate.

The CHAIRMAN (Mr Price): Order! There has been enough unparliamentary language and conduct tonight from members on both sides of the Chamber. This is the Committee of the Whole, and it is considering an important bill. I ask members to conduct themselves with some decorum.

Mr HUMPHERSON: I challenge the member for Manly to stand as a candidate in the council elections and let the people judge his record and his antics as well as those of the other members of the residents and friends party. I also ask the honourable member for Manly to respond in this Committee stage and tell the people of Manly who paid for that grubby dirt sheet that was issued just before the last election. It was distributed by his friends, the residents and friends political party at Manly. I challenge the honourable member for Manly to go on the public record and say that he knows nothing because if he does not he is condemned as guilty.

Mr Scully: Point of order: It is entirely inappropriate for the honourable member for Davidson to misuse the standing orders of this House to launch that unsubstantiated attack on the honourable member for Manly. I am happy to suggest to the Speaker that members of the Opposition attend lessons and seminars on the standing orders of this House. The honourable member for Davidson knows that his behaviour is inappropriate. He should tell us why he is opposed to the amendment before the Committee. I ask you to draw the honourable member back to the amendment.

The CHAIRMAN (Mr Price): Order! I uphold the point of order. The honourable member for Davidson will return to the leave of the amendment and conclude his speech as soon as possible.

Mr HUMPHERSON: Honourable members and the public are entitled to get answers to a number of questions that I have posed. Only the honourable member for Manly can answer those questions. Who paid the cash to the printer? What does he know about distribution of that grubby dirt sheet? The honourable member for Manly can answer that question now or stand condemned.

Mr HAZZARD (Wakehurst) [11.01 p.m.]: This amendment moved by the honourable member for Davidson is a cause of concern for those who support democracy and decency. There is no rule for State parliamentarians—even the noisy, childish honourable member for Kiama. Federal members of Parliament are not given an arbitrary line under their term. If they do a job—and quite a number of Labor members do not—they are entitled to go back to the people and have their political future determined by the people. Local government should by definition be the closest form of government to the people. Why is the honourable member for Manly, who has forged his political path through local government, now prepared to thumb his nose at local government and the rights of local residents to determine who they want as their local council representative?

The honourable member for Manly thinks he knows best. Perhaps he can see into the future and knows that his two terms will probably be as far as he gets. There is no logical argument either in democracy or decency for this particular limitation to two terms. The honourable member for Manly, as a former councillor, at the last election did not tell people that he would require by statute the opportunity for all members of council to be re-elected to be ruled out. Some members of local councils are elected time and time again. A number of Labor and Liberal members in this place have been re-elected many times on councils—even the honourable member for Murray-Darling—presumably because the people thought they did a good job as local councillors, even if they do not do a good job as local State members of Parliament. Whether it is on the grounds of democracy or decency, the honourable member for Manly fails. This is sanctimonious claptrap from the honourable member for Manly, who is trying to impose his will on the people of Manly and on other councils throughout the State. That indicates that he is totally out of touch with decency and the fundamentals of democracy.

As the honourable member for Davidson pointed out, a dirt sheet was distributed just before the election. The honourable member for Manly has failed to explain his involvement in the anonymous dirt sheet that was circulated throughout Manly and Warringah that attacked various individuals. All he said in regard to the dirt sheet that appeared a few weeks ago was he thought it was humorous. If that is democracy and decency then the honourable member for Manly is guaranteed that he will not have any more than two terms either in this place or in the local council. The Opposition opposes, and I certainly oppose, these undemocratic and indecent suggestions made by the honourable member for Manly which try to stop people from being re-elected to local councils after two terms.

Mr NEWELL (Tweed—Parliamentary Secretary) [11.05 p.m.]: The Government appreciates what the honourable member for Manly is trying to achieve with this amendment. However, the Government will not support the amendment. Limiting local councillors to two consecutive terms would be inconsistent with the provisions made for elected representatives in other tiers of government which state succinctly what the Opposition has taken 10 minutes to say.

Question—That the amendment be agreed to—put.

Division called for. Standing Order 191 applied.

Ayes, 1

Mr Barr

Question resolved in the negative.

Amendment negatived.

Mr NEWELL (Tweed—Parliamentary Secretary) [11.08 p.m.], by leave: I move Government amendments Nos 1 to 5 in globo:

- No. 1 Page 4, schedule 1 [15], lines 24 and 25. Omit "**mayors elected by electors and deputy mayors of such mayors**". Insert instead "**mayors and deputy mayors**".
- No. 2 Page 4, schedule 1 [15], line 27. Omit "who is elected to that office by the electors".
- No. 3 Page 5, schedule 1 [15], line 1. Omit "of such a mayor".
- No. 4 Page 5, schedule 1 [15], lines 15 and 16. Omit "**mayors elected by councillors, deputy mayors of such mayors,**".
- No. 5 Page 5, schedule 1 [15], lines 19–22. Omit all words on those lines.

These amendments clarify a drafting technicality. They make consistent the election of the office of mayor, who is elected by councillors with the popularly elected mayors so that both hold office under the election of their successor. This is particularly important to maintain consistency between both types of mayoral elections, given that there may be a longer delay in the election of mayors at the next election due to the introduction of centralised counting.

Mr FRASER (Coffs Harbour) [11.09 p.m.]: The amendments clearly demonstrate the Government's agenda with regard to this legislation. As I said in the second reading debate, this legislation is being pushed through so that the Government can further its agenda on amalgamation and dissolution of councils. The amendments make it patently clear that even the drafting of the bill was done in such a hurry and in such a manner that the Government could not get the drafting right in the first place. All it knew was that it wished either to force amalgamations on councils or to force dissolution of councils.

The honourable member for Monaro waxed lyrical about what a great local member he is, but he has not told the people of the Yarrowlunla shire that their rates will increase by 150 per cent, from \$312 to \$725. This is the member who refused to return the telephone call from the mayor of Yarrowlunla shire until 2 o'clock today. The mayor had been trying to contact him since yesterday, when the letter from the Minister was received. He ducked for cover, as did the Minister. Eventually the Minister arranged for a meeting on 4 June between the Premier, the Minister, the mayor and other council officers, but that was only done when he knew that the media and the councils were after him.

Mr Newell: Point of order: It is quite clear that the honourable member is speaking well outside the bounds for speaking in Committee to an amendment. He obviously is making a second reading speech. I ask that he be reminded that in Committee he is restricted to speaking to the relevant points raised by the amendments, and to nothing else.

Mr Fraser: To the point of order: I am demonstrating that the amendments prove that the Government has a hidden agenda and that Government members have tried to mislead this Chamber and their own constituencies by what they have said in debate this evening and by concealing the fact that the amendments are necessary to remedy drafting errors caused by the hasty preparation of this legislation. I believe I have leave within Committee to emphasise the fact that the Government is duping the public with this legislation.

The CHAIRMAN (Mr Price): Order! Consideration of amendments moved in Committee is restricted to narrow parameters. A member may not introduce new material or canvass matters already debated. I uphold the point of order.

Mr FRASER: I reiterate that the amendments are proof that the Government has a hidden agenda. They prove that the bill was hastily drafted. The amendments prove that the legislation has not been tested, even by the legal profession. These amendments are being dealt with in a manner similar to that adopted in the upper House regarding the bill on the age of consent, because the Government had not seen the ramifications of the legislation when drafting it in the first place. The Opposition will not support the bill. Whilst we do not oppose the amendments, because they merely fix up drafting errors of the Minister, we will not support the legislation.

Mr NEWELL (Tweed—Parliamentary Secretary) [11.16 p.m.]: The Government rejects the arguments that have been put forward, and urges honourable members to support the amendments.

Amendments agreed to.

Schedule 1 as amended agreed to.

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

LOTTERIES AND ART UNIONS AMENDMENT BILL

Second Reading

Debate resumed from 7 May.

Mr SOURIS (Upper Hunter) [11.16 p.m.]: I have pleasure in leading for the Opposition on the Lotteries and Art Unions Amendment Bill. At the outset I state that the Opposition will not oppose the bill. Nonetheless, a number of concerns have come to light during my consideration of it and flowing from discussions with the Minister, his staff and departmental officers regarding it. I am pleased to say that some of those concerns have been accepted by the Minister, who intends in Committee to move an appropriate amendment, a copy of which I have been given. I indicate that the Opposition will also support this Government amendment when it is moved.

I want to take this opportunity to make some very brief remarks about this bill. The first is that my concerns in all of this have been twofold: first, I am concerned about the ability of New South Wales charities to continue to raise sufficient funds to carry out the vital works that they do on behalf of our community. The fear I express on their behalf, and perhaps on behalf of other members, is that any undue incursions and business activity by charities that are not New South Wales charities but which intend to operate in New South Wales more freely than previously as a result of this bill, may adversely affect the income-raising ability of our own New South Wales charities.

I would not want New South Wales, particularly its tourist areas and Sydney, to mirror the Gold Coast in Queensland with a tear-off lottery or a ticket hawker on every corner waving boards with lots of loose-leaf tickets. It is unseemly and unpleasant not only on the Gold Coast but also in other countries around the world. I would not like to think that the legislation would open a Pandora's box in New South Wales for those sorts of very visible lottery sellers in the streets of Sydney or other tourist destinations. I have had the benefit of consultations with Mr Brian Daniels of Charity Awareness New South Wales, Mr Wayne Clarke of Fundraising Institute of New South Wales and, to a limited extent, Mr Wayne Krell from Clubs New South Wales, and I am indebted to them for the advice I have received.

I pay credit to Mr Brian Daniels, who raised a number of issues and assisted me to coalesce three items that should be maintained as requirements, particularly for interstate lotteries operating in New South Wales: first, the need for a continuing process by which an interstate lottery makes an application for a permit to conduct activities in New South Wales; second, that the rule applicable in New South Wales be the 60:40 rule, which prescribes that 40 per cent of the proceeds of a lottery would find their way home to the mother charity; and, third, subsequent to the conduct of the lottery or the art union an audit be conducted and provided to the department within 60 days to prove the adherence to all the provisions of the Act and the permit.

The bill does not indicate clearly enough that those aspects would be adhered to by such free reference to the word "standards". I have read very carefully the letter from the Minister to Charity Awareness New South Wales as result of my correspondence with that charity, which has strengthened my view. I refer particularly to one sentence in the letter that states, "First, a lottery that is authorised to operate in another Australian jurisdiction will only be permitted in New South Wales if its standards of probity and fairness are the same

expected of a New South Wales-based lottery." My concern is that the word "standards" does not point strongly to the requirement of applying for permits, adhering to the 60:40 rule and conducting an audit. Even the Minister's letter defines "standards" as matters of probity and fairness.

I am pleased to note that the Minister intends to move an amendment in Committee that would clarify that situation. I will raise my concerns now because it is more efficient to ask the Minister to reply to them rather than having a protracted discussion in Committee. The proposed amendment refers to the provision that an interstate lottery would be subject to section 3 and other provisions of the Act. But section 3 of the Act does not particularly refer to those requirements. Although the other provisions of the Act would cover every provision, it seems unusual to latch onto section 3 and then refer to all the other sections generally. The proposed amendment should refer instead to sections 4, 4A and other sections.

Nonetheless, the amendment does not appear to satisfy the requirement for an audit in any legislative or regulatory sense. I appreciate the advice I was given earlier this afternoon that the department always adopts the practice of including that requirement as one of the conditions of a permit. However, I am somewhat shocked that the proposed amendment that is supposed to cover the three concerns I have outlined with the Minister's staff covers only two of them. The requirement for an audit is not specifically prescribed in the Act, the bill or the amendment. No aspect of the regulations to the Act require an audit. Now that interstate charities will be allowed to operate in New South Wales there may be more risk of legal challenges in a dispute. It needs to be clear. It is not a big deal.

I ask the Minister to give an undertaking during the debate that he will consider bringing to the House either a new or amending regulation to prescribe the requirement for an audit to be provided to the New South Wales authorities within 60 days of the conclusion of the conduct of the relevant lottery or art union. With those concerns, I reiterate that the Opposition will not oppose the bill or the amendment. I ask the Minister to reply to my concerns. I place on record my thanks to the Minister, his staff and the departmental officers who have been of considerable assistance on quite a number of occasions during the negotiation phase leading up to tonight's presentation of the bill.

Mr COLLIER (Miranda) [11.28 p.m.]: The bill amends the Lotteries and Art Unions Act 1901 and follows the national competition policy review. The Act regulates the conduct of community-based lottery activities, including raffles, art unions, bingo, sweeps, tipping competitions and trade promotion lotteries. The bill amends the existing Act in a number of important ways, and I will focus on two of them. The first relates to the inclusion of a provision explicitly stating the objects of the Act. The Act was implemented in 1901 before the practice of stating objects and, therefore, it has no explicit objects.

The national competition policy review found that the underlying objectives of the Act are valid, but concluded that they needed to be explicitly stated in the Act. Accordingly, the bill—a welcome provision—provides for the objects of the Act and, in particular, provides that the principal object of the Act is to ensure that, on balance, the State and community as a whole benefit from certain community-based lottery activities. I welcome the provisions. Setting out the objects of the Act in section 2 provides not only for those who seek to rely on the provisions but also provides clear and certain terms for would-be unscrupulous operators who would seek to avoid its express intentions.

The second amendment to the existing Act on which I wish to speak relates to the removal of the prohibition on persons conducting lotteries in another State from advertising and selling tickets in New South Wales. These are the so-called foreign lottery provisions. The removal of these provisions is aimed fundamentally at promoting competition. In 1995 the New South Wales Government signed the national competition principles agreement, committing itself to reviewing legislation that potentially restricted competition. The national competition policy review did not support the current foreign lottery provisions of the Act, because other Australian jurisdictions do not exercise a similar restriction to the New South Wales provision.

At present persons or organisations in New South Wales can conduct lotteries in other jurisdictions subject to the grant of any necessary permits and to their satisfying other requirements. However, persons and organisations that wish to conduct a lottery with a draw conducted outside New South Wales cannot further the lottery by advertising it in New South Wales publications or sell tickets to persons in New South Wales. While not originally intended to be anti-competitive, the foreign lottery provision is clearly anti-competitive, given that many charities are moving towards a national fundraising approach rather than a parochial approach. Many organisations have State boundaries not based on State borders. That is, they conduct their activities across borders.

The current law needlessly restricts the activities of those types of charities and other organisations, and can force them to adopt alternative practices that cost money, which could be better applied to their worthwhile activities. The present proposal facilitates national trade promotion lotteries. These are free-entry lotteries conducted for the purpose of promoting trade or business. Complaints from businesses in other jurisdictions have been received in the past, and are continuing to be received, as they are not able to promote the conduct of a trade promotion lottery in New South Wales because of our present foreign lottery provisions. As some promotions are not conducted in New South Wales, residents of New South Wales are discriminated against.

It is obvious that any argument to retain the current restriction cannot be justified. Some national charities with headquarters outside New South Wales have established an art union marketing presence in this State by establishing a local office, by ensuring the draw is conducted in New South Wales—which overcomes the foreign lottery provisions—and by obtaining the necessary licence. The proposed amendment removes the need for the draw to be conducted in New South Wales. The amendments to the Act will refer only to community-based lotteries operating in other Australian jurisdictions whose standards of probity and fairness are the same as those expected of New South Wales-based lotteries. They will also require a non-New South Wales based operator to be authorised under a permit scheme to the same extent as required of a New South Wales based operator.

It is important to note that no new lottery products are proposed under the amendment. The types of products that will be permitted are those presently authorised under the Act, including raffles, art unions and sweeps—that is, lotteries conducted to help charities and not-for-profit organisations raise funds or provide entertainment for members of the community. Some organisations might already be conducting lotteries in cross-border areas contrary to the foreign lottery provisions. Those organisations would not consider they are doing anything wrong when they organise such lottery activities. The bill will amend the Act to allow those lottery activities to be operated lawfully. Lotteries conducted outside Australia will continue to be prohibited. The proposal is not an expansion of gaming; it simply recognises that the current restriction is no longer relevant in today's competitive economic environment. I commend the bill to the House.

Mr McBRIDE (The Entrance—Minister for Gaming and Racing) [11.33 p.m.], in reply: I thank the honourable member for Miranda for his contribution and congratulate him on his unbelievably successful re-election at the last election. It was a tremendous commendation of his contribution in the House over the past four years. I commend the shadow Minister, the honourable member for Upper Hunter, for his commitment and diligence to safeguarding the interests of charities in New South Wales. I also commend his attention to the detail of the Act and his co-operative attitude towards developing solutions to matters of concern. That works well, because we are both committed to getting the best possible results for charities in New South Wales and protecting their interests and fundraising activities because of the magnificent contribution they make to our society. I give the honourable member for Upper Hunter an assurance of further consultation between us to resolve any matters outstanding that are not covered by the Government's amendment. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

Amendment by Mr McBride agreed to:

Page 5, schedule 1. Insert after line 16:

19A Application of Act to lotteries conducted outside NSW

A lottery (however described) is subject to section 3 and the other provisions of this Act even if it is conducted or to be conducted outside New South Wales (whether or not it is subject to a declaration under paragraph (b) of the definition of *foreign lottery* in section 19).

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Bill reported from Committee with an amendment and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by Mr Scully agreed to:

That the House at its rising this day do adjourn until Thursday 29 May 2003 at 10.00 a.m.

The House adjourned at 11.40 p.m.
