LEGISLATIVE ASSEMBLY

Tuesday 28 October 2003

Mr Speaker (The Hon. John Joseph Aquilina) took the chair at 2.15 p.m.

Mr Speaker offered the Prayer.

LEGISLATIVE COUNCIL VACANCY

Joint Sitting

Mr SPEAKER: I report the receipt of the following message from Her Excellency the Governor:

Governor — Marie Bashir

MESSAGE

I, Professor Marie Bashir, AC, in pursuance of the power and authority vested in me as Governor of the State of New South Wales, do hereby convene a joint sitting of the Members of the Legislative Council and the Legislative Assembly for the purpose of the election of a person to fill the seat in the Legislative Council vacated by the Honourable Malcolm Jones, and I do hereby announce and declare that such Members shall assemble for such purpose on Wednesday the twenty ninth day of October 2003, at 4:00pm in the building known as the Legislative Council Chamber situated in Macquarie Street in the City of Sydney, and the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

In order that the Members of both Houses of Parliament may be duly informed of the convening of the joint sitting, I have this day addressed a like message to the President of the Legislative Council.

Office of the Governor
Sydney, 23 October 2003

The Honourable the
Speaker of the
Legislative Assembly

I direct that the joint sitting with the Legislative Council in the Legislative Council Chamber for the election of a member of the Legislative Council be set down as an order of the day for 4.00 p.m. tomorrow, 29 October 2003, as appointed in Her Excellency's message.

ASSENT TO BILLS

Assent to the following bills reported:

Drug Summit Legislative Response Amendment (Trial Period Extension) Bill
Industrial Relations Amendment (Adoption Leave) Bill
Commonwealth Powers (De Facto Relationships) Bill
Community Relations Commission and Principles of Multiculturalism Amendment Bill
Education Amendment (Computing Skills) Bill
Health Legislation Amendment Bill
Powers of Attorney Bill
Prevention of Cruelty to Animals Amendment (Penalties) Bill

MINISTRY

Mr BOB CARR: In the absence of the Minister for Health, the Minister for Science and Medical Research will answer questions on his behalf.

BUSINESS OF THE HOUSE

Routine of Business

[*During notices of motions*]

Mr SPEAKER: Order! For some time the Chair has been concerned about the length of notices of motions. I ask the honourable member for Tamworth to discuss his notice of motion with the Clerk. The notice may appear finally in an edited form.

VARIATIONS OF PAYMENTS ESTIMATES AND APPROPRIATIONS 2003-04

Mr Craig Knowles tabled variations of the receipts and payments estimates and appropriations for 2003-04, under section 26 of the Public Finance and Audit Act 1983, arising from the provision by the Commonwealth of specific purpose grants in excess of the amounts included in the State's payments estimates.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Report

Mr Speaker announced the receipt, pursuant to section 26 of the Commission for Children and Young People Act 1998, of the report entitled "2002-03 Annual Report".

Ordered to be printed.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to section 52A of the Public Finance and Audit Act 1983, of the report entitled "Auditor-General's Report—Financial Audits—Volume Three 2003", dated October 2003.

AUDIT OFFICE

Report

The Clerk announced the receipt, pursuant to section 21A of the Annual Reports (Statutory Bodies) Act 1984, of the annual report for the year ended 30 June 2003.

LEGISLATION REVIEW COMMITTEE

Report

The Clerk announced the receipt, pursuant to section 10 of the Legislation Review Act 1987, of the report entitled "Legislation Review Digest No 4 of 2003", dated 27 October 2003.

PETITIONS

Gaming Machine Tax

Petition supporting the increase in gaming machine taxes and welcoming the fact that all extra revenue will be spent on the health system, received from **Ms Angela D'Amore**.

Autism Spectrum Disorder

Petition requesting additional support for children affected by Autism Spectrum Disorder in all educational settings in New South Wales government schools, received from **Mr Daryl Maguire**.

Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **Mr Ian Armstrong, Mr Thomas George, Ms Katrina Hodgkinson, Mr Daryl Maguire, Mr Barry O'Farrell, Mr Steven Pringle, Ms Peta Seaton, Mr Ian Slack-Smith, Mr George Souris, Mr Andrew Stoner** and **Mr Andrew Tink**.

Cudgen Creek Seaway

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

White City Site Rezoning Proposal

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

Jingellic to Holbrook Road Upgrading

Petition requesting funding for the upgrading of the Jingellic to Holbrook road, received from **Mr Daryl Maguire**.

Tumbarumba to Jingellic Highway Upgrading

Petition asking that the Tumbarumba to Jingellic section of State Road 85 be sealed, received from **Mr Daryl Maguire**.

The Alpine Way Upgrade

Petition requesting funding to repair, upgrade and realign eleven kilometres of The Alpine Way between the State border at Bringenbrong Bridge and the beginning of Kosciuszko National Park, received from **Mr Daryl Maguire**.

Windsor Road Traffic Arrangements

Petitions requesting a right turn bay on Windsor Road at Acres Road, received from **Mr Wayne Merton** and **Mr Michael Richardson**.

The Spit Bridge Traffic Arrangements

Petition opposing the proposal to add a two-lane drawbridge next to The Spit Bridge, and calling for a responsible and holistic solution to the transport, traffic, and freight needs of the area, received from **Mrs Jillian Skinner**

Coffs Harbour Aeromedical Rescue Helicopter Service

Petition requesting that plans for the placement of an aeromedical rescue helicopter service based in Coffs Harbour be fast-tracked, received from **Mr Andrew Fraser**.

CountryLink Rail Services

Petitions opposing the abolition of CountryLink rail services and their replacement with buses in rural and regional New South Wales, received from **Mr Greg Aplin**, **Ms Katrina Hodgkinson**, **Mr George Souris** and **Mr Andrew Stoner**.

Manly JetCat Services

Petition seeking reversal of the proposal to cut the JetCat service to and from Manly, received from **Mr David Barr**.

Newcastle Rail Services

Petition requesting the retention of Newcastle rail services, received from **Mr Bryce Gaudry**.

Redfern and Surry Hills Bus Services

Petition requesting improved bus services in Redfern and Surry Hills, received from **Ms Clover Moore**.

Community-based Preschools

Petition requesting adjustment of funding to ensure viability of community-based preschools, received from **Mr Thomas George**.

Dunoon Dam

Petition requesting the fast-tracking of plans to build a dam at Dunoon, received from **Mr Thomas George**.

Local Government Amalgamation

Petition requesting that the Evans shire remains an independent local government area, and that the Government adhere to its policy of no forced amalgamation of local government areas, received from **Mr Gerard Martin**.

Wagga Wagga Electorate Fruit Fly Control

Petition requesting funding for fruit fly control/eradication in Wagga Wagga, Lockhart, Holbrook and Tumbarumba, received from **Mr Daryl Maguire**.

Circus Animals

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

Sow Stall Ban

Petition requesting the total ban of sow stalls, received from **Ms Clover Moore**.

QUESTIONS WITHOUT NOTICE

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LEONARD ALAN ROWLEY SENTENCE APPEAL

Mr JOHN BROGDEN: I direct my question without notice to the Attorney General. Will he now order an appeal in the case of Senior Constable Chris Thornton, given that the trial judge's summation shows that prior to the accident Leonard Alan Rowley had been drinking, which is in direct conflict with a letter from the Director of Public Prosecutions to Senior Constable Thornton's partner, Sarah Matthews, which states:

> There was no evidence of the presence of alcohol.

Mr BOB DEBUS: Since the day this sentence was handed down I have been in communication with the Director of Public Prosecutions. I spoke to him again about the case as recently as last Friday evening. I know that he has brought the full benefit of his many years of experience in the criminal law to a careful review of the case. It is his firm view that there are no prospects of a successful appeal against the sentence. An appeal is lodged on the basis of a clear analysis of the evidence and of the law; it is not lodged as a stunt on the basis of a version of the case in the local paper. To lodge an appeal when there is no prospect of success would be to indulge in a political hoax at the expense of the victim, and I will not participate in a hollow exercise of that kind.

Mr John Brogden: Point of order: I refer to Standing Order 138, which refers to relevance. I offered the Attorney General new evidence in respect of this matter—

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

Mr John Brogden: —which is a quote regarding the presence of alcohol in the person convicted.

Mr SPEAKER: Order! The Leader of the Opposition knows that there is no point of order under Standing Order 138.

Mr John Brogden: The Attorney General refused to take these matters into consideration.

Mr SPEAKER: Order! The Chair cannot direct the Attorney General how to respond to the question. The Leader of the Opposition will resume his seat.

PRISONERS DRUG REBHABILITATION

Mr MATT BROWN: I address my question to the Premier. What is the latest information on Government efforts to rehabilitate drug-addicted prisoners?

Mr BOB CARR: New South Wales was, of course, the first State to set up the Drug Courts and the first and only State to trial a medically supervised injecting centre. Today I want to provide another example of New South Wales leading the way. Compulsory treatment of serial drug offenders is another Australian first. The Government will release the relevant draft legislation before the end of the year. We are determined to find new ways to break the cycle of drugs and crime. About 80 per cent of inmates in New South Wales prisons were intoxicated with drugs or alcohol at the time of their offences. Under the new scheme, repeat drug offenders will be incarcerated in a secure facility where they will undergo intensive treatment and rehabilitation. These are hard-core criminals whose offences are directly related to their need for money to buy drugs. They have failed rehabilitation and voluntary drug treatment, and they are continually before the courts.

Dr Richard Matthews, Chief Executive of Corrections Health, estimates that if we were to release 100 inmates with a history of drug abuse today, 80 would be back in custody within 12 months. Evidence from the United States and the Netherlands indicates that compulsory treatment is effective. The United States Federal Bureau of Prisons found that 73 per cent of offenders who had completed compulsory treatment were less likely to be rearrested and 40 per cent were less likely to use drugs. The New South Wales compulsory treatment scheme will deal with 100 adult male offenders. If the program is working after two years it will be extended to female offenders. The scheme will be run out of a designated facility in an existing correctional centre. The Government has allocated $6 million over two years to get the scheme started.

To be eligible, offenders must have a long-term drug dependency, have three prior offences in the past five years, be guilty of a drug-related offence and have a sentence long enough to complete the 18-month to three-year compulsory treatment program. Serious offences such as murder, sexual assault, commercial drug trafficking and firearms offences will be excluded. Treatment such as methadone will generally not be available. Although there may be a clinical need in a few cases, it will be short-term only: the primary goal is abstinence. Due to open in late 2005, the program will be divided into three stages, and each will last a minimum of six months. The first stage is a closed phase with inmates being incarcerated for intensive drug treatment; the second stage is a semi-open phase with offenders living in the centre but spending time outside in approved employment and training programs; and the third stage is a community-custody phase, which is the equivalent of a home detention sentence. The offender will move to semi-independent living but will remain under intense supervision, including electronic monitoring and random drug testing.

The Drug Court will be responsible for approving an offender's movement through each stage of the program. The Commissioner for Corrective Services will have the power to suspend an offender's participation in stages two or three if there are safety or security concerns. Minor breaches will incur sanctions such as increased supervision, more regular drug testing, tighter curfews and removal of privileges. Offenders in stage three who commit a serious breach may end up back in stage one, that is, back in gaol. A minority may be sent back to normal prison to serve their original sentences. However, their noncompliance will be taken into account by the Parole Board when they come up for parole. A full scientific evaluation will be conducted. I have already written to the Director of the New South Wales Bureau of Crime Statistics and Research inviting him to chair the expert committee. The target group for this program is the hardest group of offenders to turn around. They have committed multiple criminal offences over a long period to support an entrenched drug dependency. They have tried treatment and failed, and they will keep committing offences until they are detained and effectively treated.

LEONARD ALAN ROWLEY SENTENCE APPEAL

Mr ANDREW TINK: I direct my question to the Premier. Why will the Government not appeal the suspended sentence given to the man responsible for the dangerous driving causing Senior Constable Thornton's death, given that his failure to stop is an aggravating factor under its new sentencing legislation?

Mr BOB CARR: I refer the House to the answer just given by the Attorney General to the same question.

WATER-SHARING PLANS

Mr GERARD MARTIN: My question without notice is addressed to the Minister for Infrastructure and Planning. What is the latest information on water-sharing agreements in New South Wales?

Mr CRAIG KNOWLES: In June this year I announced that the start of the water-sharing plans would be held in abeyance for six months to enable the development of the Commonwealth's National Plan for Water.

Members will recall that at that time the Commonwealth, mainly through the Deputy Prime Minister, John Anderson, indicated that it was planning to announce details of its intentions for a national water initiative at the August Council of Australian Governments [COAG] meeting.

Since the COAG meeting, senior officers from all jurisdictions continue to meet to develop the national framework. In general terms, the national water initiative framework will include initiatives to give irrigators and other water users greater certainty and security over water access. It will provide perpetual licences to licence holders for fixed shares of water; establish a nationally compatible water access entitlement regime; establish an efficient national water market to better manage water flows for production and the environment, returning unallocated water to environmentally sustainable levels of extraction. It will provide support for improving water infrastructure; and, significantly, provide $500 million to restore the River Murray, with New South Wales contributing $115 million to the plan.

Whilst much is being done, plenty of detail remains to be worked on by the States and the Commonwealth to enable the principles I have enunciated to become a reality. It is fair to say that in the last few months we have seen a major improvement in the approach by all levels of government and regional communities to issues surrounding water management. Just last week the Deputy Prime Minister and I met with a group of irrigators and farmers in the north of the State to deal with a range of outstanding issues. It was a good meeting, which probably could not have taken place just a few months ago. It demonstrates a new level of maturity in the debate, which is underpinned by moving towards a national framework.

The COAG work plan is due for completion in April. At that time it will be necessary to amend the Water Management Act to reflect the new, agreed principles. In the meantime, transition rules are in place. This means that the Water Act 1912 will continue to operate and water users' entitlements will remain unaffected. Rules associated with existing licences, embargoes, water allocations and off-allocation arrangements as they currently stand will continue. The 2002-03 environmental flow rules for the inland regulated rivers and the Barwon-Darling and any "cease to pump" rules for unregulated rivers will continue to operate until 1 July 2004.

In simple terms, the deferral of the commencement of this State's water-sharing plans until July 2004 will enable the COAG agenda to take precedence and for the New South Wales Government to incorporate the necessary outcomes into legislation. This approach gives farmers and environmentalists alike the best chance of a good and lasting resolution on water. Additionally, it means that water-sharing plans, pending progress with the Commonwealth and the COAG agenda, will commence at the beginning of the water year, rather than halfway through it as earlier proposed. We will use the time to try to settle the disputed plans by negotiation, as we have already done in the Lachlan. However, I am not looking to reopen discussions on the essential content of the plans. Where we cannot settle by negotiation, hopefully the appeals through the Land and Environment Court will result in some resolution by the time the water-sharing plans commence.

I reassure water users around the State that our commitment to the water-sharing plans and model remains strong. We acknowledge that our water resources are scarce, and that in many other parts of the State they have been overused, in some places grossly overused, in the past. The fact that our water resources must be better managed for all remains an ongoing priority. The water-sharing plan model remains the best way to manage those resources, but we can further improve the New South Wales water management framework by the implementation of the national water initiative. The underpinning efforts here are about establishing a good working relationship with the Commonwealth Government, and in particular the Deputy Prime Minister. It meant that the long-term interests of the stakeholders—irrigators, farmers and environmentalists—can now be properly considered.

Since the COAG meeting in August, I have met with the Deputy Prime Minister on a number of occasions focusing on the pathways ahead. In particular, I have raised with him specifically the view that we should be seeking to minimise bureaucracy and delays associated with implementation, by each jurisdiction doing the jobs we do best. From a Commonwealth perspective, that may mean the focus should be on structural adjustment, that is, establishing markets, while from the States' perspective, it could be the provision of infrastructure. The COAG process has been extremely important and very productive thus far. It is therefore only right and proper that we give the process a chance to take its course and, in the national interest, maximise the opportunities that we now have.

RETIRED MINISTERS COOLING-OFF PERIOD

Mr ANDREW STONER: My question is directed to the Premier. Why has he broken his promise to make an announcement before the last election about introducing a cooling-off period for Ministers when they retire?

Mr BOB CARR: I have not.

BEGA CHEESE EXPORTS TO IRAQ

Mr STEVE WHAN: My question without notice is addressed to the Minister for Regional Development. What is the latest information on exports by South Coast company Bega Cheese to Iraq?

Mr DAVID CAMPBELL: I thank the honourable member for Monaro for his question and acknowledge his ongoing interest in regional development issues, particularly those pertaining to his electorate in the southeast of the State. Late last week I represented the Premier at the Premier's 2003 Export Awards, at which I was honoured to present awards to a range of New South Wales companies that are successful exporters. No doubt honourable members will be pleased to know that Riverina winemaker Casella took out the main prize, Exporter of the Year. Casella has created the fastest-growing export brand in the history of the Australian wine industry. Its Yellow Tail wine has achieved phenomenal growth to reach six million cases in 27 months of shipments. It is now sold to 20 countries, including the United States of America, the United Kingdom, Ireland, Germany, Finland, South Africa, Belgium, the Netherlands, China and the Philippines.

Bega Cheese is another winner in the export stakes, for it too was honoured in the Premier's Export Awards, winning the New South Wales Excellence in Food Export Marketing category. It was also highly commended in the category of Regional Exporter of the Year. At the same time as the award was presented, an historic shipment of 80,000 cans of processed Bega cheese was en route to the Middle East. The shipment means that Bega Cheese has become the first Australian company to export a value-added food product to post-war Iraq.

The cheese, worth $65,000, will obviously assist the Iraqis as they continue the momentous task of establishing regular, reliable food supplies. The shipment also underlines the continuing success of this innovative company in exporting. Australian exports account for more than 20 per cent of gross domestic product, which means that companies like Bega Cheese are major drivers of our economy. Bega Cheese now exports to 40 countries, with exports growing by 30 per cent in the past year.

The company's export business focuses on value-added retail and food service consumer packs. It is important to acknowledge that we have agricultural products that are able to be value added, and therefore to have a greater export component and greater exporter earnings for the national economy. In the Middle East, an area where Bega Cheese has made a concerted effort to increase sales, the company now exports to nine nations. They include the United Arab Emirates, Saudi Arabia, Bahrain, Kuwait, Jordan, Egypt and Lebanon. In the last financial year Bega Cheese made just over $19 million in export sales, and that figure is expected to explode to $25 million by next year.

Mr SPEAKER: Order! The honourable member for Gosford and the Minister for Gaming and Racing will come to order.

Mr DAVID CAMPBELL: The company's turnover in 2002-03 was $250 million, an increase from $182 million in the previous year. With some 500 direct employees, the impact of Bega Cheese on the local economy is dramatic indeed. The company is a major contributor to the spending power of many families on the far South Coast. The company's continuing success means a secure future for its workers and their families, and holds the promise of more local jobs in years to come.

The story of Bega Cheese perfectly illustrates the value that exporting brings to the Australian economy and to the families of New South Wales. One in five Australian jobs now relies on exports. Exports contribute enormously to jobs growth in New South Wales and, most importantly, to regional parts of New South Wales. At the export awards last week a company from Armidale that exports educational services was recognised, and rightly so. A Nowra based company, Air Affairs Australia Pty Ltd, also received an award. The company exports military products that are used for target practice. It shows the strength of the aviation and defence industries in regional parts of New South Wales but, most importantly, in the Illawarra, in the Shoalhaven and in Nowra. It is unfortunate that the honourable member for South Coast is not interested in that aspect as she continues to have a conversation in the Chamber.

The Government is committed to helping businesses access overseas markets and expand their exports. Unfortunately, Australian exports continue to be hampered by the drought, the depreciation of the Australian dollar and weak economic growth in some major markets, particularly the United States of America and Japan. New South Wales merchandise exports fell by 4.8 per cent in the June quarter 2003 to $4.6 billion dollars following a 12 per cent increase in the previous quarter. Lower receipts were again recorded for a range of

drought-affected agricultural commodities in the December quarter of 2002. Meat exports were down by 13 per cent or $37 million, and vegetable and fruit exports fell 24 per cent or $8 million. Live animal exports decreased by 42 per cent or $12 million. Textile fibres—mostly cotton and wool—fell 32 per cent or $110 million.

The Government sees the current challenges facing our exporters as an opportunity to work even harder at promoting New South Wales products in the international marketplace. The Government delivers this service through a presence in Sydney and through 18 Department of State and Regional Development offices located throughout the State. Our network includes seven dedicated export advisers working in the Central West, the North Coast, the South Coast, New England, the Riverina, the Central Coast and western Sydney. An independent survey in 2001-2002 found that 7 out of 10 exporting businesses that used our programs increased their exports. The survey found that the average export sales were $2 million, up 19 per cent from the previous year.

The New South Wales Government organises trade missions and market visits to help firms investigate new overseas markets, to develop first-hand knowledge of customer needs and to make contact with potential agents, distributors and end-users. Exporters gain a lot from their overseas dealings. Competing internationally exposes our exporters to new technology and new ideas, which they bring home to Australia to ensure that we remain globally competitive. I acknowledge that the Premier opened a $20 million extension of the Bega Cheese plant in January this year. At the time he described it as "a jobs powerhouse". And, as always, the Premier was spot-on. The expansion was the result of a $20 million Government loan under a program to help co-operatives such as Bega Cheese expand and develop in regional areas. Bega Cheese is a classic case of putting our money where our mouths are.

CIRCLE SENTENCING

Mr TONY McGRANE: My question is directed to the Attorney General. Will the Attorney General provide the latest information on the circle sentencing program that is operating in Dubbo?

Mr BOB DEBUS: I thank the honourable member for Dubbo for his strong interest in issues of Aboriginal justice. In June I officially launched the circle sentencing program in Dubbo. The local community expressed considerable enthusiasm when we made the announcement. I am happy to report that the program is up and running with two circles now complete and a great many more to follow. Like many other regional communities, the residents of Dubbo have come to recognise that the most enduring and effective solutions to reducing rates of Aboriginal incarceration are those that are generated by Aboriginal communities themselves, solutions that raise the dignity, pride and confidence of those communities.

Circle sentencing is a shining example of the power of this community-based approach. Circle sentencing is an alternative sentencing court for adult Aboriginal offenders and it involves the magistrate, the victim, the defendant, legal representatives and Aboriginal community representatives. It is a model based on traditional Aboriginal dispute resolution processes piloted in Nowra over the past 18 months. The New South Wales Aboriginal Justice Advisory Council has employed a local Aboriginal woman in Dubbo, Ms Roslyn Barker, as the circle sentencing project co-ordinator. An Aboriginal community justice group of well-respected local Aboriginal people has been established to represent the Dubbo Aboriginal community. The justice group works to ensure that the offender is from the local Aboriginal community and that the offender has demonstrated support from that community. Without the support of the local community, circle sentencing simply cannot work.

I have always been convinced that circle sentencing would be a success and I am delighted to report to the House that a careful study of the Nowra program has shown that this is indeed the case. The New South Wales Aboriginal Justice Advisory Council and the Judicial Commission have today released their evaluation of circle sentencing and it is unequivocally positive. The evaluation report provides solid evidence that the Government's support of this initiative has been well-founded. The results of the evaluation are extremely powerful. The report found that circle sentencing is not an easy option. In fact, frequently the sentence imposed is at a higher range than might have been expected under the more traditional model. But because circle sentencing brings the offender face-to-face with the community and involves the community in the process of rehabilitation, the experience has been that the cycle of re-offending is broken. Therefore, this gives relief to community members and to family members who are often the victims of repeat offenders.

As well as imposing all the ordinary options before the courts, circle sentencing imposes real and additional obligations upon offenders that the Aboriginal community itself enforces. The process provides

support for both the victims of the crime as well as the defendants, and it obviously promotes a process of reconciliation. It reduces the barriers that presently exist between Aboriginal people and the courts, it increases confidence, and it generally promotes the empowerment of Aboriginal people and Aboriginal communities. The report particularly stresses the value that Aboriginal elders bring to the process. Offenders reported that the most powerful aspect of circle sentencing was having to face up to elders and other people from their own community, people they respected and who knew them well. The process is very painful, yet it can bring about real change.

Elders provide ongoing support and mentoring to offenders long after the circle is complete. In the months following a circle, the elders in Nowra, for instance, have committed countless hours of their own time to help offenders develop pride and connection to their culture, to give them the confidence that is necessary for the offender to change their life. Again, that has been the key to success—recognising the authority of Aboriginal elders and the powerful effect of teaching culture and values to offenders. The offenders who have been through circle sentencing tend to be difficult cases. Some of them have been to prison over a dozen times, they have had drug and alcohol problems and violent histories. The fact that previously intractable offenders of this kind have turned their backs on crime is a quite extraordinary testimony to the strength of the Aboriginal community. As one Elder said, circle sentencing is "the first system that solves a 200-year-old problem".

Dubbo now has begun to see the benefits of this, in some ways revolutionary, approach. In Nowra offenders who have been through circle sentencing have formed a local football team. Mr Patrick Tynan sponsors the football team. Mr Tynan is a local electrical store owner, who had been the victim of a robbery by one of the offenders and who originally called, rather prominently, for stiff prison sentences. Having participated in the circle, however, Mr Tynan has become one of the strongest advocates of the scheme. He has put his money where his mouth is by actually sponsoring the football team. From this process it is evident that the whole community can win. The valuable lessons that we are learning in Nowra and Dubbo are only the first small steps. We will continue to work with local communities to develop similar proposals across the State. I am confident that the co-operation of local people will mean that we can make a profound difference to crime in those areas and to the tragedy of Aboriginal incarceration.

STATEWIDE INFANT SCREENING HEARING PROGRAM

Mrs KARYN PALUZZANO: My question without notice is addressed to the Minister Assisting the Minister for Health (Cancer). What is the latest information on the provision of hearing tests for babies?

Mr FRANK SARTOR: Each year some 350 New South Wales babies are born with a hearing impairment, a problem that can have a significant effect on a child's learning and development. In the past these hearing problems generally remained undetected until a child was about 18-months-old. In consultation with industry professionals, the former Minister for Health held discussions on how to address undetected hearing impairment in newborn babies. Those discussions included Professor Bill Gibson, who practises from Westmead Hospital and the Gladesville Centre, Bruce Shepherd of the Shepherd Centre, the Phillip Chang organisation, as well as the Cochlear Implant Company and professionals associated with that company.

In the past we have seen the amazing achievements of the cochlear company and the initiative otherwise known as the bionic ear. Recently, I was in Kiama with Professor Graeme Clark, local members and the honourable member for Wollongong to see presentations on the progress of the bionic ear and cochlear technology. In fact, the University of Wollongong is moving to connect the current technology with some new technology that will allow other pathways for sound into the brain, which will greatly improve the quality of reception of the bionic ear. The resolution of sound will be greatly improved—a great achievement.

As a result of the consultations it was felt that screening and early detection were vital. As an Australian first, this Government introduced a universal newborn hearing screening program last December. We are spending $4.5 million a year on the statewide Infant Screening Hearing Program [SWISH] to identify hearing problems in babies in the first weeks of life. Detecting and treating problems in the early stage of development is the best approach to ensuring a good start in life for our children. The program has a team of 35 full-time screening staff deployed across New South Wales. These experts are backed by co-ordinators in each area health service. All up, there are in excess of 60 staff dedicated to the SWISH program.

I note with interest that New South Wales again is leading Australia with innovations in medical research and practice. Last week the Queensland Government announced that it would follow the lead of New South Wales by rolling out a universal screening program by 2005. One case in point is the Van Essen family.

Jackson Van Essen was born at Wollongong Hospital on 10 August this year. He did not pass his initial hearing screening test and underwent further diagnostic testing a month later. His mum was concerned because Jackson's brother had a moderate permanent hearing loss. Jackson's test results were also consistent with a moderate to severe permanent hearing loss. He was referred to the Australian Hearing Centre in Wollongong on 22 September for the fitting of a hearing aid. Due to this early detection intervention Jackson now has a reduced risk of developmental and learning difficulties associated with hearing impairment. Jackson is one of 58,000 babies across New South Wales to undergo hearing screening under the SWISH program.

Mr Barry O'Farrell: What about the 10,000 untested?

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

Mr FRANK SARTOR: Isn't it amazing that although the Government seeks to address hearing impairment in newborn babies, which everyone in the community agrees we should address, the shadow Minister for Health tries to politicise it. If ever there was a motherhood issue, this is it, yet he could not care. Is anything sacred to the Deputy Leader of the Opposition? In the 10 months that this program has been in place, 49 of those tested have been diagnosed with significant hearing loss, an impairment that without this program may not have been detected until much later in childhood. This is no doubt a worry for families, but the early detection reduces the risk of developmental and learning problems as babies grow. By the end of September the participation rate had grown substantially to a participation rate of 95 per cent.

Mrs Jillian Skinner: How much was it?

Mr FRANK SARTOR: How many did you do? This is the highest participation rate of any such scheme in the world.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will cease interjecting.

Mr FRANK SARTOR: The shadow Minister, on a Sunday morning, attacked the program. Instead of encouraging parents to take advantage of the program and address a potential problem in their newborn child, he tries to politicise the issue. Tony Abbott said in Federal Parliament that the New South Wales Government should not politicise health issues. Honourable members opposite should take advice from their own side. We are now at a participation rate of 95 per cent, which is higher than any comparable scheme in the world. The overall result is 95 per cent across the State.

Mr SPEAKER: Order! I call the Leader of The Nationals to order.

Mr FRANK SARTOR: Parents are informed about hearing screening and antenatal classes. They are routinely offered a hearing screening test for their babies in hospital. Brochures about the hearing screening are provided to new parents and are available in 16 different languages. Information is also available on the New South Wales web site. It is not customary to force people to undertake medical tests; it is highly unusual in our health system. However, we do everything we possibly can to make it as accessible to as many babies as we possibly can. This initiative is on top of the support that the New South Wales Government has already given for cochlear implants.

Mrs Jillian Skinner: How many are on the waiting list? How long is it?

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

Mr FRANK SARTOR: They are doing well. The honourable member for North Shore is getting too upset. She cannot let go of Health, can she? She is like a dog with a bone. The Government has given $2 million for cochlear implants, which enabled 40 implants to be performed—27 in children and 13 in adults. Historically, one service provider provided the program—the Sydney Cochlear Implant Centre, formerly known as the Child and Adult Cochlear Implant Centre, in collaboration with the Children's Hospital at Westmead and the Royal Prince Alfred Hospital. However, this was extended by the Carr Government through the inclusion of the Shepherd Centre. This Government has systematically over time, in consultation with the medical profession, introduced programs to address hearing impairment in children, from newborn babies right through. This is a critical issue that deserves the support of the Opposition, unanimity in this House, and a commitment to extending the program to help children in this State.

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

Mr FRANK SARTOR: It is a shame that Opposition members behave this way.

REDBANK 2 POWER STATION

Mr JOHN TURNER: My question is directed to the Minister for Infrastructure and Planning, and Minister for Natural Resources. How can the Minister justify his decision to scrap the Redbank 2 power station project on environmental grounds when the proponents had won the Institution of Engineers Award for Environmental Excellence for Redbank 1 and were still negotiating with the department on the day he announced his decision?

Mr CRAIG KNOWLES: For the record, as I said about a week ago in the Parliament, the assessment and the determination were, and always will be, made entirely in accordance with the provisions of the Environmental Planning and Assessment Act. But let me add this: One cannot have a proposition for a new coal-fired power station that has as its starting point a higher level of greenhouse emissions than any other power station currently operating in the Hunter Valley. It is not on; it is not acceptable; and that is why it was refused.

STRATA MANAGEMENT SCHEMES

Ms KRISTINA KENEALLY: My question without notice is addressed to the Minister for Fair Trading. What is the Government's response to community concerns about the management of larger strata schemes in New South Wales?

Ms REBA MEAGHER: The concept of strata title originated in New South Wales in the early 1960s. It has been an extremely popular and adaptable form of title, and there are now close to 70,000 schemes in New South Wales. Many of the newer developments are huge complexes with up to 700 units. It is obvious that many modern strata developments are of a size and complexity far removed from those that existed in the 1960s, and legislative changes have been necessary to keep pace with evolving issues. The strata laws have been refined and improved many times over the years, culminating in a major overhaul in 1996. In February this year amendments to the Strata Schemes Management Act took effect. These included changes to caretaker contracts as well as proxy voting by strata managers.

In May this year my colleague the Minister for Commerce released an issues paper entitled "Living in Strata Developments in 2003". Well over 100 submissions were received in response to the paper. Honourable members will be interested to know that the Government will be looking at legislative changes to the operation and administration of very large strata schemes. One of the main areas of feedback to the issues paper was the need for appropriate legislation for the administration of the larger high-rise strata complexes. These vertical villages often involve hundreds of individual strata units and operate with multimillion dollar budgets. Large schemes will be defined by having at least 100 lots or flats, and annual auditing will be mandatory. Administrators of larger schemes will also be required to obtain more than one quote for major expenditure and executives restricted to spending no more than 10 per cent above budget on any item other than in an emergency.

Other changes for the management of all strata schemes include: executive committees to be prevented from commencing legal action without the issue and estimated legal costs being considered by all lot owners in the scheme; each annual meeting to review powers held by the executive committee; the owners corporations to be responsible for arranging access to all parts of the building for required safety inspections, with penalties applying for non-compliance; a more streamlined process to allow mediated settlements of disputes to be ratified by adjudicators to make the settlements binding; managing agents to be prevented from transferring management of a scheme to another agent without the consent of the owners corporation; requiring developers to submit relevant documentation, including fire safety certificates, warranties for buildings, plant and equipment, and compliance certificates, to an owners corporation at the first annual general meeting; and 10-year sinking fund plans to be required by all owners corporations so that reserves for essential future repairs and maintenance are more adequate.

More than one-quarter of the total population of New South Wales either owns, lives in or works in units in a strata scheme, and this number is set to increase. We must ensure that our strata management laws cater for those who live or invest in strata schemes. Honourable members will also be interested to know that we will look at ensuring that when any conflict between an owners corporation and its executive committee presents itself the owners corporation, which includes all lot owners, prevails. Another change is to ensure that the vendors appropriately disclose exclusive use by-laws such as car park spaces to prospective purchasers. These by-laws are often registered at the same time as registration of the strata scheme itself.

There may be an expectation by purchasers that a desirable part of the common property—for example, a rooftop garden area or visitors car parking spaces—are accessible to all lot owners and this may have influenced the purchaser to enter into the sale. As a necessary consumer protection, vendors will be required to disclose the existence of such exclusive use of bylaws prior to a contract of sale being entered into. This will stop unscrupulous developers from exploiting existing loopholes that allow them to entice customers to enter contracts that provide for their exclusive enjoyment of areas and facilities designated as common property that should be enjoyed by all lot owners equally.

The Government produces a range of publications about strata life. Earlier this year it released the latest edition of *Strata Living*, a 32-page booklet produced in four languages that provides the more than 1.5 million people living in strata apartments with information on their legal rights and responsibilities. The information in the *Strata Living* booklet was updated to include details of the significant reforms that took effect in February. With strata units now accounting for one in three of all new residences built in New South Wales, it is essential that residents acquaint themselves with the rules covering this increasingly popular choice of housing. *Strata Living* provides the information in plain English, and a comprehensive index makes it easy to find the relevant topic. Among the reforms explained in the revised edition of *Strata Living* are the access of owners corporations to the Consumer, Trade and Tenancy Tribunal and time limitations applying to on-site caretaker manager arrangements. I commend the reforms to the House.

Questions without notice concluded.

RUGBY WORLD CUP BUSINESS OPPORTUNITIES

Ministerial Statement

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [3.17 p.m.]: The Rugby World Cup is an economic boon for the Illawarra and the Central Coast. Wollongong is going rugby mad: Canada and Tonga play there tomorrow, and the United States of America and France play there on Friday. And the Illawarra's businesspeople are already on a winner. They have worked extremely hard to capitalise on this fantastic opportunity.

Mr Ian Armstrong: Point of order: When making a ministerial statement it is customary for Ministers to speak on matters relevant to their portfolio, not to speak on behalf of their electorate, much as we would like to hear the Minister do that. This is an abuse of the process.

Mr SPEAKER: Order! The Minister is the Minister for Regional Development and his electorate is a regional one. Leaving that to one side, the honourable member for Lachlan knows, because of his knowledge of the standing orders, that the Chair is not able to direct the Minister how to make a ministerial statement.

Mr DAVID CAMPBELL: Almost all the region's accommodation houses, most of which are small businesses, are full. That is about 1,200 rooms. Caravan parks, again operated by small business owners, are doing a roaring trade. Overseas tourists are already in Wollongong, spending money in restaurants, pubs and clubs, and shops—all small businesses. The Illawarra has received honourable mentions in several major foreign newspapers, including *Le Monde*. Indeed, it ran a photo of WIN Stadium, where the Wollongong matches will be played. Early figures from supporting events organised by the Illawarra Business Task Force for the Rugby World Cup are outstanding. The French-Australian Chamber of Commerce, with car manufacturer Peugeot, is bringing 100 businesspeople to Wollongong.

Hundreds will attend a trade show and networking functions as well as business breakfasts at Illawarra regional airport featuring David Campese. Both Wollongong games are sell-outs, with all 40,000 seats taken. The economic bonanza of the Rugby World Cup is going to the Illawarra because of the Carr Government's determination that the region should have a first-class sporting facility. The Illawarra is about to experience a massive event, an event that the Central Coast has already enjoyed—the matches there proved to be a windfall for small business operators. The Central Coast Rugby World Cup Business Task Force hosted two networking events prior to the games, which attracted 140 people. Prior to last night's United States versus Japan thriller almost 140 businesspeople attended a function at Gosford's Japanese Gardens. Almost 40 Japanese companies were represented, including Mitsubishi and Suntory and the Japanese government trade agency.

Ms PETA SEATON (Southern Highlands) [3.20 p.m.]: The Opposition congratulates all organisations in the Illawarra that have worked so hard to host the Rugby World Cup, and in particular the coming France

versus United States match at WIN Stadium. It is going to be a marvellous opportunity for businesses, for the community and for people in the Illawarra to showcase all the marvellous features that the Illawarra has to offer, as well as for the regions around the Illawarra—such as the South Coast, the far South Coast, the Southern Highlands and the Macarthur area—to join in the economic benefits that will flow from it.

Last week the Leader of the Opposition and I visited the Steelers Club in Wollongong to see first-hand the new media centre that is being built at the club. Local businesses have put in a great deal of effort and investment to ensure not only that they host a wonderful international event and facilitate the best possible media coverage from the Steelers media centre, but also that the 35 local businesses that have participated in the accompanying business Expo have an opportunity to show international visitors some products and services from around the Illawarra area.

I congratulate all the local business groups, in particular the Illawarra Business Council and Terry Wetherall. I congratulate Stuart Barnes and his team at WIN Stadium. But above all I congratulate Lord Mayor Alex Darling, who understands the vast opportunities that will result from hosting a successful Rugby World Cup match and a series in Wollongong. He and his team are doing all they can to facilitate the best possible opportunity for local business, and to help visitors understand more about the Illawarra in the hope that they will forge business relationships in the area. Many members of the United States team are staying in the Bowral area while in Australia and we in the Southern Highlands look forward to hosting them and making their visit memorable.

CONSIDERATION OF URGENT MOTIONS

Small Mines Safety Campaign

Mr KERRY HICKEY (Cessnock—Minister for Mineral Resources) [3.22 p.m.]: My motion is urgent and deserves priority because families across New South Wales depend on the Government to ensure the safety of all mineworkers. Since 1990, 14 people have died in small mines, other than opal mines, across our State. That is 14 people, not statistics. They left for work one day and did not return. They left behind shattered families, mates and communities. This matter is urgent and deserves priority because deaths and serious injuries in our small mines are clearly unacceptable—unacceptable to the honourable member for Upper Hunter, unacceptable to me and unacceptable to the Government, the miners, their families and their communities.

The Carr Labor Government's Small Mines Safety Campaign was launched in November 2000 to stop deaths and injuries. This campaign is spreading the safety message to small mine operators, particularly in rural and regional areas. It has proved so popular over the past two years that demand has warranted a further series of workshops. I am pleased that the Leader of The Nationals is so enthusiastic about this urgent motion. With more than 800 small mines and extractive industries across this State, it is a matter of the highest priority. I urge all honourable members to support this motion and back the Government's efforts to eliminate mine fatalities and help us bring our miners home.

Leonard Alan Rowley Sentence Appeal

Mr JOHN BROGDEN (Pittwater—Leader of the Opposition) [3.24 p.m.]: The Opposition's motion is urgent for two very important reasons. First, the opportunity for the Government to appeal the sentence against Mr Rowley, whose driving led to the death of Senior Constable Chris Thornton, expires in two days. At close of business on Thursday there will no longer be an opportunity to appeal this pathetic, weak and incorrect sentence. It is urgent because the Opposition has revealed that the judgment in the case, which is now publicly available, makes it clear that alcohol was involved in the accident. In his ruling the judge said that he was also aware that Mr Rowley had, within a short period prior to the events, apparently taken some alcoholic liquor, and that this caused the judge some concern. It is now clear from the evidence that alcohol was involved in the case. However, the Attorney General bases his refusal to appeal the case entirely on a letter from the Director of Public Prosecutions [DPP], a copy of which I received from Sarah Matthews, the partner of the late Senior Constable Chris Thornton. The letter states:

> There was no evidence of the presence of alcohol.

The DPP said there was no evidence of the presence of alcohol. But the judge who presided over the matter said that Rowley, the perpetrator of the crime, said he had consumed alcohol at some period immediately prior to the accident. The clock is ticking for the family, friends and supporters of Chris Thornton. The Minister for Mineral Resources said that many miners have gone to work and not come home. One day last year Chris Thornton went

to work and did not come home. He deserves to have the full weight of the Government and the Attorney General behind an appeal.

Do not listen only to the Coalition, do not listen only to those who are advocating on behalf of Sarah Matthews and the family and friends of Chris Thornton. In a press release Ian Ball, President of the Police Association, has called upon the Attorney General to resign. The Attorney has a duty to support and protect those who risk their lives to enforce the laws of this State. In this case he has chosen to ignore that duty. Police can no longer be confident that the courts and the chief lawyer of the State will ensure that those who consciously ignore the law and imperil police will be punished. The Police Association represents more than 10,000 police. Every police officer in New South Wales is concerned about the Attorney General's failure to act.

We want action. We want this Government to do something, but it refuses to do anything. The matter is urgent because the clock is ticking. It is urgent because Sarah Matthews wants something to be done. The Attorney General relies on the suggestion that an appeal would be a cruel hoax or, according to his press release of 20 October, would hold out false hope for the family and friends of Senior Constable Thornton. I cannot comment on that, but Sarah Matthews can. She is here today. She wants an appeal. Honourable members should not take my word; they should take the word of Senior Constable Thornton's partner, who wants an appeal.

[*Interruption*]

The honourable member for Strathfield may think this is a stunt. She should put herself in that person's shoes. She is an uncaring individual who belongs to a Government that has stopped caring about police. She belongs to a Government that has no heart and has an Attorney General who will not do his job. The DPP got it wrong. If he cannot do his job we want the elected official, the Attorney General, to undertake his duties under section 5 of the Criminal Appeal Act.

The Attorney General has the power. Indeed, he had the power prior to the creation of the Director of Public Prosecutions. He ought to use his power. If he does not have the guts to do it, in 48 hours what will he say to the officer's family and friends and to every police officer in this State who believes that they have been sold down the river by a Government that simply does not care any more. This motion is urgent because the clock is ticking and the evidence is there.

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

The House divided.

Ayes, 48

Ms Allan	Ms Hay	Mr Pearce
Mr Amery	Mr Hickey	Mrs Perry
Ms Andrews	Mr Hunter	Mr Price
Mr Bartlett	Ms Judge	Dr Refshauge
Ms Beamer	Ms Keneally	Ms Saliba
Mr Black	Mr Knowles	Mr Sartor
Mr Brown	Mr Lynch	Mr Scully
Ms Burney	Mr McBride	Mr Shearan
Mr Campbell	Mr McLeay	Mr Tripodi
Mr Collier	Ms Meagher	Mr Watkins
Mr Corrigan	Ms Megarrity	Mr West
Mr Crittenden	Mr Mills	Mr Whan
Ms D'Amore	Mr Morris	
Mr Debus	Mr Newell	
Mr Gaudry	Ms Nori	*Tellers,*
Mr Gibson	Mr Orkopoulos	Mr Ashton
Mr Greene	Mrs Paluzzano	Mr Martin

Noes, 36

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

Pairs

Miss Burton	Mr George
Mr Iemma	Mrs Hopwood

Question resolved in the affirmative.

SMALL MINES SAFETY CAMPAIGN

Urgent Motion

Mr KERRY HICKEY (Cessnock—Minister for Mineral Resources) [3.37 p.m.]: I move:

That this House:

(1) expresses concern that since 1990, 14 people have died in small mines in New South Wales other than opal mines, and

(2) welcomes efforts by the State Government to improve this situation through its small mines safety campaign.

New South Wales is the cradle of Australia's minerals industry. Our mines directly employ more than 15,000 people across the State. For every person employed in mining another four jobs are generated in the wider community. Annual production is valued at more than $7 billion and minerals are our single biggest export. The jobs and income generated by mining have been the lifeblood of many towns and villages, particularly in rural and regional New South Wales. Across the minerals sector New South Wales has a safety record that ranks with the world's best. That is a terrific achievement, but there is more work to be done. Historically, small mines have had a high rate of serious injuries and fatalities. Key factors contributing to this poor safety performance include unstructured supervision, informal communication, lack of understanding and application of safety management systems, lack of resources to support safety improvement, and ignorance of safety obligations and laws.

In short, poor planning and poor organisation on the part of small mine operators led to more fatal and serious accidents. Often there seemed to be a lack of understanding about the specific risks facing workers in small mines. This has been a significant factor in the 14 fatalities. The Carr Government found this situation intolerable. It made changes to mine safety regulations in 2000. Through Mines Inspection General Rule 2000 it directed all small mine operators to prepare safety management plans. The plans are designed to bring small mines into line with the practices followed by larger mines for effective risk management. Once a plan has been decided upon, it is documented. This can be tailored to the needs of the small mine. It must not be shut away in a filing cabinet, but used as an everyday working tool to eliminate incidents. Continual evaluation must follow to finetune the plan and to ensure that it successfully controls identified risks. The plan forces people to stop and think about their safety.

Many mining hazards can be managed with engineering solutions. They can be analysed, designed, implemented and tested. Other risks do not have technical answers, because we are dealing with individuals, not machines. We must never forget the people who do the job. Miners themselves are often best placed to know how to make their jobs safer. By talking to them, listening to them and taking their concerns seriously, we are taking major steps towards eliminating accidents. Operators of small mines need to do this just the same as

operators of large mines. It is in the best interests of everyone in the New South Wales mining industry—including small quarries and extractive materials operations—to combat safety hazards. Loss of production and damage to equipment can cost even small operators hundreds of thousands of dollars. A single incident causes prolonged suffering for the person involved, their families and communities.

Too often we talk about statistics in a report. Our State has lost 14 miners since 1990 from our small mine sector—14 husbands, fathers and mates. Since my appointment as Minister for Mineral Resources in April, I have visited all types of mining operations across New South Wales to learn more about hazards and how they can be addressed. I have visited Lightning Ridge and sat in on the safety awareness course developed especially for our opal miners. The Lightning Ridge course is held every month or so. Since 1995, 3,577 people have attended 136 courses held in Lightning Ridge, White Cliffs and Coober Pedy. In fact, a course is being held in Lightning Ridge today. This safety awareness course has arguably saved the lives of six opal miners. Historically, New South Wales has lost one opal miner each year. It has now been six years since the last opal miner was killed. It was a logical extension of the opal mining safety awareness campaign to target other small mines scattered across the State. There are more than 800 of these mines and they are important to our regional communities.

My main concern as Minister for Mineral Resources—and this Government's absolute priority—is the safety of mineworkers. New South Wales is on the world stage fighting for minerals exploration and investment dollars. We are positioning New South Wales as the State for successful mining operations, but never at the cost of a miner's life. To help small mines raise the bar on safety performance, this Government developed and implemented a Small Mines Safety Campaign. We have identified small mines across the State and worked with them to improve their awareness of statutory obligations and safety performance through a structured education and support program.

Since November 2000, representatives from more than 300 small mines have attended educational programs conducted by safety operations officers in regional centres across the State. Each program consists of two interactive workshops held approximately three months apart. A site visit by a mine safety officer or inspector follows these workshops. This gives workers hands-on assistance in developing and implementing their own mine safety plan. The campaign is promoted through stories and advertisements in local media outlets, flyers and the Department of Mineral Resources publications and web site.

During the first phase of the campaign, it became apparent that further assistance on specific areas was needed to enhance safety awareness. In particular, 21 workshops have been conducted on the newly revised "Safety Operations Mining Design Guideline for Mobile and Fixed Plant in Mines". It has been revised to meet the needs of mines other than coalmines, and including small mines. Electrical safety is another targeted area, with seminars in progress in regional mining communities. It is still early days, so it is difficult to be overly confident. However, we have seen a 40 per cent reduction in electrical shock incidents following the first round of the campaign conducted about a year ago. Following the success of the first phase of the Small Mines Safety Campaign, the Carr Government published a specially designed Small Mines Safety Management Kit. The kit helps us reach small mines that have not yet participated in an education workshop. It is specifically targeted at very small mines and provides step-by-step help in developing a basic mine safety management plan.

In recognition of the need for ongoing education and peer support, the Carr Government has formed an alliance with the Institute of Quarrying. The institute will deliver ongoing workshops, initially based on the Small Mines Safety Management Kit. Safety operations officers will assist the institute in presenting the workshops. Importantly, this alliance will allow our officers to focus on those small mines that have not participated in the program yet. I cannot praise the institute highly enough for recognising the risks specific to the quarrying sector and helping us to help their members and others in the sector. As a result of this Government's initiative and industry co-operation, we are delivering significant health and safety improvements to many small mines across the State.

The peer support relationships built at workshops also play a major role in ensuring that the needs of small mines are appropriately met. The Small Mines Safety Campaign is one of our State's most successful workplace safety initiatives. It is an ongoing campaign. My aim is to save lives and to prevent serious injuries. It is also the aim of the Institute of Quarrying and the small mines sector in general. Through programs such as the Small Mines Safety Campaign, the Carr Government is delivering on its goal to achieve safe workplaces, and the statistical information available to date indicates that it is working. Education is the only way we can address the safety issues facing small mines. I ask honourable members opposite to share the Government's goal and to support this motion.

Mr ADRIAN PICCOLI (Murrumbidgee) [3.47 p.m.]: Honourable members on this side of the House support any efforts that lead to increased workplace safety, particularly in the mining industry, which historically has been a dangerous industry. Governments, mining companies, small mining operators and many others have made many advances in workplace safety. That is a goal we all hope to achieve. Obviously, the ultimate goal is no deaths or injuries in the mining industry or any other workplace. Members of the Opposition offer bipartisan support for the motion. The motion refers specifically to small mines, quarries and so on. However, many large metalliferous and coalmining companies have made significant investment in increasing workplace safety, and the results indicate the success of that effort. While ever there is injury or death, more can be spent and done. The mining industry should be congratulated on its efforts, particularly in the past 10 or 15 years, to reduce workplace accidents and deaths.

Statistics for mine accidents over the last five or six years show that in 2001-02 there were six fatalities, in 1996-97 there were 33 deaths, and in 1997-98 there were 18 deaths. So the industry has come a long way, and it must be congratulated on and supported for its investment in workplace safety. I also acknowledge the role of State and Federal governments in improving workplace safety. I know that the Minister for Mineral Resources will not be pleased to hear me say this once again, but, as the mining industry keeps saying to me, workers compensation remains a very important issue. It is an issue that the Minister needs to seriously address—

Mr Kerry Hickey: Point of order: My point of order relates to relevance. The motion clearly asks the House to express concern that since 1990, 14 people have died in small mines in New South Wales other than opal mines, and to welcome the efforts by the State Government to improve this situation through its Small Mines Safety Campaign. The motion is about safety—

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! I am sure the honourable member for Murrumbidgee was making only a passing reference to workers compensation.

Mr ADRIAN PICCOLI: Workers compensation is absolutely relevant to this motion, because workers make workers compensation claims when they are injured in a mining accident. There has been significant investment in improving workplace safety. Most mining companies have spent millions of dollars improving mine safety. In return for their investment, obviously they expect to protect their most important asset: their employees. Mining companies also expect economic benefit, by way of reduced workers compensation premiums. However, over the last six or seven years there have been massive increases in workers compensation premiums.

Mr Kerry Hickey: Point of order: Once again I draw your attention to the motion. The motion is not about workers compensation premiums; it is about safety in mines across New South Wales.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! The Minister for Mineral Resources is correct. I allowed the honourable member for Murrumbidgee a degree of latitude when the Minister took his earlier point of order, which the honourable member was not astute enough to note. The terms of the motion are clear, and workers compensation is not relevant to it.

Mr ADRIAN PICCOLI: Once again the Minister refuses to acknowledge that workers compensation is an issue in the mining industry. With regard to smaller mines and quarrying operations, of course any improvement in mines safety is welcome. Some of the larger operations have economies of scale that allow them to focus more easily on workplace safety, as opposed to the smaller mining operations. Nonetheless, it is important that government regulation is put in place to protect workers' safety, even in small mining operations. I move:

> That the motion be amended by the addition of the following paragraphs:
>
> (3) calls upon the Minister for Mineral Resources to table within one month the Government's response to the report of the mine safety review 1997 detailing how each recommendation is being implemented; and
>
> (4) calls upon the Minister to review workers compensation for miners injured as a result of poor mine safety.

Members opposite can moan and groan as much as they like. On numerous occasions during estimates committee hearings the Minister was asked about workers compensation and what he is doing about it. The only thing the Minister could say was that he had discussed the matter with the Minister for Industrial Relations.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! The Minister for Mineral Resources will come to order.

Mr ADRIAN PICCOLI: If the Government wants companies, investors and the owners of large or small mines to invest in workplace safety voluntarily and happily, they must be assured of some benefit from it. Of course, there is a benefit in reducing injuries and deaths. The last thing an employer wants is injured employees. The Minister referred to the personal anguish caused by any injury or death, but there are significant costs associated with it as well. Mining companies want to reduce the costs of injuries to their employees, but they want to see a reduction in workers compensation premiums as well.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! The Minister for Mineral Resources will come to order.

Mr ADRIAN PICCOLI: The Minister can protest as much as he likes that workers compensation is not part of the mining portfolio. I am simply repeating what the industry is saying to me: that workers compensation is a serious disincentive for investment, particularly in the coal industry. We want investment in workplace safety, to reduce the types of incidents that the Minister spoke about. Of course, government regulation is important. Companies will invest voluntarily, because they do not want to see injuries occurring in the workplace. However, an economic incentive for companies to invest in workplace safety is a reduction in workers compensation premiums. I know that the Minister himself cannot, or will not, introduce legislation about workers compensation premiums. But he represents a very important industry sector in this State, and it is incumbent upon him to use his influence in Government and the resources of his department in reducing workers compensation premiums, because that cost is a disincentive for companies to invest in workplace safety.

Mr Kerry Hickey: You're a sad case.

Mr ADRIAN PICCOLI: As I said, the Minister can complain about it all he likes, but it remains a very important issue. All members of Parliament, all Government employees and all regulators have the same objective: to reduce workplace injuries and deaths. Of course, every member on this side of the House supports that objective.

Ms NOREEN HAY (Wollongong) [3.57 p.m.]: As the member for Wollongong I share the Minister's passion for making sure our mines are safe workplaces. The Illawarra has a long and proud mining heritage, but that history has been marred by fatalities and serious injuries to our miners. That is why I support this motion and the Government's efforts in delivering this important aspect of mine safety education. The Small Mines Safety Campaign has several education components. The first was the workshops, which dealt with the preparation of mine safety management plans for small mines. These workshops were held across New South Wales from late 2000 until December last year. The Armidale office of the Department of Mineral Resources has conducted some mini-workshops this year, and I place on record the following comments from workshop participants:

> The workshop is excellent and is a great assistance;
>
> There is a heap of information about OH&S and the more you learn the better off you are;
>
> It really helps explain the legislation;
>
> Hazard identification was explained very well—this made it much easier to actually implement these procedures at our site;
>
> The program has been an excellent starting point for preparation of a Mine Safety Management Plan; and
>
> The course and resource material is of great help in developing a safety management plan.

I am sure all members would agree that this kind of feedback demonstrates the value that mine operators and workers have found in the course. The second phase of the campaign was undertaken from April to August this year to educate small mine operators about mobile and fixed plant under the revised guideline developed for small mines. Some comments from workshop participants include:

> MORE WORKSHOPS! A most useful activity that may change the way we do things;
>
> When I saw this course advertised in the mail I thought I should go but did not know what to expect. I was pleasantly surprised by the usefulness of the course.

The third component of the campaign is the Small Mines Safety Management Kit. This publication is designed to help operators prepare their Mine Safety Management Plan. The kit has now been available since the end of April this year. The first print run of 300 copies has sold out. The department is now well into selling the second

print run. The kit has been sold to many operators of small mines as well as to local councils and greenfields mines. Some existing mines which have a Mine Safety Management Plan have purchased the kit to assist with internal audits and continuous improvements. I think it is important to note that our efforts in raising health and safety standards in small mines are transcending state and national borders. Many kits have gone to Queensland, Victoria and South Australia. These orders have come via word-of-mouth or from other Department of Mineral Resources publications such as *Mine Safety Update* and *Minfo*.

John Moss, the Department's Area Manager (Safety Operations) based at Orange, has reported a telephone call from a quarry owner/manager in country Victoria inquiring about the Small Mines Safety Management Kit. He had been advised by his TAFE teacher at Box Hill to telephone the department. As part of his extractive industries Certificate IV assessment he needed to look at occupational health and safety management systems and develop occupational health and safety policies and procedures for his recently started quarry. The Orange office has also sold kits to other mine operators in Victoria and in Queensland.

A copy was recently sent to the Queensland Department of Natural Resources and Mines, Mines Inspectorate, for review. Queensland is looking at adopting the kit by referring to it, reselling it, or producing a similar publication. Word of the kit will continue to spread with an article from *Mine Safety Update* to be published in *Licensing Line News*, a monthly newsletter that advises key stakeholders in training and licensing authorities, and others, of projects, stories and general vocational education and training issues. This newsletter is an Australian National Training Authority project published by the Queensland Department of Employment and Training. The longest distance request has come from the United States of America. The University of Nevada School of Mines, in Reno, purchased a copy of the kit after reading the *Minfo* article. The University's letter states:

> Many mining students do vacation work with quarries in Nevada and California and want the kit to help improve safety and health at these mines. The school has found the kit "most interesting and well organised'.

These endorsements and interest from around Australia and internationally show New South Wales is on the right track with the Small Mines Safety Campaign.

Mr CHRIS HARTCHER (Gosford) [4.02 p.m.]: Mining is the great industry of New South Wales. It is even more significant than agriculture in the State's economy now and it behoves us all to ensure that we not only have a profitable mining industry but that we have a safe one. The Coalition parties have always supported any reasonable proposal by government, by employers or by trade unions or employees, to ensure proper mine safety. We will continue that proud record. When in government we also advanced proposals for improving mine safety, and many of these were successful.

There were some defects in the speech of the Minister for Mineral Resources. We do not have any clear definition of what constitutes a small mine. Maybe the Minister can address that in his reply. There is no reason why 1990 is the cut-off figure in his motion. As is done by any government, why would the motion not date from the time that the Government took office in 1995? There has been no statement by the Minister on the implications of the 1997 review into mine safety or the Gretley report. The Minister has spoken previously on the establishment of the Mine Safety Council, which was one of the recommendations arising from the review and from the Gretley report, but there were about 44 recommendations made in the mine safety report and we have never had a response tabled in this House. The normal system is that if a report is issued following an inquiry such as that conducted by the Royal Commission into Aboriginal Deaths in Custody, detailed responses are tabled from time to time to keep the Parliament, the public of New South Wales and the industry advised on the Government's ongoing program to implement the recommendations.

Some of them have been implemented. We give the Minister credit for the implementation in 1998 of the Mine Safety Council. We would like to know the status and the progress of the other 44 recommendations. If they are not going to be accepted, fair enough, because often not all recommendations can be accepted or they are not feasible, but let us find out what is happening with them, when they are going to be implemented or, if they are not going to be implemented, why they are not going to be implemented. Nor have we had any statement from the Government as to its financial commitment now to mine safety. In 2002 the Minister's predecessor, the Hon. Eddie Obeid—a man he greatly admired—advised the Parliament of the Government's expenditure of public funds on mine safety. I would like to see, and I am sure the Parliament would like to see, the Minister detailing to the House the actual expenditure by his department on mine safety throughout New South Wales: where the money is being spent and how it has been spent.

The Opposition's amendment is about looking at the progress and the implementation of the 44 recommendations and, of course, the all-important question so eloquently addressed by my colleague the

honourable member for Murrumbidgee about coalmines and workers compensation. The workers compensation scheme that presently applies in the coalmining industry is particular to that industry. It acts as a cost disincentive to mining investment; it is a sweetheart agreement cooked up by the Government to keep the Construction, Forestry, Mining and Energy Union [CFMEU] happy; it imposes an unfair burden on the operation of mines; it does not improve mine safety, it simply looks after Mr Maitland and his mates in the CFMEU, and it needs to be reviewed. We are not saying how it should be done at this stage, but we are inviting the Minister to say to the House, "I support the coal mining industry, it is a vital part of the total mining industry, in fact it is the biggest part of the mining industry. I will take action to remove any cost disincentive to mining investment in New South Wales."

I commend my colleague the honourable member for Murrumbidgee for his speech. May I remind the honourable member for Liverpool, who is in the chair—he would undoubtedly be more comprehensively aware of this than any other member of this House—of the magnificent role played by miners in the overthrow of the regime in Poland, the overthrow of the regime in Russia, and the overthrow of the regime in Romania. It was the miners who led the fight against communism here.

Mr STEVE WHAN (Monaro) [4.07 p.m.]: As the Country Labor member for Monaro I am obviously proud to support this motion for urgent consideration. I support the motion and advocate that the House reject the Opposition's amendment, which, as everyone can see, was essentially the lifeline of the honourable member for Gosford for the honourable member for Murrumbidgee so that he could sustain his 10-minute speech. The health and safety of all mine workers must be our main concern. Before the Carr Government initiated the Small Mines Safety Campaign the specific needs of the small mines had never been addressed. Safety performance in New South Wales mines continues to improve. One only has to look at a few examples from overseas to understand that our mines are some of the safest in the world.

In 2002, 5,791 people died in Chinese coalmines. In just four days in February this year 49 miners were killed, while in March another 50 miners died in a gas explosion, with a further 22 missing. In 2001, 268 miners died in South Africa. On 8 October, 2 million tonnes of earth collapsed down the face of a mine in Indonesia's Papua province, killing two workers, with another six missing. Australia has a very proud safety record in mines, but that does not mean that we should rest on our laurels. This is especially the case for the small mines, which historically have employed fewer people but which have had a disproportionately large number of serious injuries compared with larger mining operations. In the Monaro electorate we do not have any larger mining operations anymore, they have closed down, but we do have many smaller mines. To date, representatives of more than 300 small mines have attended the Small Mines Safety Campaign workshops and learned how to prepare a Mine Safety Management Plan.

For me, the most important aspect of this campaign is the fact that it is being taken to where it is most needed: to rural and regional towns across the State. Since February this year 43 separate mine safety events have been held. These include holding 16 mobile and fixed-plant safety workshops, which are especially designed for small mines, in centres including Mangrove Mountain, East Maitland, Orange, Gilgandra, Deniliquin, Wagga Wagga, Broken Hill, Penrith, Buronga, Wollongong, Batemans Bay and, most important, Queanbeyan, which is in the Monaro electorate. By taking this campaign out on the road, the Department of Mineral Resources has presented the safety message to 983 people in regional and rural centres.

Because of the difficulty faced by many busy rural people in travelling to the city to undertake these courses, which are aimed at protecting people from death and serious injury, I am sure all honourable members will agree with the importance of taking them to rural New South Wales. That is the real point of difference with this education campaign: the message is being taken to country New South Wales. The participants in the course include manufacturers, owners, managers, maintenance people, operators and contractors who are involved with mobile or fixed equipment in any operation that is classified as a mine.

Many people in New South Wales associate mining with the big open-cut mines or underground mines. Although those massive operations generate huge production figures and millions of dollars in income for our communities and for the State, small mines are far more common. Few communities, particularly those in rural New South Wales, would not have a mining operation of some kind. They may be commercial operations such as council or private quarries or sandpits that excavate substances from the ground or farmers who recover material such as gravel, soil or sand from their properties for sale to road contractors, builders or landscape gardeners. They are all classified as mines and must comply with the mine operating legislation and regulations, particularly with respect to health and safety.

I have been contacted by a number of operators of small quarries who are familiarising themselves with the new requirements to ensure the safe working of their operations. Country Labor values worker safety. In the

past small or family-operated businesses were often not subject to the same requirements and training to ensure that their operators—family members, employees or leaseholders—worked in a safe environment. This program takes the best in mine safety education to where it is most needed: to mine operators in rural and regional centres. We should be proud of this program. [*Time expired*.]

Mr KERRY HICKEY (Cessnock—Minister for Mineral Resources) [4.12 p.m.], in reply: Once again, the shadow Minister for Mineral Resources has displayed his ignorance of his shadow portfolio responsibilities. I do not believe he understands the meaning of a small mine: it is a commercial operation with less than five employees that digs quantities of minerals from the ground. The shadow Minister has displayed his laziness and total disregard for the industry. He said that the industry wants to see benefits. Fewer deaths in the industry will benefit not only the industry and workers but also the whole community. It is sad that the shadow Minister constantly relies on his elder statesmen in The Nationals and the Liberal Party to come to his aid. It happens all the time in this House. They not only come to his aid; they lead the debate in motions for urgent consideration and matters of public importance.

During debate on a recent matter of public importance dealing with mine site rehabilitation, the shadow Minister did not even remain in the Chamber. The honourable member for Lachlan led for the Opposition, despite the fact that his shadow portfolio is Tourism, and Sport and Recreation. However, I acknowledge that the honourable member for Lachlan has a good grasp of the mines portfolio and should be the shadow Minister for Mineral Resources. On another occasion the honourable member for Barwon made a lot more sense than the Opposition spokesman. The honourable member for Lachlan and the honourable member for Barwon understand the portfolio and the industry better than the shadow Minister.

I suggest that the shadow Minister needs to do more homework and should become involved in the finer aspects of mineral resources. A starting point would be for him to remain in the Chamber during these important debates and not duck out during question time to sit up in the gallery or wherever else he runs off to. During debates on mineral resources he usually refers to workers compensation, an industrial relations matter not covered by the mineral resources portfolio. The shadow Minister does not understand the responsibilities of his own portfolio. I have noticed the industrial relations spokesperson gave the shadow Minister a private lesson; the old swamp fox was training him. The honourable member for Gosford drafted the proposed Opposition amendment for the shadow Minister.

In one debate the shadow Minister raised the red herrings of housing, health, education and industrial relations. He would be better suited to another shadow portfolio, perhaps one he has more knowledge of. His articles in the *Daily Telegraph* are testament to his wide knowledge, from salami making to rurosexuals. The shadow Minister is a sensitive, new-age guy not normally associated with the mining industry. As I am a Cessnock boy, I have more than a little association with the mining industry. I suggest that the shadow Minister learn about his portfolio. He should look on the web site and talk to miners and to the industry. He needs to forget his new-age scribblings in the *Daily Telegraph* and concentrate on his portfolio. If a milkman from Cessnock can do it, it should not take too long for a lawyer from Griffith to get hold of it.

The honourable member for Gosford referred to the 44 recommendations. Those recommendations have all been implemented—20 related to government and 24 related to industry— and their expenditure was dealt with the during estimates committee hearing. Even though the shadow Minister raises the industrial relations red herring, the estimates committee was the correct forum for the airing of such issues. The Mine Safety Council, a peak-level tripartite council—that is government, industry and union—has monitored and ensured the implementation of the recommendations of the 1997 mine safety review. A quarterly update is publicised and is publicly available. It is widely circulated within the industry. I will ensure that the shadow Minister gets a copy of that for his homework. [*Time expired*.]

Question—That the amendment be agreed to—put.

The House divided.

Ayes, 36

Mr Aplin	Mrs Hopwood	Ms Seaton
Mr Armstrong	Mr Humpherson	Mrs Skinner
Mr Barr	Mr Kerr	Mr Slack-Smith
Ms Berejiklian	Mr McGrane	Mr Souris
Mr Cansdell	Mr Merton	Mr Stoner
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	
Mrs Hancock	Mr Piccoli	
Mr Hartcher	Mr Pringle	*Tellers,*
Mr Hazzard	Mr Richardson	Mr Maguire
Ms Hodgkinson	Mr Roberts	Mr R.W. Turner

Noes, 47

Ms Allan	Mr Greene	Mr Orkopoulos
Mr Amery	Ms Hay	Mrs Paluzzano
Ms Andrews	Mr Hickey	Mr Pearce
Mr Bartlett	Mr Hunter	Mrs Perry
Ms Beamer	Ms Judge	Mr Price
Mr Black	Ms Keneally	Dr Refshauge
Mr Brown	Mr Knowles	Ms Saliba
Ms Burney	Mr Lynch	Mr Sartor
Mr Campbell	Mr McBride	Mr Scully
Mr Collier	Mr McLeay	Mr Shearan
Mr Corrigan	Ms Meagher	Mr Tripodi
Mr Crittenden	Ms Megarrity	Mr West
Ms D'Amore	Mr Mills	Mr Whan
Mr Debus	Mr Morris	*Tellers,*
Mr Gaudry	Mr Newell	Mr Ashton
Mr Gibson	Ms Nori	Mr Martin

Pairs

Mr Brogden	Miss Burton
Mr George	Mr Iemma

Question resolved in the negative.

Amendment negatived.

Motion agreed to.

YOUTH DEBT

Matter of Public Importance

Ms ANGELA D'AMORE (Drummoyne) [4.27 p.m.]: I ask the House to note as a matter of public importance youth debt in New South Wales. I welcome the opportunity to present this matter to the House today. It is important because a new generation of young people are beginning their lives with debt hanging around their necks—debt that can begin to accumulate when they are very young. In our magazines, on the Internet, in movies and on television the message to young people is buy, buy, buy. A couple of weeks ago I noticed an interesting article in the *Sunday Telegraph* about the growing phenomenon of tweenage girls, that is, girls aged between eight and 14. The article stated:

> It's tempting to dismiss tweens as giggling schoolgirls with little on their minds but Barbies and ponies, but marketing gurus around the world have identified them as a consumer powerhouse with leverage over billions of consumer dollars.

The article further stated:

> The movie and music industries have been quick on the uptake, popping out a new breed of tween queen, carefully moulded to target schoolgirls into a merchandising bonanza; you've seen the movie, now buy the CD, the clothes, the cosmetics and the personalised credit card.

The article notes that although the social term "tween" has been around since the 1960s, it appears that only recently the 8-year-old to 14-year-old female demographic has begun to wield enormous consumer power, particularly because of the influence they exert on their parents' buying choices. This phenomenon seems to know no bounds. The latest tween superstar is singer-actress Hilary Duff. In the United States Visa has just introduced the Hilary Duff card that enables parents to prepay an amount they deem appropriate for their daughters to spend before handing over the credit card. Credit card debt, personal loans to buy cars, higher education contributory scheme fees and holiday debt are real problems for young people.

Earlier this year the Minister for Fair Trading raised a new potentially harmful debt trap: M Commerce. She successfully put M Commerce, young people and debt generally high on the agenda when she chaired the

August Ministerial Council on Consumer Affairs in Sydney. M Commerce, or the new electronic wallet, capitalises on the popularity of mobile phones. It enables consumers to make purchases of a variety of goods and services direct from their mobile phones and to be billed later. When one considers that 300 million text messages are sent by 11.5 million Australian mobile phone users each month, this area of commerce will need close attention to ensure that consumers are protected.

Companies in Australia such as Telstra are already offering consumers the opportunity to use their mobile phones to pay for a coke at a railway station vending machine, taxi services, groceries and movie tickets. The increasing level of debt is a growing concern for all Australians. Over the past 10 years household debt has increased at an average annual rate of 14 per cent, with the household debt to income ratio rising from 56 per cent to 125 per cent. The total debt owed by Australian households has more than trebled to $530 billion. However, when debt starts at the age of 14, 16 or 17 years of age, largely due to the availability of new technology, marketing techniques and lifestyle pressures, it can be a serious problem for young people and their families.

Recent research indicates that while most Australians have a relatively good understanding of basic financial matters, young people stand out as lacking certain key financial skills. When this is combined with a lack of experience due to age and low income, young people are vulnerable to getting into trouble with debt. While debt levels can vary from several hundred dollars to thousands of dollars, the ramifications are grave. They include having to pay off debt in small instalments over a long time, bad credit ratings that can affect future applications for loans and, ultimately, bankruptcy. If that is on top of family and social pressures, it can lead to further money problems.

One advantage when considering education and information strategies for young people is that they are still, in most instances, able to be reached as a group. This stage of the life cycle of this vulnerable group offers an opportunity to provide them with information, education and personal resources to become informed consumers for life. The New South Wales Office of Fair Trading has undertaken cutting-edge work on financial literacy for young people through the development of the Money Stuff Program. That program is an educational resource designed to assist young people from 16 to 24 years of age to deal with consumer responsibility and personal financial management. Money Stuff consists of a web site, a video and a set of three teacher books in the subject areas of commerce, mathematics and English. It is designed to be used in the classroom by teachers and students and anyone with access to the Internet. The Money Stuff resources are free to all high schools.

The Money Stuff Program challenges students to complete three real-life scenarios. Through those scenarios, students experience the process of buying a used car, buying a mobile phone and renting a shared house. The challenge introduces information in two ways: through information pages and case studies. Money Stuff formed the basis for the highly successful Consumer Youth Award, one of the categories of the 2002 Consumer Protection Awards. Money Stuff has received excellent teacher and student feedback. It has also won numerous national and international awards. Most importantly, the web site, which is designed with young people in mind, has recorded close to 1.8 million hits since it was established. We need to equip young people with the necessary tools and, most importantly, the knowledge to avoid debt traps and to be savvy enough to recognise when they are being sucked into a slick marketing campaign that can lead to heartache at the end of the credit card statement.

Mr BRAD HAZZARD (Wakehurst) [4.35 p.m.]: Listening to the honourable member for Drummoyne reminded me just how many Labor members are out of touch with what is going on in the real world. The honourable member for Drummoyne may be considered one of the younger members of Parliament but she needs to speak to young people to find out the issues facing many of them. There are many serious issues relating to the level of debt accumulated by young people, but we have to distinguish between young people under the age of 18 and young people over the age of 18. There is a technical legal definition, but when talking about youth and young people in this debate we are talking about those who cross the boundaries. Obviously, serious issues are involved when companies take advantage of young people under the age of 18 who technically ought not to have the legal capacity to enter binding contracts and, therefore, to have any liability accrued against them. However, from time to time members of Parliament hear of companies that in one way or another manage to get young people to enter some kind of contract, and those young people believe they are legally liable to meet their debts.

The bigger issue is where young people are so preoccupied. These days any young person who does not have a mobile thumb that works amazing tricks on a mobile phone sending SMS messages is a rarity. These days most young people, by fair means or foul, secure some sort of access to a mobile phone as soon as they

possibly can. Unfortunately, some rush into contracts that can result in huge debts being run up. I know young people who have ended up in that position. Major corporations have a role to play in providing guidance to young people. When young people enter contracts there should be some moral or ethical responsibility on companies to ensure that those young people get more than just the normal information that might be provided to a person who is legally responsible, that is, someone over the age of 18 years. There is a twilight zone surrounding young people between the ages of 18 and 21 or 22, and companies should feel morally bound to take further steps than they otherwise would to ensure that those young people know about the obligations they might be taking on.

Why do young people get to the point where, at about the age of 18, they do not know their legal responsibilities? Sadly, it is because the education system in New South Wales, particularly under the Government, has missed its real focus. The honourable member for Drummoyne talked about yet another new program for young people called Money Stuff. The Government has had 10 years to address these issues and in that time there has been a boom in the use of mobile phones. A decade after the Government came to office thousands of young people have found themselves legally obligated to pay large amounts of money, and the Government has failed to address those problems during the educational or formative years of those students.

Within the legion of students who pass through our schools there is a group that the Government, and the Premier personally, should feel responsible for. I refer to the approximately 8,000 to 9,000 young people—the number was 5,500 when the Government came to office—who are in foster care. It is opportune that the New South Wales Commission for Children and Young People has published an article in its spring 2003 edition of "Exchange" about the disadvantages suffered by children in foster care. I spoke about this issue many times when I was the shadow Minister for Community Services. At every opportunity I pointed out the profound failure by the Government to provide young people in care with the educational continuum they need to gain appropriate life skills. I admit that this issue was not well addressed by previous governments either, but the number of young people in care has dramatically increased while this Government has been in power, and that makes the problem even greater. Young people need to learn life skills about handling the various expenses and debts that one incurs throughout one's life. The article in the "Exchange" states:

> It is estimated that the cost to Australia of young people in out of home care leaving school before they have attained an adequate level of education is $2.6 billion.

This is an article by the Carr Government's Commission for Children and Young People.

Mr Anthony Roberts: They have 'fessed up.

Mr BRAD HAZZARD: They have 'fessed up. But, more importantly, the Premier needs to 'fess up and act on this serious issue. The article continues:

> While this is a huge cost in financial terms, an even greater cost to our society is its "failure to tap into the enormous talent and potential of these children", said the Manager of UnitingCare Burnside's Education Program in Western Sydney, Yvonne Clark.
>
> "Not meeting the educational needs of children in out of home care is likely to have a major impact on their professional and other life goals and the flow on effect this has to the broader community," said Ms Clark.
>
> "One of the things contributing to this situation has been a general community misconception that the majority of these kids have inherited more than just social disadvantages and that they probably wouldn't have had the background and ability to do well academically, even if they were still with their families," she said.

It is hypocritical of the Carr Government to launch into this matter of public of importance without referring to the 8,500 young people who are under the Government's care. As these children are brought into care the Premier, in effect, is acting as their father, in loco parentis. It is diabolical that in 2003 so many of these young people are faced with major obstacles to obtaining a reasonable education. Sadly, children in foster care frequently move from one school to another. On numerous occasions the Liberal Party and The Nationals have raised the issue of ensuring that as these children and young people move from school to school their educational assessments are transferred with them.

Often the Department of Community Services caseworkers—who are distressed and under pressure, despite the Government's rhetoric—do not transfer the files from one school to another. Repeatedly these young students are not provided with the continuum of the educational outcomes and opportunities they require. Further, when they leave home care their files, including any record of their educational outcomes, often disappear. Again, this is because of a lack of support from the Carr Government to the children in foster care, and particularly to the Department of Community Services, to make sure that these young people get the continuum of education they require.

Ms Kristina Keneally: Point of order: My point of order relates to relevance. The honourable member for Wakehurst is not speaking to the issue, which is about young people and debts. He has veered to another topic.

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! The honourable member for Wakehurst should confine his remarks to the question before the Chair.

Mr BRAD HAZZARD: That is the silliest point of order a member has taken for a while. The honourable member for Heffron can do better than that. I am talking about youth debt and the lack of preparedness through education to address debt. They are the precise issues that Ms D'Amore spoke about in her matter of public importance.

Ms Angela D'Amore: You can call me the member for Drummoyne.

Mr BRAD HAZZARD: You can call me whatever you like. The issue is about a failure to properly educate children, to give them the proper educational opportunities. If nothing else, the Government should get it right when providing opportunities for the children for whom it takes legal responsibility. Effectively, the Government acts in loco parentis when it takes children from their natural parents, often for very good reason.

Ms Kristina Keneally: Point of order: My point of order again relates to relevance. I ask that the honourable member for Wakehurst be brought back to the issue, which is about young people and debt.

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! I again remind the honourable member for Wakehurst to keep his remarks relevant to the matter of public importance.

Mr BRAD HAZZARD: It is pathetic that the honourable member for Heffron and the honourable member for Drummoyne do not want to hear about the failure of their Government on the issue of children in care. I hope that over the next few years they take a more mature approach and ensure that these children get a fair hearing. They are trying to stop this House from hearing about the problems of children in foster care and the lack of educational opportunities provided by their Government.

Ms KRISTINA KENEALLY (Heffron) [4.45 p.m.]: I welcome the opportunity to join the honourable member for Drummoyne to talk about this important issue. I represent an electorate where many young people reside, particularly university students who study at the University of New South Wales. Debt is a real problem for them as they struggle through their studies or embark on their first job. Many are living away from home for the first time, and they have to learn how to survive on a tight budget. Last week I joined the Minister for Fair Trading in Alexandria to promote a debt-free Christmas. With Christmas only weeks away it is important that consumers, particularly young consumers, avoid getting in over their heads with credit cards and know their rights when it comes to refunds, lay-bys and warranties of products.

One growing area, which the honourable member for Drummoyne highlighted, is the proliferation of mobile phones. There are a number of pitfalls for young people, including pressure selling and marketing techniques, signing inappropriate or unfair long-term contracts, unexpectedly high phone bills, and the ramifications of getting into debt, for example, a bad credit rating for future loans. The New South Wales Office of Fair Trading has received almost 700 complaints about mobile phones in the past 12 months. The complaints range from defective goods and misrepresentation to misleading conduct. Charges have flowed from these complaints. The statistics do not reveal the proportion of complaints that involve young people. The important message is for young people to read the terms and conditions of the contract they are entering into rather than be dazzled by the marketing ploys of a zero purchase price. A Government facts sheet entitled "Buying a mobile phone" has some good tips on how consumers can protect themselves from mobile phone debt.

Credit is probably the most dangerous area of youth debt because it provides instant security through access to cash. Further, it is a status symbol. Credit over-commitment has become a significant problem for many vulnerable Australian consumers, particularly young people. Problems include paying high interest rates on credit cards in comparison with most personal loans, spending money that does not exist, and using one credit card to pay off another credit card. In fact, annual credit card data from the Australian Credit Cards Report dated March 2003 shows that Australians put almost $100 billion on credit. That is an increase of more than 16 per cent on the previous year. An average credit card account had a balance of $2,000 and an annual expenditure of $11,000.

This data shows a considerable increase in credit card purchases over the past 12 months to March 2003. It also shows a rise in cash advances, which attract interest from the day of withdrawal. Given the high interest rates associated with credit cards, this is a very expensive option for cash. Anecdotal evidence from financial counsellors and legal centres suggests that young people are particularly vulnerable to credit card debt because they do not have the finances to back up their expenditure. Young people are also particularly prone to unexpectedly high mobile phone bills.

Financial counsellors and consumer organisations are reporting that young people use their credit cards to pay their mobile phone bills and use multiple credit cards to juggle their debts. Improving young people's financial literacy is central to providing them with the information, skills and confidence to be smart consumers for life. This is best done through developing resources that are compatible with the school curriculum. The New South Wales Government supports a national project by the Australian Investments and Securities Commission called Financial Literacy in Schools. Financial literacy for young people will be specifically promoted as part of the 2003 New South Wales Consumer Protection Awards being held next month.

Another area of concern is relationship debt; that is, when someone becomes involved in another person's debt because of an emotional attachment. It is more likely that women will be burdened with this unwanted debt. The relationship may end, but the debt continues. The Office of Fair Trading has produced a fact sheet dealing with this problem. This is particularly important because, as we heard from the honourable member for Drummoyne, young women are prone to fall into debt. Young people need to be aware of what they are getting into before signing up to a new credit card or a new upgraded mobile telephone, or entering into a debt with a partner. It is a tragedy for young people to begin their lives with a debt burden around their neck.

Mr ANTHONY ROBERTS (Lane Cove) [4.50 p.m.]: Like my colleagues, I am concerned about youth debt in New South Wales and the encouragement offered to young people to take on large debts. We live in a time of high-pressure advertising and hard sell, whether it be from car salesmen or magazines. Computers are advertised, particularly to university students, offering a package that allows immediate delivery and a repayment plan. However, students often find that they cannot afford the repayments and ridiculous interest rates. Young people may feel they need to drive the latest and greatest car rather than borrow their parents' car or buy an old jalopy. They are lured into saleyards by slick salesmen who sign them up on finance plans that they find they cannot afford. Mobile telephones are also a major problem with payment plans on the never-never. Young women, and more recently young men, succumb to high-pressure advertising on television and in youth magazines to purchase designer clothes at inflated prices, often on their credit cards. Credit cards cause problems when banks repeatedly offer to increase credit limits.

Mr Gerard Martin: Point of order: The Opposition is not allowed a second speaker in a matter of public importance debate. It is nothing personal; I am sure it would have been a wonderful contribution.

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! The standing orders provide that, after debate on an urgent motion, in debate on a matter of public importance there shall be two speakers for 10 minutes, one speaker for five minutes and the member who initiated the matter may then speak in reply for five minutes. The honourable member for Drummoyne and the honourable member for Wakehurst were allowed 10 minutes and the honourable member for Heffron was allowed five minutes. I uphold the point of order.

Mr ANTHONY ROBERTS: I will move to suspend standing orders.

Mr Brad Hazzard: Point of order: Obviously this is an issue that concerns everyone and it will not lead to a division. If there has been a mistake, it is the Chair's mistake. The honourable member is already two minutes into his speech. In those circumstances, I ask that the standing orders be suspended to allow the honourable member to finish his contribution.

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! I have upheld the point of order taken by the honourable member for Bathurst. I call the honourable member for Drummoyne in reply.

Mr Brad Hazzard: The honourable member was halfway through his speech. What will happen to the contribution he has already put on the record?

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! The honourable member for Wakehurst will resume his seat. What is on the record cannot be removed.

Ms ANGELA D'AMORE (Drummoyne) [4.54 p.m.], in reply: I will address some of the concerns raised by the honourable member for Wakehurst. The Carr Government has a good track record in looking after young families and young people. It has committed an extra $1.2 billion over the next five years to help vulnerable families and young people. The Opposition would have cut $700 million from the budget, and it announced its intention in a sneaky way two days before the last election. It has no credibility on the issue.

Mr Brad Hazzard: Point of order: This is precisely the point of order that you, Madam Acting-Speaker, supported when it was raised by honourable members opposite. When I indicated I was talking about children, foster care and the Department of Community Services, you ruled me out of order.

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! The honourable member for Drummoyne will confine her remarks to the question before the Chair.

Mr Brad Hazzard: Behave yourself if you are going to take points of order against me!

Ms ANGELA D'AMORE: The honourable member should be patronising elsewhere. I thank honourable members for their contributions to this important debate, especially the honourable member for Heffron. Recently I highlighted this issue in my local area with regard to motor vehicle dealers. I joined the Minister for Fair Trading on Parramatta Road to launch a new booklet that provides consumers with valuable car-buying tips.

Mr John Turner: Point of order—

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! If the honourable member for Myall Lakes continues to interrupt the honourable member for Drummoyne, I will rule him out of order.

Mr John Turner: I have not raised a point of order previously. You cannot rule me out of order until I have spoken. The standing orders clearly provide that the honourable member speaking in reply must address the issues raised in the debate and not introduce new material. The honourable member is introducing material about standing on Parramatta Road with a book or something else. That is not relevant and it has not been raised previously in this debate. She must reply to the issues that have been raised.

Madam ACTING-SPEAKER (Ms Marianne Saliba): Order! The honourable member for Drummoyne is talking about people and debt. That is the subject of the matter of public importance.

Ms ANGELA D'AMORE: Last Friday the Minister launched the REVVED UP program for senior school students at Bonnyrigg High School. The program will be rolled out to other schools from next year. The main message is: Don't let your heart rule your head when it comes to selecting a car. The car buyers' handbook and the REVVED UP Program look at the pros and cons of buying cars through licensed motor dealers, at auctions and in private sales, which is a very important issue to our youth. Financial arrangements, contractual obligations, warranties and the need for vehicle inspections are also covered.

Another phenomenon that is enticing young people to reach for their credit cards is Internet shopping. With more and more young people using computers for university studies and other pursuits, the temptation to buy over the Internet is all too real. However, that involves risks such as goods advertised not really being for sale, hidden costs after shipping and handling, and giving bank details to people who are not legitimate traders. These are all concerns and, again, the message is clear: Young people need to be aware of their rights as well as how to arm themselves against the tactics of marketing gurus. Consumer Week, which will be held late next month, is another good opportunity for young people to get involved. The Government wants their feedback on what other debt issues may be affecting them. Some feel too embarrassed to call the Office of Fair Trading or to speak to their parents because it could be seen as a slight on their character if they have slipped into the debt trap or have been taken in by a clever marketing ploy.

The State has 44 counselling services that provide important information, guidance and assistance to consumers. The Carr Government has allocated a record $1.8 million to assist these organisations to carry out this valuable service, particularly for young people. Young people may be more inclined to talk to a sympathetic stranger than to raise an issue at the family dining room table. Young people experience many pressures—to look certain ways, to achieve high marks, to get into a good career and to start a family—and it is unfortunate that they also have to worry about whether they are falling into a debt trap from which they cannot escape.

Discussion concluded.

SUPREME COURT ACT 1970: DISALLOWANCE OF SUPREME COURT RULES (AMENDMENT NO. 380) 2003

Mr DAVID BARR (Manly) [4.58 p.m.]: I move:

> That this House disallows the Supreme Court Rules (Amendment No. 380) 2003 made under the Supreme Court Act 1970 which was published in *Government Gazette No. 145* on 19 September 2003 at page 9425 and tabled in this House on 14 October 2003.

I have moved this disallowance motion to negative an amendment to the Supreme Court Rules made by the court on 19 September that has exempted defamation proceedings from the application of the Supreme Court Rules part 52A rule 33. Rule 33 provides that plaintiffs can recover their costs only in actions brought in the Common Law Division of the Supreme Court if they have been awarded more than $225,000 in damages or can otherwise demonstrate that they have sufficient reason for bringing the action in the Supreme Court.

The purpose of the rule is to encourage plaintiffs to use the lower courts for matters involving lesser amounts of damages. This exemption for defamation now means that any defamation action, no matter how trivial, can be brought in the Supreme Court. The Supreme Court is likely to become the court of first instance for all defamation actions commenced in this State. The court's decision to exempt defamation from the application of the rule appears to have been prompted by the comments of Justice Simpson in the recent case of *West and Anor v Nationwide News Pty Ltd trading as Cumberland Newspaper Group*, reported in (2003) NSWSC 767.

In that case Justice Simpson noted that the Supreme Court had not been enforcing part 52A rule 33 in defamation cases. Her honour sent a strong message to her colleagues, and stated in paragraph 27 of her judgment, "If the rule makers wish to make a special exception in cases of defamation, they are open to do so." According to Justice Simpson, there were a number of reasons the rule was not being enforced by the court. Her Honour noted that judges are inclined to look more favourably upon plaintiffs due to the complex nature of defamation law, the wide range of defences available, and the way damages are assessed at large in defamation.

The overwhelming tendency of the court has been to find that the plaintiff had a sufficient reason for bringing the action in the Supreme Court, even though the damages awarded were substantially less than $225,000. In fact, if the court had been enforcing this rule, virtually no defamation actions would have been brought in the Supreme Court, as almost all damages awards in defamation cases are far less than $225,000. So far as I am aware, since 1995 there has been only one case in which defamation damages have exceeded $225,000.

In my view these matters should have been kept out of the Supreme Court. We should all be doing what we can to decrease, not increase, the cost of defamation litigation. The court has now responded to Justice Simpson's comments by simply amending the rules so that they no longer apply to defamation actions. In essence, in relation to defamation actions the court has simply tossed the rule out the window. The most obvious problem with the amendment is that it will further clog the Supreme Court with defamation cases that should be heard in the District Court. More importantly, it will expose defendants to much higher costs.

New South Wales already suffers from being the defamation capital of the world. The complicated, convoluted nature of our defamation law has resulted in more defamation cases per capita being litigated in this State than in any other place. Last year the Communications Law Centre at the University of New South Wales produced figures showing that New South Wales has one defamation writ per 79,000 people, compared with England, which has one defamation writ per 121,000 people, and the United States of America, which has one defamation writ per 2.3 million people.

The Supreme Court amendment means that even more time and public money will be wasted on defamation litigations in New South Wales. However, it is not just the extra burden we place on the court system that is the serious problem with this amendment to the rules. If the exemption for defamation is allowed to stand, it will mean that defendants in relatively minor matters may be saddled with enormous cost orders because the Supreme Court is a far more expensive place to litigate matters than the District Court. Plaintiffs will be able to justify bringing virtually any matter to the Supreme Court regardless of how trivial it is, and run up huge cost bills, which a defendant may be ordered to pay if the plaintiff is successful.

The Defamation Act expressly states that there are to be no punitive damages in defamation. However, this requirement is rendered irrelevant by the effect of large cost orders. The cost orders which can exceed the amount of damages by many times are far more significant than actual damages and are extremely punitive in

nature. The court could have adopted a position more in line with a bill I have before this House which provides that plaintiffs in defamation actions must be awarded at least $25,000 before they can recover their costs. The motivation behind this change may reflect turf warfare between the District Court and the Supreme Court. The only people who will gain anything from this rule change will be the defamation barristers, who are already dining out on the large fees they can command in defamation cases.

The law of defamation is already out of step with community values, and it is a serious impediment to free speech. Nowhere is the pomposity of the legal profession more evident than in this area of law. Centuries-old notions of reputation, which have more to do with feudal values than modern values, have been puffed up by the hyperbole of bewigged barristers to become a lucrative revenue stream for them and, in the process, inhibit free speech. Nowhere is the gap between ordinary people and the bewigged pompadours presiding over the justice system more apparent than in this move by the Supreme Court to remove costs as a constraint on plaintiffs. Defamation becomes even more the domain of the wealthy, who can afford to have a reputation. I urge all members to support this disallowance motion.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [5.05 p.m.]: The Government opposes the disallowance motion moved by the honourable member for Manly. Supreme Court Rule part 52A rule 33 provides that where a plaintiff recovers a sum of not more than $225,000 the plaintiff shall not be entitled to payment of the costs of the proceedings unless the plaintiff had sufficient reason for commencing or continuing proceedings in the court. Part 52A rule 33 (3) provides that a sufficient reason for the commencement or continuation of the proceedings is the existence of reasonable grounds for the plaintiff to expect that he or she would recover more than $225,000. The rule of court referred to in this disallowance motion does not apply to proceedings in defamation. The purpose of the general proposition in part 52A rule 33 of the Supreme Court Rules is to deter plaintiffs from commencing small or uncomplicated cases in the Supreme Court, and this is a very sensible rule for the court to have adopted.

However, given recent developments in defamation legislation and case law, there are strong reasons for making an exception in these cases. It is true that in the past the damages awarded in defamation cases have been generous indeed. For example, $2.5 million was awarded in *Erskine v Fairfax* in 1998, almost $700,000 was awarded in *Nugawela v Crampton* in 1996, and more than $1 million was awarded in *Hartley v Nationwide News* in 1995. However, successive amendments to defamation law have brought damages awards in much closer alignment with awards for general damages in personal injury cases.

Section 46A of the Defamation Act now provides that in determining the amount of damages for non-economic loss the court is to take into consideration the general range of damages for non-economic loss in personal injury awards in the State, including awards made under, or in accordance with, any statute regulating the award of any such damages. While the size of the damages awards has been significantly reduced, this does not necessarily mean that the cases heard by the Supreme Court are simple and straightforward. Very often, even relatively minor defamation cases raise complex issues about the right to freedom of expression, and the need to strike a balance between the free flow of information of matters of public interest and importance, and the protection of reputation. These are matters that sit at the very heart of our democracy. It is for this reason that defamation cases such as Lange were appealed all the way to the High Court.

The Supreme Court has modified part 52A rule 33 so that it does not apply automatically in defamation cases. The amendment to part 52A rule 33 is an acknowledgement that the rule has not generally been enforced in relation to defamation proceedings. More importantly, it is an acknowledgment that while the majority of defamation matters decided in the Supreme Court result in a damages award of less than $225,000, the Supreme Court may well be the appropriate jurisdiction in which to hear the matter because of the complex legal issues raised.

The circumstances surrounding the decision of Her Honour Justice Simpson in *West and Anor v Nationwide News* demonstrate that there is no justification for continuing the application of part 52A rule 33 of the Supreme Court Rules to defamation proceedings. In that case Her Honour had awarded the first plaintiff damages in the sum of $20,000 and the second plaintiff $30,000. The defendant had successfully defended some of the imputations sued upon, and, obviously, failed in its defence to the imputations in respect of which damages were awarded.

The plaintiffs then sought an order that the defendant pay their costs of the proceedings. Her Honour held that it would be unjust for the plaintiffs to be deprived of any costs of their successful litigation. The defendant was ordered to pay three-quarters of the plaintiffs' costs of the proceedings. As Her Honour pointed

out in her judgment, if rule 33 were strictly applied it would be all but impossible for plaintiffs to commence defamation proceedings in the Supreme Court. A plaintiff would be unable to anticipate whether the court would exercise its discretion in favour of the ordering of costs if successful, but where the verdict is less than $225,000.

I believe it is essential that the Supreme Court continue to hear defamation matters that give rise to complex legal issues. The rule change will ensure this to be the case. I am also confident that sufficient safeguards exist to prevent the Supreme Court presiding over shorter, less complex matters that ought rightly be tried in the District Court. Clear common law principles exist in relation to the jurisdiction of the courts in defamation matters. In a number of decisions, Justice Levine, the defamation list judge in the Supreme Court, listed the factors relevant to whether defamation proceedings ought to be transferred to the District Court or retained in the Supreme Court.

These factors include the status of the plaintiff and the circulation of the newspaper involved, or other media; the quantum of damages that is likely to be obtained; whether the imputations are serious or of the utmost gravity; whether there are any major matters of principle that would warrant the consideration of the Supreme Court; and the prospects of the matter being dealt with more quickly in either the Supreme Court or the District Court. I am confident that these principles enunciated by Justice Levine in *Hoser v Hartcher*, *Cohen v Nationwide News*, *Murrihy v 2UE*, and *Ieremia v Skalkos* will ensure that only the most complex defamation matters are litigated in the Supreme Court. The disallowance of this rule would, in effect, discourage parties from bringing smaller cases in the Supreme Court, even where they may involve complex questions of law.

The Government has also taken legislative steps to encourage the early resolution of defamation disputes and to actively discourage parties who do not co-operate in achieving early resolution. This is a matter of considerable significance in this context. Late last year the Government introduced a new settlement procedure into the Defamation Act. The new procedure provides for a publisher to make an offer of amends to a person aggrieved by a defamatory statement. The offer must include a number of elements, including an offer to publish a reasonable correction and apology, and an offer to pay the expenses reasonably incurred by the aggrieved person. The publisher may also decide to include an offer to pay compensation in appropriate cases. Any offer must be made within 28 days of the publisher being told by the aggrieved person that the matter in question is or may be defamatory, or after the publisher has served a defence to an action for defamation on the aggrieved person. Once a publisher performs its part of a settlement offer, including paying any agreed compensation, the aggrieved person cannot begin or continue a defamation action.

Further, it is a defence to an action in defamation if the publisher made an offer of amends that was not accepted, that the offer was reasonable in the circumstances, that it was made as soon as practicable after the publisher became aware that the publication in question may have been defamatory, and that the publisher was ready and willing to perform the offer before the trial. As a further incentive to settle defamation proceedings before they reach the courts, costs penalties apply to an unreasonable failure to resolve a matter. The speedy and public vindication of a person's reputation, through a revised and strengthened offer of amends procedure, is the preferable way to resolve defamation cases. I am confident that the new offer of amends provisions in any event will significantly reduce the need for parties to refer to the amended Supreme Court rule, as defamation matters will be settled before they reach trial. Therefore, the Government opposes the motion.

Mr BRAD HAZZARD (Wakehurst) [5.12 p.m.]: At the outset I indicate that the Opposition opposes the motion by the honourable member for Manly. Whilst we understand that the honourable member for Manly is trying to reach what he considers to be an equitable outcome for people who may not achieve certain levels of damages, that is, in the context of the award of costs that might or might not follow, we believe that the whole issue in relation to the defamation law is currently not going to benefit from the removal of this particular regulation. Defamation law in New South Wales is extremely complicated. When I first came into this House in 1991 there were reviews proposed for the Defamation Act. Defamation legislation throughout the country has a very difficult history. I think in Queensland and Tasmania there are codified systems and in Victoria, South Australia and Western Australia there are common law systems. Here in New South Wales we have a hybrid common law system with statutory modifications. The 1974 legislation and the 2001 legislation impact on the law of defamation.

The problem with plaintiffs bringing defamation proceedings to the relevant jurisdictions is that it is quite often not until the plaintiffs get to the courts that they are able to determine the level of complexity and difficulty in addressing the defamatory imputations. In New South Wales the individual imputations rather than the contextual material give rise to very complex pleadings in the various jurisdictions. The honourable member

for Manly said that it was something new that action might only be able to be taken in the Supreme Court if certain consequences flowed. In reality, defamation proceedings used to be entirely in the Supreme Court—certainly that was the case when I was practising in that jurisdiction—whereas in more recent years there have been amendments to allow proceedings to be brought in the District Court.

Pursuant to sessional orders business interrupted.

PRIVATE MEMBERS' STATEMENTS

BEYOND THE FRAME ART EXHIBITION

Mr JOHN BARTLETT (Port Stephens) [5.15 p.m.]: I speak today about a wonderful event in my community last Saturday 25 October when a Beyond the Frame art exhibition was held at the Tomaree Community Centre. The Beyond the Frame art exhibition was entitled "In the Palms of Our Hands" and it was put on by all the Tomaree Peninsula public schools, at Soldiers Point, Anna Bay, Tomaree, Shoal Bay and Bob's Farm, together with Tomaree High School, and the parents and citizens associations were sponsors of the art exhibition. The aim of Beyond the Frame was to link students as art makers with their audience, their community and their environment, and to bring the community together to see the value of arts in the school curriculum and in the cultural life of the community. What an outstanding job the schools have done! I could not do any better than quote from the agenda for the evening. Lachlan Smith from Tomaree Public School stated:

> We are here this afternoon to celebrate the opening of an exhibition of pottery and other art works that honour Cabbage Tree Island.
>
> Cabbage Tree Island is a protected nature reserve just beyond the heads of Port Stephens.
>
> It is named after the ancient palms that form part of the subtropical rainforest.

Millie Brown from Bob's Farm Public School said:

> Cabbage Tree Island is the home of the threatened seabird, Gould's Petrel, whose survival is in the Palms of our Hands.
>
> The artists who are exhibiting the today have drawn their inspiration from Cabbage Tree Island's unique and pristine environment, as well as from the fight to save the petrel.

Gould's petrel is a very threatened species. The only island where it ever lands is Cabbage Tree Island off Port Stephens. It never lands anywhere else. After the petrel is hatched it flies away, it does not land, it rests on the sea over a three-year period, and then comes back to the island to rear its young. It has been one of the great achievements of the National Parks and Wildlife Service to bring the bird from near extinction to a far safer position. To save a bird that lands on only one island in the world, the service got rid of the rabbits. I said to someone that rabbits do not eat birds and the person said, "Yes, but they eat the grass and the vegetation." When the rabbits ate the grass and the vegetation, more birds of prey came down to eat the young. Getting rid of the rabbits stopped vegetation loss. The birds have come back and it looks as though they are going to survive. The whole event at Tomaree was about celebrating this victory. Chloe Burchmore from Shoal Bay Public School thanked all the teachers, the talented guest artist, Robin Furner, and the school's wonderful teacher, Mrs Wendy Brown.

Chloe stated with respect to the creation of the pottery and artwork, "Together they have taught us to honour Cabbage Tree Island with the Palms of our Hands". Mrs Brown and Mrs Furner were praised for their talent. The cost of the exhibition was $8,000 and calls were made for the State Government to provide funding. The Dobell Foundation donated $1,500 and other community groups, such as the Soldiers Point Bowling Club, Greg O'Donnell, an optometrist on the Tomaree Peninsula, Ports Stephens Council, Hunter Water, Artstart from the Newcastle Community Art Centre, John Clark, a well-known naturalist in the Port Stephens area, Shoal Bay Resort and Spa, and the parents and citizens associations of the local schools all made contributions. This wonderful event fulfilled the aim of connecting art and culture to the environment. I congratulate everyone involved.

NORTH SHORE ELECTORATE DOMESTIC VIOLENCE PROJECTS

Mrs JILLIAN SKINNER (North Shore) [5.20 p.m.]: Tonight I wish to speak about a young woman whom I have known for some 10 years by the name of Sharon Grocott. Sharon came to see me a couple of

weeks ago. When I first met Sharon, she was working on behalf of public housing tenants in Greenway, a massive 450-unit building in my electorate. On this occasion Sharon came to see me wearing her Centacare hat, to ask for my support for domestic violence projects on the lower North Shore for which she was seeking funding. I was very happy to tell Sharon, whom I respect enormously, that I could provide her with that support.

My interest in this subject goes back a very long way. My involvement started just after I was elected when I was shocked to learn that one of the first acts of the Carr Government was to abolish a funding program of the then Ministry for Women for a court support worker to provide assistance for women appearing at North Sydney Local Court on domestic violence matters. Until quite recently these matters had not been heard at North Sydney Local Court. However, since then the number of reportings of domestic violence matters to North Sydney police has increased significantly, and I was stunned to learn that North Sydney had the ninth largest reporting to police of domestic violence in the State. That might surprise many, given the affluence of that area.

The perception that domestic violence does not occur in an affluent area disadvantages the individuals who are subjected to domestic violence. It is hidden behind closed doors and women are afraid to speak out about it. There is a stigma attached and many women try to deal with the issue themselves or put up with it. Domestic violence includes not only physical abuse but sexual, verbal, emotional, financial, social and spiritual abuse that leaves many women severely traumatised. This damage extends to their families. Sharon sought my support for counselling and support for women and their children. I will be writing the strongest possible letter of support for Sharon.

Sharon is seeking money from the community development support expenditure scheme. I support her and Centacare in applications for funding from many other sources. I cannot think of more important work. I further emphasise the need for this project, which was identified through two programs operated by Centacare. One is the domestic violence court support scheme, which Centacare took on after my early involvement. It offers support to women who wish to apply for an apprehended violence order [AVO] at either the North Sydney or Mosman police stations or to the chamber magistrate at North Sydney Local Court. Women are assisted and encouraged to use the justice system. This helps to protect them from further violence.

During 2002, staff from the court assistance scheme supported 159 women who applied for an AVO at North Sydney Local Court. Between January and June 2002 a total of 40 per cent of the women who applied to North Sydney Local Court for an AVO resided in North Sydney. The scheme provides the following: a safe room at North Sydney court where women can talk about their needs and options; personal support by assisting women through the court process; advocacy for women to ensure that the AVO is tailored to meet individual needs; assistance to help women access legal representation in court, if needed; and referral information so that services can assist women with other needs such as housing, counselling, financial assistance, et cetera. There is very limited funding for preventative work in this area in my electorate and, after the first appearance at court, many women have continuing contact with the scheme, for which I am very grateful. I commend to the House the notion that we should support with all our energy women and other victims of violence in the home.

BUSINESS TELEPHONE PRACTICES

Mr PAUL GIBSON (Blacktown) [5.24 p.m.]: This evening I raise a problem about which I am certain most people in New South Wales and throughout the country would agree with me. When we make a call to an organisation or business we are confronted with recorded messages. These messages state, "If you want to place an order, press one; if you want accounts, press 2", et cetera. I find these recorded messages insulting, frustrating, bad practice and a method that treats people like sheep, as if they do not count. One cannot argue back to a machine that uses this sales pitch. Yesterday, and again today, I rang a bank during business hours. The recorded message told me that all the lines were busy and I should call back or leave a message. I was then cut off. I then had to spend more money to make another phone call and it was time-consuming. I rang this bank seven times before I actually spoke to a human being.

Mr Alan Ashton: Which bank?

Mr PAUL GIBSON: It was the ANZ Bank, I must admit, but I am certain most banks would be the same. The practice of recorded messages is now part of today's society but it is time we did something about it. On Friday some constituents spoke to me about the fact that they applied for a birth certificate for their baby in June or July. When they received it, there was a mistake, so they wrote to the Registry of Birth, Deaths and Marriages, returned the certificate, emailed and faxed the registry and eventually spoke to someone on the phone. I thought it would be a simple procedure to ring up and see what I could do for this couple. I rang on Friday and was on the phone for 43 minutes listening to a machine.

Finally, when I did get through, I was told that another 89 calls were banked up and the call could not be answered more quickly. I made an angry retort and outlined the problem. About five minutes later I received a call from the boss of the registry, asking me what the problem was. I explained the problem and the fact that I had been on the phone for 43 minutes. I was told that they thought it was only 34 minutes, to which I replied, "Only 34 minutes!" Lo and behold, yesterday morning my constituents rang me to inform me that at 7.30 p.m. on Friday a courier delivered the birth certificate to them.

People deserve better. The ordinary Joe has no chance of speaking to someone on the phone, let alone getting any action. It is about time that we, in the Government, again employed switchboard operators instead of using recorded messages. This move would boost employment and would be warmly welcomed by ordinary citizens. It is time the empire struck back and people were put on switchboards so that callers can be told what the problem is and, hopefully, get some advice on what to do.

In the call to births, deaths and marriages, after waiting a frustrating 43 minutes a recorded voice told me, "Do you know you can get married at the registry? We have the perfect venue if you are looking for a simple yet intimate ceremony with close family and friends." By the time you made up your mind to get married you would probably be facing the divorce courts because you had to wait so long. The recorded voice also said, "If you intend to be married at the registry, both the bride and groom are required to visit one of our offices for an interview." People cannot even contact an office on the phone, let alone have an interview with them. The recorded voice also asked, "Does your family have a will?" After 43 minutes I was thinking that I needed a will because where there is a will there is a way, but with a lot of these areas there is no will and there is no way. As I said, it would be a great move if the State Government started putting people back into government offices to set an example so that people can talk to human beings instead of machines.

TAREE EDUCATIONAL RESTRUCTURE

Mr JOHN TURNER (Myall Lakes) [5.29 p.m.]: Tonight I raise the proposed education reshaping, particularly as it relates to the schools in my electorate that are presently in the Taree educational district. There is great angst about the proposed change to transfer schools in that support centre area in the Hunter region to the North Coast region. The schools that will be affected were in the North Coast region some years ago so the details I am about to quote come from experience about the benefits of staying in the Hunter region and not going into the North Coast region. The northern-most school presently in the Taree district area is only two hours from Newcastle, which is the centre of the Hunter area. If the southern-most school goes into the North Coast region, which extends to the Queensland border, it would be seven to eight hours away, and I will highlight some of the difficulties associated with that shortly.

I have received a number of complaints about the proposal, as well as a number of ideas and suggestions. I have broken them up into groups—principals who have written to me, parents and citizens associations, and parents. Neil McLean, the Secretary of the Taree District Primary Principals Association, and the principal of Tuncurry Public School, has written to me on behalf of the principals association. I know Mr McLean personally. He is a dedicated and passionate educator who has vision and knowledge, as well as a proven track record in relation to education and educational needs. Therefore, his thoughts and views should be taken seriously. He told me that the Principals Association conducted a survey of primary schools and high schools in the area. Some 35 primary schools responded and all nine high schools, including one central school, responded. All but two schools overwhelmingly rejected the recommendation that Taree district schools be assigned to the northern region. The two schools that wanted to go north were the two most northern schools; obviously, the change would be of benefit to them.

The survey covered 1,136 teachers and 18,274 students, so it is strongly representative of the schools, principals and students in the area. Matters raised with me included the problem that property and technology support are linked with the Hunter region and that schools would be isolated if assigned to the northern area, as well as the special relationship of the area with the University of Newcastle, and sport. The New South Wales Primary School Sports Association has developed strong links with the Hunter region over the past 15 years, and the proximity of the Taree district to the Hunter region schools, as opposed to North Coast region schools, would mean a continuation of sporting opportunities for students. Other matters include the relationship of parents and citizens associations with the Hunter area, the welfare of school principals given the collegiality that exists between principals in the Taree district, and school counsellor services and learning difficulty teams, which also are identified with the Hunter area. In a letter to me the Secretary of the Tuncurry Public School Parents and Citizens Association, Kerry Perkins, said:

> I write to you today about an issue which the Tuncurry Public School Parents and Citizens Association feels passionately about...
>
> In a nutshell, let me state clearly and without qualification, that the Tuncurry P&C Association vehemently oppose the proposal that the Taree District Educational Support Centre and its associated schools be incorporated into the North Coast region. We ask that schools identified within the proposed Taree Education District and Support Centre become part of the Hunter region.

Later in the letter Ms Perkins quoted the Minister for Education and Training, in the message to the Federation of Parents and Citizens Associations of New South Wales in the 2003 annual report, in which he stated:

> Along with implementing our election promises, I want the Department of Education and Training to be more in touch with the needs of students, parents and teachers.

Ms Perkins then said:

> This statement reflects the truth that the education of our beautiful children is fundamentally in the hands of individual teachers who operate within an individual school system which is connected to and supported by its wider education community network. The children, teachers, executive teaching staff and support staff have already established their roots deep within the nominated Hunter Region.

I have also received communications from parents Deanna Turner of Forster and Jan Higman of Smiths Lake, and other parents, touching mainly on the support they presently receive, by being associated with the Hunter, particularly in sport. They point out that their children will have great difficulty if their schools move to the North Coast region. Whereas at present their children spend a day representing their schools, they may have to spend two or three days representing their schools if they move into the North Coast, by being associated in the Hunter region. As Kerry Perkins said in the final part of her letter:

> Please don't 'break' what is not only 'not broken', but is flourishing.

INDUSTRIAL MANSLAUGHTER

Mr PAUL LYNCH (Liverpool) [5.34 p.m.]: I raise issues concerning the law relating to the protection of workers during the course of their employment and the need for industrial manslaughter legislation or legislation of a similar type. This is a very real issue among my constituents. Indeed, some time ago in this place I spoke of the circumstances surrounding the death of a constituent of mine, Rodney Fox, in an industrial accident that seemed to involve substantial negligence by other parties. This was not just an isolated incident and concern. Many of my constituents work in industries in which negligence or disregard of safety by employers can place not just limb but indeed life at risk. I am particularly aware of it, not only from talking to constituents generally but also from discussing it with constituents who are officials of unions such as the Australian Manufacturing Workers Union and the Construction, Forestry, Mining and Energy Union [CFMEU]. I should specifically mention the concerns of one of my constituents, Brian Parker, who is the assistant secretary of the New South Wales construction and general division of the CFMEU.

These issues have been given particular focus by the recent tragic and appalling death of Joel Exner on Wednesday 15 October. He was a building worker engaged on the construction of a storage shed at Eastern Creek who fell 10 to 12 metres to his death. He was only 16 years of age. This accident occurred only three days after he had started work on the site. Serious allegations have been made against the contractors, including that basic safety measures were not taken, despite repeated requests. Those allegations must be fully and properly investigated. The State secretary of the construction and general division of the CFMEU, Andrew Ferguson, has written to State Labor members of Parliament. His letter states in part:

> The CFMEU writes to seek your support for the urgent introduction of more effective laws against employers who recklessly disregard safety requirements causing the death of a worker. We know that the builders and developers make substantial contributions to the election funds of political parties but working men and women need politicians and political parties that are not compromised. Joel Exner, 16 years of age, is the latest victim.

The CFMEU has also issued a statement, which states in part:

> The avoidable death of 16 year old Joel Exner last week in western Sydney is being seen as "the last" straw for building workers and their families. One building worker is killed every week in Australia.

I should add that this is not just an issue for the building industry; it extends across the gamut of industries. I note in particular in that regard the campaign conducted over the past year by the Manufacturing Workers Union calling for the introduction of industrial manslaughter laws. The breadth of the call for such laws was well seen at the rally held yesterday in Sydney and in other centres. Regardless of the precise cause of the tragic death of Joel Exner, that event is a melancholy reminder not only of the danger of some industries but of the fact that New South Wales still does not have industrial manslaughter laws.

It seems at least slightly ironic that a State that has introduced all sorts of increased penalties and new criminal offences, and is about to trash double jeopardy rules, has not introduced industrial manslaughter laws. There seems to be no good reason that industrial manslaughter provisions have not been introduced. Other countries, such as Italy, the European states and the United States of America, have such legislation—sometimes known as corporate killing laws. I also understand that such legislation will be introduced in the United Kingdom shortly.

Significant prosecutions under current New South Wales legislation do not seem to occur. What prosecutions do occur are largely directed against corporations, not primarily against senior executives. Until prosecutions with a possible gaol term are directed at those people, precious little is likely to occur. Fines against corporations do not solve anything. Small corporations can simply go into liquidation. For large corporations the fines are meaningless. In one notorious case in Victoria a corporation was fined $2 million. That sounds like a lot until it is realised that the annual profit of that company was $14 billion. There needs to be a significant change in corporate culture so that the lives of individual workers are valued. That can happen only when senior-level corporate executives face the possibility of gaol sentences for the death of workers.

The argument against this is, first, that it will discourage prosecutions and make it unlikely that juries will convict. Those are profoundly unpersuasive arguments. There are precious few prosecutions now, so new laws will hardly worsen that, and I see no evidence at all that juries will be unlikely to convict. There is also a good argument that the offences should be included in the Crimes Act and not be quarantined in occupational health and safety legislation. Those who oppose that claim it does not matter which Act the offences are in provided it is fair. From a lawyer's perspective that is true, but if it does not matter, why not put it in the criminal code? The symbolic impact of that would be valuable. I note also that criminal sanctions against workers carrying on the duties of employment—and I am thinking in particular of prosecutions against engineers arising out of the Coledale railway embankment collapse a number of years ago—are contained in the Crimes Act. Finally, I welcome the resolution moved by Paul Bastian, the State Secretary of the Manufacturing Workers Union, and passed at the New South Wales ALP annual conference. The resolution proposed a maximum sentence of 15 years for these sorts of offences and a ban on holding directorships of corporations by those who have been convicted.

COUNCIL OF THE MUNICIPALITY OF HUNTERS HILL AMALGAMATION

Mr ANTHONY ROBERTS (Lane Cove) [5.39 p.m.]: It is with great joy that I speak about the continuation of Hunters Hill as a municipality. As Col Dunkley, the mayor of the fictitious Arcadia Waters council, said:

> From time to time, your council will be the subject of a report or inquiry … it may be something imposed on you by another level of government. No matter who initiates the report or inquiry, how you handle the findings will be a measure of your leadership.

On Wednesday 17 September this year I was privileged to witness what will go down in history as one of the most outstanding displays of public and community spirit that Sydney has seen since the battle for Kelly's Bush. Along with many residents of Hunters Hill, I was appalled by the sudden and underhanded move by Ryde council to attempt to take over a significant part of Sydney's oldest and most beautiful municipality. Without as much as a formal declaration of its intention to Hunters Hill municipality, let alone its fellow North Shore Regional Organisation of Councils [NSROC] members, and without consulting its own residents, Ryde council submitted a plan to the Minister that would have taken away a significant part of Hunters Hill and attached it the area administered by Ryde council. That would have made Hunters Hill unviable as a financial entity.

Little did Ryde council know about or understand the saying, "If you pull a tiger by the tail you had better have a plan to deal with its teeth." And what teeth Hunters Hill and its residents had! Commendations must go to the councillors and staff of Hunters Hill council, the councillors being the Mayor, Bruce Lucas, Councillor Miriam Kapel, Councillor Phillip Hart, Councillor Jennifer Scotford, Councillor Sue Hoopman, Councillor Richard Quinn, Councillor Margaret Christie and Councillor Peter Astridge. Particular mention should be made in this commendation of the organisers of the Save Hunters Hill Municipality Coalition, which was led by Phil Jenkyn: Ross Williams, John Burton and Deborah Anschau and many other precinct leaders. I pay particular tribute to those two wonderful ladies, Elva Stonham and Barbara Dyer, who spent countless nights cutting up the ribbons that festooned the entire municipality of Hunters Hill.

What has been most interesting about the amalgamation debate is that it has revealed the white underbelly of many of our larger councils in Sydney that lack the representation of smaller councils. It has been argued that bigger is better and more efficient. The facts say that is not so. When one compares the figures

prepared by Barry Smith, the General Manager of Hunters Hill council, for NSROC, one finds that most of the financial indicators are that smaller councils are far superior to their larger cousins. When one compares rates across the range of councils from small to large, an interesting picture emerges—and it is not one that the State Government would like people to see. Comparing a small council like Hunters Hill with a small to medium-size council like Lane Cove, a medium to large council such as Ryde and a large council like Canada Bay, the cheapest rates can be found in Hunters Hill, followed by Lane Cove and Ryde, with the most expensive being that of the amalgamated super council, Canada Bay. That flies in the face of what the amalgamationalists from the Premier's Office are trying to tell us.

Once again I congratulate and thank all the residents of Hunters Hill, the council of Hunters Hill and those people who inspired the community to fight this unfair takeover. I assure them of my continued support, the support of many other residents of the Lane Cove municipality and other cities and municipalities who are members of NSROC and, I suspect, the support of many residents of the city of Ryde. In fact, I am yet to meet a resident of the city of Ryde who would not jump at the chance to leave Ryde and join Hunters Hill municipality. Friday 24 October was a red-letter day for the people of Hunters Hill. The Minister announced, after intense public and political pressure, that he would not forward the submission of Ryde City Council on the boundary changes to the Boundaries Commission.

The council and the community welcome the news, as it confirms not only the heritage significance of the beautiful municipality of Hunters Hill but also the importance of a strong and vibrant local democracy. The dedication and commitment of the Hunters Hill community and the communities in neighbouring suburbs in response to the proposal has been a source of strength and inspiration to everyone involved. There can be little doubt that the quantity, quality and strength of opposition in the action of the community, individual letters and submissions to the Minister and to members of Parliament had a significant impact on the final outcome. The message is clear: Hunters Hill is a municipality that not only has a vibrant and fantastic local community but also is well represented by its local community leaders and the local council.

TRIBUTE TO MR EDWARD DZANG, MR JOE MARINAK AND MS MIMI ZOU

Ms LINDA BURNEY (Canterbury) [5.44 p.m.]: Today I speak about three people in the Canterbury electorate and express my respect and admiration for them. Those three people are Edward Dzang, who, sadly, passed away recently; Joe Marinak, who was recently awarded life membership of the Australian Labor Party [ALP], and a wonderful young woman named Mimi Zou. Edward Dzang, who died recently at the age of 96, was a member of the ALP Campsie branch and was a highly regarded institution in the Campsie area. He is survived by his wife, Louise, and his sons. Last night I met Louise at the Campsie branch of the ALP and was awestruck by the dignity in grief of such a beautiful woman. She was absolutely inspiring.

Eddie, as he was fondly known, came to Australia from Taiwan and worked as an engineer. He conducted himself with dignity and his opinion was highly regarded. He showed a passionate interest in issues of the day. A recent example of that was the presence of Eddie and Louise Dzang the day the airport rail link opened. They were both in the first carriage of the first passenger service to travel along the line. Eddie was a great supporter of the Australian Labor Party and his presence will be much missed by all ALP members, not only in Campsie but throughout the whole Canterbury electorate. Our condolences go to Louise and her family. We will miss this great and gracious man, a good Labor man.

The second person I want to pay tribute to is Joe Marinak. Speaking about rail matters, as a young man Joe Marinak escaped Czechoslovakia under a railway carriage. Ironically, his professional career in Australia was as a railway worker. Joe always fought diligently for the rights of workers. He was an executive member of the Australian Railways Union and a delegate to the New South Wales Trades and Labor Council. He has been president of the Campsie branch of the ALP—since the beginning of time it would seem. Since Joe retired he has worked as a local volunteer for Meals on Wheels. It was a joy for me to learn that he was awarded life membership of the ALP, a just and fitting reward for a man who has devoted much of his life to the pursuit of justice for workers.

The final person I want to pay tribute to is a young woman named Mimi Zou. Mimi is a remarkable young woman, who was a finalist last week in the Community Relations Commission Inaugural Youth Awards. I had the great pleasure of being one of her referees. She was a finalist in the community services section. Mimi comes from a Chinese background. I was also delighted to meet her mother at the awards. Mimi's curriculum vitae [CV] is probably longer than those of most people three times her age.

I would like to inform the House about some of the projects that Mimi has been involved with. She has been a representative on the Youth Services and Support Team, National Youth Roundtable; a co-ordinator of GetSet, a Higher School Certificate program at Campsie library, which she set up herself; a co-ordinator at the Canterbury Youth Services CD-ROM project; a delegate to the Eco-Innovate Conference, United Nations environmental program; an assistant co-ordinator of OzGreens YouthLead program; a co-convener of Canterbury Young Leaders of Sustainability Network; chairperson and member of Canterbury Youth Council; and chairperson of the Youth Consultative Team of Canterbury Living in Harmony project. Mimi's CV covers another six pages. I have highlighted wonderful examples from the Canterbury electorate of human endeavour and compassion, of knowledge of and respect for the elders in our community, and of a young person who contributes greatly to the community.

BURRINJUCK ELECTORATE SMALL BUSINESS OPERATORS

Ms KATRINA HODGKINSON (Burrinjuck) [5.49 p.m.]: I would like to speak of the excellent standard of service available to residents and travellers alike from the many small business operators in my electorate of Burrinjuck. That excellence of service has been highlighted recently by several prestigious awards presented to small businesses across the southern slopes and tablelands. Any member who is fortunate enough to live in rural and regional New South Wales will be aware of the great contribution made by small businesses to rural life and employment. Small businesses in country areas are active in every facet of rural and regional life. Every family farm and every truck owner-operator is a small business.

In Burrinjuck, apart from the large corporate retailers, all parts of the retail sector—from the local pharmacy and stock and station agent to the second-hand furniture store and petrol station—are small businesses. Small businesses also play a significant role in the welfare and health sector. I mention the great work done by Valmar in Tumut and Gundagai and Andalini in Yass as great examples of small businesses delivering innovative and vital services to disabled clients. As the shadow Minister for Small Business and, more importantly, as the member for Burrinjuck I view the attainment of these small business awards with a great deal of pride.

The Sydney Markets recently nominated C. J. Deans Fruit Market in Tumut as its Greengrocer of the Month. The Greengrocer of the Month award is open to all greengrocers in New South Wales and the Australian Capital Territory and is awarded for excellence in retailing. By winning this prestigious award C. J. Deans now becomes one of the five finalists who will vie for the 2003 Regional Greengrocer of the Year, an award that will be decided on 8 November. I am sure that all honourable members will join me in wishing C. J. Deans every success in the regional contest. The award is assessed, through some 340 visits across the State, on customer service, product quality, merchandise display and staff product knowledge. I congratulate the owners and managers of C. J. Deans Greengrocers—Mark Dean, Paul Dean and Robert Levien—for the great work they have done in motivating their staff to provide such high levels of service and excellence.

Along the Hume Highway and closer to Sydney is Goulburn, the largest population centre in Burrinjuck. I frequently drop into the First Inland City newsagency in Goulburn. I was thrilled to hear that this business was awarded the Australian Consolidated Press [ACP] Publishing National Outstanding Performer Award for 2003. This winner of the award is selected from all newsagents across Australia, and First Inland City newsagency was one of some 150 finalists. The owner-manager, Jeanine Chatfield, is an excellent example of a small businesswoman succeeding through hard work and innovative thinking. She employs eleven staff, including casuals. She is concerned about the future prospects of her staff, who are all either undergoing or have completed traineeships.

The First Inland City newsagency has traded in Goulburn since 1990. In that time it has received three New South Wales-Australian Capital Territory awards for excellence and has been a finalist in another New South Wales-Australian Capital Territory category. Last year the First Inland City newsagency took out the ACP Publishing Outstanding Customer Service award. That is a great record of achievement for Jeanine Chatfield and her staff, and for Goulburn. Jeanine is not only a retailer. She is also involved in activities and events of benefit to the local community, including, among many others, the Lilac Time Festival, the Olympic Torch Relay and the annual Trinity College Trade Fair.

Last Saturday the Goulburn Chamber of Commerce and Industry held its annual awards night. I congratulate Terri-Lee Croker from Raw Edge Clothing, Jeanette Rule from Trappers Motel and Restaurant, Peter Walker from the Goulburn Workers Club, which is looking fantastic following its recent renovations, Bill and Cheryl Fife from Fife's Stockfeeds, Sandra Walker from Walker Tiles, Robert and Wendy Wallace from

Goulburn Engineering Pty Ltd, Kylie and Lorraine Brooker from Natural Indulgence, Leanne Rayner from the Rimbolin Café and Restaurant, Ernie Twist from the Creative Art Gallery, Robert and Jane Micallef from Something Special Country Collectables, Noel and Renata Barrett from Mandelson's of Goulburn and Gary Wilmington from Wakefield Park raceway. All of these small businesspeople took out one or more awards on the night.

Finalists on the night were Body Blitz Fitness, Goulburn Therapeutic Massage, Angus and Robertson Goulburn, the Goulburn Workers Club, The Beauty Store, Goulburn Tyre Centre, Rapid Auto, Lunchbox on Main, the Paragon Café, Danny's at the Workers, Gill's Crafty Cards, Hill's Cottage, J and D Puzzles and Craft Supplies, Trappers Motel and Restaurant, and the Old Goulburn Brewery, an historic part of Goulburn that serves real beer and has traditional accommodation. I particularly want to mention Michelle Cummings and Rhonda Studeman, who were finalists in the Individual Customer Service awards.

I am delighted to advise that Goulburn's own local rag, the *Goulburn Post*, recently achieved another outstanding award when it took out the prestigious E.C. Sommerland award for editorial leadership and community involvement. I have been closely involved with many of the issues for which the *Goulburn Post* received this award, including the sale of the Kenmore Hospital site, nursing at Goulburn Base Hospital and safety at the Towrang intersection with the Hume Highway. I extend my congratulations to manager John Thistleton, reporters Leon Oberg, David Cole and Louise Thrower and all the journalists from the *Goulburn Post* for their great reporting. In particular, I extend my best wishes to Maryann Weston, the former editor of the *Goulburn Post*. I wish Maryann all the best for the future in her new career, and I thank her for her dedication to the people of Goulburn and its district.

INAUGURAL SIR IAN TURBOTT LECTURE

Mrs KARYN PALUZZANO (Penrith) [5.54 p.m.]: I wish to inform the House about the inaugural Sir Ian Turbott Lecture, an innovation of Penrith City Council which was named after the founding chancellor of the University of Western Sydney. The inaugural address was given by Edward J. Blakely, Dean of the Milano Graduate School and incoming Chair of Urban and Regional Policy at the University of Sydney. In attendance were Sir Ian Turbott; the current Chancellor of the University of Western Sydney, Professor Phillips; the Vice-Chancellor, Professor Reid; Professor Tong Wu; community members; councillors and senior staff of Penrith City Council and me. Professor Blakely commenced his address with the following statement:

> For too long it is considered that places that were outside the CBD were the sub-urbs. The truth is communities like Penrith and many cities of the western area of Sydney are not sub or less than anything.

The Western Sydney economy has increased by an unprecedented 27.7 per cent since 1996. The region represents 10 per cent of the Australian economy, with gross domestic product of more than $55.69 billion a year and economic output estimated at $77 billion for 2003. More than 150 of Australia's top 500 companies are located in Western Sydney. Over the last 20 years Western Sydney's population growth has been over one and a half times as large as that for the Sydney statistical division. The population has increased by 38 per cent compared to 23 per cent for the entire Sydney area. By 2015 major expansion in the region will see the arrival of 220,000 new residents, 100,000 additional workers and an expected gross turnover of $80 billion.

Professor Blakely, through his research, investigates the areas in which Americans, in particular New Yorkers, live and where development in the twenty-first century will take place. In his address he posed the question: What are the gaps we have to look at with respect to where we are and where we have to be in urban development? He stated that most planning models have been based on the industrial era, which attracts factories, firms and headquarters to absorb the local work force. He made the point that this model has to be changed to one which has communities as incubators not attractors; communities that are attractive for people to live in, to create industry, and to grow their industries out of their communities.

In Penrith an example of such a model is the Penrith Valley Economic Development Corporation. Last week the corporation held a networking session, which I attended with the Minister for Regional Development. The session looked at addressing networks for local home business and business partners, whether they are customers, alliance partners or suppliers. Professor Blakely outlined six factors, which he challenged urban planners to talk and think about. The first factor is the attractors of human resources, which he listed as education, recreation and artistic or cultural factors. The $3 million upgrade of the Glenbrook Primary School will go a long way towards providing education in Penrith. Stage one of the Great River Walk along the Nepean River, which has been allocated $190,000, is a good example of recreation assistance. From the artistic perspective, $1.6 million has been allocated for the upgrade of the Penrith Regional Gallery Lewers Bequest.

The second key factor Professor Blakely referred to was the development of innovative infrastructure, that is, infrastructure that captures the imagination and attracts. An example of that in Penrith is the Penrith Lakes Scheme. After 2010 it will be a dominant local feature. We already have the regatta centre and Penrith White Water Stadium. The third factor he spoke about was the civic and social amenity index, which offers a wide range of diversity in population, housing and choice. The fourth factor was new global network capacity, not only in communications networks but also in business networks. The fifth factor was governance. Professor Blakely asked what kind of regional co-ordination could be achieved, for example, in urban economic development, transportation and the environment. CMAs are an example of what the State is doing. The last issue he raised—and he spoke about it at length—was the system of performance measures that is in place. He asked where places are getting to and where they want to be. He looked at how human resourcing, innovation, civic and social amenities, global networking and governance are measured. He concluded by saying:

> Let us say we started building tomorrow here today.

TRIBUTE TO GEORGE WILLIAM BRAIN, A FORMER MEMBER OF THE LEGISLATIVE ASSEMBLY

Ms GLADYS BEREJIKLIAN (Willoughby) [5.59 p.m.]: I pay tribute to the longest-serving member for Willoughby, George William Brain, who delivered his maiden speech in this Chamber 60 years ago today. I would particularly like to thank George's grandson for giving me access to documents and photographs relating to his grandfather's term in office. George Brain was born on 18 January in 1893 at Picton. On moving to Willoughby in 1920 after his marriage to Paula Merkle, George passed his accountancy examinations and formed a chartered accountancy partnership, aptly named Brain and Noble. In the 1930s George, together with George Morris of Eastern Valley Way, Willoughby, promoted the free milk movement for school children, a scheme which relieved parents financially during the Depression and ensured the health of generations of children. In 1941 George was the president of the Monster War Carnival held at Willoughby Park. The carnival, which was opened by the Hon. Billy Hughes, raised in excess of £1,000, which was sufficient at that time to buy two ambulances for the war effort.

George Brain was elected to Willoughby council from the Middle Harbour ward in 1941, where he served until he entered Parliament. Subsequently, George fought and won nine State elections, increasing his majority every time. That may be a record; it is certainly a testimony of the high regard in which he was held. He served as the member for Willoughby from 1943 until his retirement in 1968. He was an outstanding local member. After Phillip's initial visit to my office, I contacted some locals who knew George Brain and they all said the same thing: George was extremely hard-working, he focussed on grassroots issues and always put his local community ahead of any other considerations. He was such a strong advocate for Willoughby that some of his colleagues even regarded him as a bit of a maverick. In Parliament he served for a time as the Liberal Party Whip.

In addition to these many achievements, George Brain was recognised as one of the key instigators in establishing the free library movement in New South Wales. In fact, former Premier Robert Askin described the movement as the product of a public meeting that George Brain convened at Willoughby in 1935. That is an incredible legacy, not only for the people of Willoughby but also for the rest of New South Wales. After meeting with Phillip, I wrote to the General Manager of Willoughby City Council asking that the council consider naming Chatswood library, or at least a major part of it, after George W. Brain. That would be a fitting tribute to a pioneer of the free library movement in New South Wales and to the longest-serving honourable member for Willoughby.

I have also discussed this proposal with the Willoughby Historical Society, which is enthusiastic about it and looks forward to meeting with the relevant council authorities to make this worthwhile proposal a reality. During his maiden speech George Brain implored the New South Wales Parliament to act on the recommendations of the Munn-Pitt report, which was scathing in its assessment on the state of libraries in this country. George was also instrumental in drafting a bill that was accepted by Parliament to improve resourcing to public libraries. I will take this opportunity to quote the beginning of George Brain's maiden speech delivered on 28 October 1943—60 years ago today. He said:

> It is with some trepidation that I rise to make my maiden speech in this Chamber because I realise the great part that it has played in the history of this country. I recognise the privilege and responsibility that Parliamentary representation entails. I should like specifically to deal with the story of the free library movement, particularly in New South Wales and I hope to be able to present a case to the Premier that will encourage him to foster the movement as a social adjunct.

He also enunciated his belief that rich and poor alike might have an equal right to education. Even in relaxation George could not resist contributing to the community. Later in life he developed a passion for lawn bowls. George's many achievements included being a founder and patron of Willoughby Park Bowling Club, a patron of Valley View Bowling Club and a member of the State Parliamentary Bowling Club, of which he was president in 1967-68. George died in his sleep on his seventy-sixth birthday on 18 January 1969 in Willoughby. As I mentioned earlier, I will be working to ensure a fitting tribute to George W. Brain within the electorate of Willoughby. His many achievements have left an indelible mark on New South Wales.

WERRIS CREEK

Mr PETER DRAPER (Tamworth) [6.04 p.m.]: I take this opportunity to tell the House about the history and achievements of the small town of Werris Creek, which is within my electorate. Once the burgeoning centre of the State's railway system in the north, it is today looking ahead to the opportunities of the future. It is easy to forget just how big an achievement the construction of the railway was back in the 1800s. Today, the Government takes rail travel for granted, to the point at which many of the older railway lines in regional New South Wales have been allowed to fall into disrepair. Werris Creek is no longer the vibrant town it was, but is working to secure its future.

Werris Creek is famous nationwide for its rich rail heritage. In 1877 it was chosen by the New South Wales Government to be a major rail depot and junction linking the western, north-western and northern railway lines. Slowly, over time, the population has eroded to the 1,800 who live there today. However, the town is now fighting to put itself back on the map. In mid-2001 the former Minister for Transport, the Hon. Carl Scully, announced that the New South Wales State Government would allocate $1.3 million for the development of the Werris Creek railway monument. The Australian Railway Monument [ARM] will be established as a major cultural heritage attraction that will reinforce the community's links with its heritage as a significant railway town. In addition, it will acknowledge the major contribution made by the railway industry, its employees and contractors to Australia's development and, in particular, those who gave their lives in the course of their work.

The ARM comprises two major parts: a monument including an honour board of names commemorating those killed while working on the railways, and an exhibition hosting a series of graphic displays. The themes investigated cover selected topics relating to the history and operations of the railways. This project has rejuvenated the energy of a town that has fallen on tough times. The ARM will be built alongside the majestic Werris Creek railway station, which is now undergoing a major revamp. I applaud the New South Wales Government for recognising the important contribution of Werris Creek to the rail history of our State. I was pleased to escort the Hon. Michael Costa, the Minister for Transport Services, around the site last week.

In that rail history lies a real opportunity for Werris Creek. The monument and the town's rail heritage have the potential to make the town a popular destination for train enthusiasts and the historians of our country, as well as overseas visitors. The CountryLink train service between Sydney and Armidale already gives tourists a small insight into the history of Werris Creek. Because of the need to separate carriages along the route, passengers have 30 minutes to take a quick look at this historic town. It is enough to encourage some of them to return to the area on a day trip. I am working closely with the honourable member for Northern Tablelands to ensure that the tradition continues.

Werris Creek has always been a typical small country town. Like many others, it is now trying to find a new way to attract more people to the area. I often hear from locals and tourists alike how friendly the town is. I do not believe there is a better experience for any tourist than meeting friendly people and having a great meal at the local pub. This will surely spread the word about the beauty of Werris Creek. Now more than ever before, Australians are choosing to explore their own country when they travel. The events of 11 September 2001 and the severe acute respiratory syndrome outbreak have resulted in more people travelling through regional New South Wales. The next few years will prove important for Werris Creek in attracting more tourists.

In order to secure the future of many country towns like Werris Creek, we need the help of the New South Wales Government. People will not move to areas like Werris Creek unless they can access their everyday needs, such as health and education services. We must do all we can to improve the services available to Werris Creek residents. Similarly, the onus is on the Government to ensure the safety of a town like Werris Creek. Adequate police resources must be made available to residents in regional New South Wales as well as those in more densely populated areas.

But it is in the town's rail heritage that Werris Creek has the best chance of growing into the future. If we can reinvigorate some of the excitement that surrounded the construction of the railways in the late 1800s, Werris Creek has a bright future. The Australian Railways Monument will go a long way to ensuring that the town of Werris Creek is proud of its rail achievements, and it will bring a wonderful tourism opportunity to the entire district. An extremely dedicated and active band of people are working diligently to ensure that the rail museum in Werris Creek is progressed. They have a wonderful media officer who is spending a great deal of his personal time promoting the project, and I am delighted that I have been able to play a small role in bringing this very important project to fruition to ensure the long-term viability of Werris Creek.

Private members' statements noted.

BILLS RETURNED

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

Evidence Legislation Amendment (Accused Child Detainees) Bill
Sydney Water Amendment (Water Restrictions) Bill

[*Mr Deputy-Speaker left the chair at 6.11 p.m. The House resumed at 7.30 p.m.*]

BUSINESS OF THE HOUSE

Routine of Business: Suspension of Standing and Sessional Orders

Motion by Mr Carl Scully agreed to:

That standing and sessional orders be suspended to allow for the resumption of the debate on the disallowance motion to be postponed until the conclusion of the following business:

(1) consideration of the message from the Legislative Council forwarding the State Arms, Symbols and Emblems Bill;

(2) the introduction, and progress up to and including the Minister's second reading speech, of the Appropriation (Health Super-Growth Fund) Bill; and

(3) Government Business Order of the Day No. 6 [Environmental Planning and Assessment Amendment (Development Consents) Bill].

STATE ARMS, SYMBOLS AND EMBLEMS BILL

Bill received and read a first time.

Madam ACTING-SPEAKER (Ms Marie Andrews): I have received a message from the honourable member for Bligh that she will have the carriage of the bill in this House.

Second Reading

Ms CLOVER MOORE (Bligh) [7.32 p.m.]: I move:

That this bill be now read a second time.

The aim of this bill is to ensure that the State arms of New South Wales are used to represent the authority of this State. This includes the display of the State arms in parliamentary buildings, courthouses, offices or official residences of the Governor, and other government offices, including the State arms on seals and documents used by the State and its instrumentalities. The bill retains the existing form of the State arms, symbols and emblems, and restricts the circumstances in which they may be used. There is no proposal to change the State arms, symbols or emblems of New South Wales. Any change in the future will need to be made by way of amendment to the Act.

On 5 February 2002 the Attorney General, the Hon. Bob Debus, requested that the Standing Committee on Law and Justice investigate the proposal by the Hon. Peter Breen, MLC, to introduce a State arms bill. The committee analysed issues relating to the use of both the State arms and the royal arms of the United Kingdom for official purposes by the New South Wales Government, courts and Parliament, including consideration of 57 written submissions to the inquiry. In the report tabled in Parliament on 5 December 2002 by the Hon. Ron

Dyer, the committee concluded that the State arms of New South Wales were the appropriate arms to represent the authority and sovereignty of this State. The committee recommended that the State arms should be used consistently across all aspects of government.

The Hon. Peter Breen subsequently consulted on the report's recommendations and redrafted his State Arms, Symbols and Emblems Bill to take into account the majority of recommendations that arose from the committee's report and issues that arose during the consultation. The bill has been further amended in response to concerns raised by Government and other members, and as a result of debate in the Legislative Council, which passed the bill in its current form on 15 October 2003.

The royal arms of the United Kingdom, which represent the dominion and sovereignty of that country, incorporate emblems representing the territories and kingdoms that comprise the United Kingdom. This includes a shield with the three lions of England, the lion of Scotland and the harp of Ireland, with the lion of England and the unicorn of Scotland flanking either side of the shield. New South Wales, which is a separate sovereign entity within the Commonwealth of Australia, has had its own coat of arms since 1906, when King Edward VII assigned the arms by way of royal warrant for "the honour and distinction" of the State.

The distinguishing features of the State arms of New South Wales are the lion and the kangaroo. The State arms also incorporate emblems such as golden fleece, sheaves of wheat and a rising sun, and the Latin motto that translates "Newly risen, how brightly you shine", which were considered to be representative of the State in 1912. The High Court held in 1999 that, at the very latest, the Commonwealth of Australia was transformed into a sovereign, independent nation with the enactment of the Australia Acts in 1986, and the United Kingdom is now a foreign power for the purpose of the Australian Constitution. This confirms the State arms of New South Wales are the appropriate arms to represent the authority of New South Wales.

There is no current legislation effectively governing the use of State arms in New South Wales, although it has been State Government policy since 1995 to require the State arms to be displayed in all new and renovated public buildings in New South Wales. This policy has not been uniformly applied and the State arms are used erratically. The royal arms of the United Kingdom, which represent the dominion and sovereignty of the United Kingdom of Great Britain and Northern Ireland, are displayed in both Chambers of this Parliament. The continued use in New South Wales of the royal arms of the United Kingdom contrasts with the situation at the Commonwealth level where the Federal Government uses the Commonwealth arms consistently and without controversy in the Federal Parliament, the High Court, the Federal Courts and the Family Court.

This bill is consistent with current constitutional arrangements and seeks to ensure that the correct arms are used to reflect that the State of New South Wales is sovereign, separate and distinct from the sovereignty of the United Kingdom and Northern Ireland. Clause 4 confirms that after commencement of this Act, the State arms or a State symbol are to be used in any place where the authority of the Crown or the State is being represented for official purposes. Schedules 1 and 2 provide descriptions and images, and clause 4 (3) authorises the Premier to provide further guidelines on the proper use of State arms and symbols. Schedule 3 describes the State emblems, notably that the animal emblem of New South Wales is the platypus, the bird emblem is the kookaburra, the floral emblem is the waratah, and the fish emblem is the blue groper.

Under subclauses (1) and (2) of clause 5, all depictions of the royal arms of the United Kingdom that are used to represent the authority of the State of New South Wales are to be replaced with the State arms. However, the bill recognises that in some cases it will be appropriate to continue to display the royal arms of the United Kingdom. Subclauses (3) to (6) of clause 5 provide important heritage conservation measures by way of exemptions to the removal of the royal arms, to be determined by the Premier in consultation with the Heritage Council. In that situation, State arms are to be displayed in addition to royal arms that are retained for historical reasons, and any sculpted arms or arms in durable form are to be stored, conserved or displayed as part of the constitutional, legal, cultural and artistic heritage of the State. Clause 6 provides restrictions on the use of the State arms and State symbols in connection with commercial operations without the authority of the Governor or the Attorney General.

I thank Peter Breen for his work on this bill. I also thank my constituent Richard d'Apice, who is in the gallery tonight, for his assistance with the bill. The bill is not radical. Over the last New Year period, the royal arms of the United Kingdom, Great Britain and Northern Ireland were removed from all courts in Northern Ireland. The royal arms of the United Kingdom and Northern Ireland no longer represent the sovereignty of New South Wales. This bill provides legal support and recognition for the routine use of the appropriate State arms, symbols and emblems, a policy objective that is already in place but poorly implemented. I commend the bill to the House.

Debate adjourned on motion by Mr Craig Knowles.

APPROPRIATION (HEALTH SUPER-GROWTH FUND) BILL

Bill introduced and read a first time.

Second Reading

Mr CRAIG KNOWLES (Macquarie Fields—Minister for Infrastructure and Planning, and Minister for Natural Resources) [7.39 p.m.]: I move:

That this bill be now read a second time.

The practice of seeking approval for supplementary appropriations to cover payments not provided for in the annual Appropriation Act has now become entrenched. The Government, in presenting further appropriation bills, has sought, as far as possible, to ensure that the Parliament has the opportunity to scrutinise anticipated additional funding requirements prior to expenditures being incurred. On 5 October 2003 the Government announced that the budget result for the 2002-03 financial year was a surplus of $619 million. This gave us a result $420 million higher than expected at budget time. The major factors behind the improved budget result were improved profit forecasts from Governmental businesses, yielding higher dividends and tax payments of $128 million; additional stamp duty of $125 million due to the continuing strong property market; higher than expected investment earnings of $89 million; and a $66 million reduction in the liability assumed by the Government relating to the collapse of HIH.

Although tabled in June 2003, the budget was predicated on forecasts and estimates established some time before that. As a result, the budget projections were framed in an environment where investment returns were lower and the property market appeared to be cooling. The Government has announced that the additional $420 million surplus will be deposited in the new Health Super-Growth Fund and that the interest earned, some $78 million over four years, will be spent on urgent health capital works. This extra spending will see the health capital works program increase to more than $2 billion between now and mid 2007.

Our greatest funding challenge will always be to meet the day-to-day costs of running our hospitals. Health costs rise 8 per cent every year: an unremitting demand on the public purse, driven, as we all know, by the ageing population and the advent of new medical technologies. A responsible government makes sure it finds the revenue to meet those costs, keeping our hospitals world-class into the future. With our levy on the poker machine profits of the richer clubs, we have done just that. In addition to the initial $420 million deposit, every cent of the increased poker machine taxes will be allocated to the Health Super-Growth Fund. Poker machine taxes increase from September 2004 and are expected to raise an extra $46 million in the first year.

The introduction of the Appropriation (Health Super-Growth Fund) Bill in this session enables the Government to seek appropriation of $420 million for investment with the NSW Treasury Corporation; to deposit the income from the investment into a newly established special deposits account called the Health Super-Growth Fund, which will then be spent on public health capital works and services; to formalise its intention to allocate the increase from the poker machine tax, effected by the 2003-04 budget, to be paid into the Health Super-Growth Fund; and to signal that the annual Appropriation Act for the 2004-05 financial year, and for each subsequent financial year, will include a separate appropriation to the Minister for Health for public health recurrent services, representing the increase in poker machine tax.

The additional funding on health capital will bring forward 14 major projects. They are new linear accelerators for Wollongong and Liverpool; new rural hospitals at Dunedoo, Portland, Guyra, Walcha, Tullamore and Tottenham; the redevelopment of Bathurst, Orange and Bloomfield hospitals; a new primary health centre at Menindee; an upgrade of mental health facilities in Broken Hill; and the construction of Queanbeyan Hospital. The practice of introducing further appropriation bills has enhanced accountability for the expenditure of public moneys from the Consolidated Fund. It is further evidence of the Government's commitment to transparent and full financial reporting to the Parliament and the community. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (DEVELOPMENT CONSENTS) BILL

Second Reading

Debate resumed from 17 October.

Ms PETA SEATON (Southern Highlands) [7.44 p.m.]: The Opposition does not oppose this bill as we recognise the growing problems business and investors are facing as they do battle with the complete uncertainty and increasing shambles that substitute for planning law in New South Wales. We recognise the need to strengthen the framework which investors—many overseas, and with many competing investment choices competing for their attention—are faced with. In that sense the Government's hypocrisy in introducing this bill is breathtaking. It is really a bill to clean up its own self-created mess. It is a worrying admission that the Government seeks to deal with shortcomings in the planning system in New South Wales simply by extending the time available under which consents can be exercised and acted upon.

We do not oppose the bill because we recognise the importance of jobs, investments and growth, especially in regional development, and of providing a climate in New South Wales that welcomes and supports appropriate and complying business and industry development proposals. A report released last year by the State Chamber of Commerce into the planning and approval of major construction projects showed that the average time to plan and approve an infrastructure project in New South Wales is 3.1 years. That is seven months longer than a similar project in Victoria and 12 months longer than a similar project in Queensland. That is what prompted the Liberal-National Coalition proposal to reform the way in which planning and infrastructure are dealt with in this State.

Hence our proposal for the creation of a State plan informed by an infrastructure audit and structural reform that creates true integration of decision-making, not the clayton's version that this Minister—who has just left the Chamber—has created. The Leader of the Opposition has highlighted the complacent approach of the Carr Government and the way in which it currently exposes New South Wales to the risk of losing our economic pre-eminence in Australia. The Leader of the Opposition said last year in a speech outlining our policy proposals that the pre-eminence of New South Wales cannot be taken for granted. Thirty years ago Sydney was not the financial capital of Australia—Melbourne was.

But the Carr Government has become lazy about stimulating growth and investment in New South Wales. The expectation is that business will automatically come to Sydney. It is not out of the question to consider Brisbane making an aggressive bid to topple Sydney's pre-eminence over the next 50 years. There are many examples of regions that have risen and others that have fallen. One cannot expect that New South Wales or Sydney will continue to attract investment just because they are New South Wales or Sydney. It takes a lot of effort, a lot of planning, and constant vigilance and rigour in the planning system and the structure of government.

Industry knows that New South Wales is falling behind. One has only to look at the Institution of Engineers infrastructure report card released a few months ago—the average mark was about a D. New South Wales was falling far behind in regard to water effluent treatment and rail and other transport. I suspect that is why the Property Council of New South Wales, the Australian Council for Infrastructure Development, the New South Wales Minerals Council and the State Chamber of Commerce want this legislation to go ahead. They see a glimmer of hope that the current failings of the planning system will be in some small way relieved. But this is essentially still a bandaid solution. Until the Government comes to grips with the necessity for fundamental planning reform it will have to continue to put bandaids on bandaids.

Three years ago the Government promised Plan First, which was to fundamentally reform the planning system, especially on a regional basis. But what has happened with Plan First? Absolutely zero. When the Minister took on his new role in March he said that Plan First was under review. He set up a task force to examine Plan First and report back to him on its future. Members of the task force carried out their work conscientiously and reported back to the Government on the future of the planning reforms. The task force set out detailed recommendations on regional planning, local planning and, interestingly, the strategic planning fee or the Plan First levy, as it is otherwise known. It is interesting to note that the task force recommended that the levy be abolished.

Mr Craig Knowles: Please link your comments to the bill so I do not have to take a point of order. I am happy for you to say it all, but please link it to the bill.

Ms PETA SEATON: The Minister does not like to hear the concern of industry about the lack of planning reform. I take this opportunity to tell the Minister what he is perhaps not hearing, that is, that the planning system contains significant areas of duplication and causes extreme frustration to those who use the system. They believe it adds time, increases costs and does not assist New South Wales to be competitive with other States. Everybody hoped that the task force recommendations would result in the Government providing clear directions, but all they received were comments from the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) that "we are moving towards planning reform". We have been moving towards planning reform for four years, and still nothing has happened.

The Minister for Planning said he was interested in the recommendations of the task force but gave no clear commitment as to which recommendations he would adopt. That is disappointing because an acceptance of the recommendations would provide a clear direction for the future. In particular, those who have contributed $8 million or $9 million as part of the Plan First levy have a right to know what the Government intends to do with that money. One reason for introducing the bill concerns events surrounding the development consent for the Lake Cowal project, and it is worth outlining the key chronological steps in the process. The matter started in 1995 when North Mining lodged its development application and environmental impact statement with the Department of Planning. In October 1995 the matter was referred to a commission of inquiry. The commissioner handed down a report recommending that there were no environmental issues that would preclude the Minister granting development consent subject to conditions. However, in April 1996 the Minister refused the development application on a number of grounds.

In September 1997 the Minister determined that State environmental planning policy No. 34 would apply to the proposal. North Mining lodged a development application and an environmental impact statement for the proposal. The matter again went before a commission of inquiry in August 1998 and again the commissioner recommended to the Minister that there were no environmental issues that would preclude the Minister granting development consent subject to conditions. Further legal action involved native title claims and other issues that have continued up until the present time. This proposal has had an incredibly complex past but, most important, it was the actions of this Government that created the problem that this bill seeks to address. The commission of inquiry recommended that there were no environmental issues that would preclude the granting of development consent, yet the Government refused the proposal. An article in the *Daily Telegraph* of 10 April 1996 stated:

> Mr Carr and Mr Knowles decided last Wednesday to stop the Lake Cowal Gold Project in western NSW, overruling a recommendation by an independent tribunal.

Many people in the region wanted this project to go ahead because it would generate many jobs in the long term and was of great economic importance to the region. People were greatly concerned when the Premier and the present Minister stepped in to stop the project. There was also considerable unease in the business community. Indeed, the Executive Director of the Minerals Council of Australia, Mr David Buckingham, was quoted in the *Sydney Morning Herald* on 9 April 1996 as having stated:

> … companies would regard the State's "conditions for investment entry" as unattainable in the wake of the Lake Cowal decision.
>
> This is an arbitrary, inexplicable decision which can only undercut investor confidence. NSW is going to raise the hurdle so high that no-one will be able to clear it and companies will think very hard about the conditions they face to invest there.

Mr Buckingham was not the only person to express concerns. On 9 April 1996 the *Australian* quoted the Managing Director of North Mining, Mr Campbell Anderson, as having expressed astonishment at the decision. He said that there were parts of the world and other parts of Australia where investment in mineral development was sought after. This decision caused considerable unrest, uncertainty and concern in the business and investment community. The fact that several years after that event the State Chamber of Commerce is still reporting that it takes longer on average for projects to be processed in New South Wales than it does in other places underlines the need for more reform in order to get the planning system working effectively for the benefit of complying appropriate development in this State.

I am grateful to the Minister's staff and Mr Sam Haddad for the briefing on some of the more technical aspects of the bill. I note that it applies only to State-significant development other than staged development. I ask the Minister in reply to put on record the approach that might be taken to stage one of the staged development in the framework of the bill. I note also the provisions to enable the development consent to be voluntarily surrendered. When I first read the bill I thought it applied only to State-significant developments. I understand from the briefing that it is a broader change to the planning framework. If a person chooses not to exercise a consent and approval, the person might still be vulnerable to legal action because the consent still

exists, even though it is not intended that the consent be exercised. This creates some finality, not just in State-significant developments, but also in projects that will be subject to local government approval.

I understand that Lake Cowal is the only project that would have benefited from this bill. That underlines the exceptional problems that the Government created in the process of its assessment of this project. Also, rather than make legislative provision that is specialised to one particular case, for consistency, changes should be made across the entire planning framework. The Government should heed the lesson that has come out of the Lake Cowal project. It takes only one project to damage the reputation of New South Wales as a stable and secure investment environment and to create a reputation that results in business and industry considering investment opportunities other than in New South Wales, where the planning system is difficult to negotiate and, even when a commission of inquiry recommends that a consent be given, the Government can refuse to give that consent.

I note the conditions under which the Minister may grant an extension. Today I asked departmental staff about the conditions under which this extension may be granted and I referred to new section 95B (4) (b), which states "that there is otherwise good cause". I take some comfort from the fact that both of those conditions—that there be good cause that the development consent may lapse because there is, has been or may be a delay in physically commencing building, engineering or construction work; or that use of all or part of the land to which the consent applies arises from or is related to one or more relevant legal proceedings—must be examined by the Minister before making such a decision.

I am also grateful to the department for further explaining the circumstances under which there may be an appeal by a third party against a determination of an application under that section. A lot of concerns are coming back to me every week from industry groups and businesses, all of which must grapple with our planning laws every day. I am grateful to representatives of the New South Wales Chamber of Commerce for their feedback, advice and views on the bill. I am grateful also to the representatives of the Warren Centre, the New South Wales Minerals Council and the Property Council, who have expressed concern—I am not attributing these views to any people specifically—that while the legislation is a welcome move towards providing some relief in a difficult planning environment, they want fundamental reform of the planning system that prevents this from happening in the first place.

We want a planning system is that is simple, efficient and responsive. We want a system that produces good decisions that balance sustainable development with economic growth, and recognises and rewards appropriate and sustainable developments in their place. We want a system that does not put applicants on a virtual wheel of fortune. Applicants who have already had a decision from one umpire, which would, in any other situation, give them confidence to think they can proceed, should not have to encounter many other obstacles along the way. One person who responded to me said, "We think that in principle the proposal seems reasonable. It would be of great assistance to companies caught up in litigation to have access to up to three additional years in the planning process. Of course, ideally we would like the Government to look at ways to reduce the planning approval process." That is one plea from a major stakeholder who uses the planning process regularly. Another person said, "It seems you could comment that the Government should go a lot further and streamline the development process so that these untoward delays do not occur. That is the whole point of having a Minister for planning everything in New South Wales."

That is the flavour of most of the responses I have received. People see the legislation as a bandaid, to some extent. They see it as a welcome relief in a dreadful situation. But the bill should be only the starting point for fundamental planning reform to simplify and improve the system, and to make it more responsive. The legislation will make New South Wales a place where investors can feel welcome and secure, knowing that they are not entering into a double jeopardy and can make good investment decisions that produce sustainable jobs and growth in metropolitan and regional New South Wales.

Mrs KARYN PALUZZANO (Penrith) [8.03 p.m.]: I support the Environmental Planning and Assessment Amendment (Development Consent) Bill, the object of which is to amend the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 to enable the Minister for Infrastructure and Planning to extend the period within which work must be commenced before a development consent for certain State-significant development lapses, and to provide for the voluntary surrender of development consents. This will allow the Minister for Infrastructure and Planning to extend the lapsing period on development consents for projects of State significance. Projects of State significance tend to be more complex, more investment intensive and more job generating proposals. In some cases litigation brought by third parties in conjunction with the consent creates uncertainty, which delays development.

Generally, when development consent is granted, the development must be physically commenced within five years, otherwise the consent lapses. Currently, the Minister does not have the power to extend the lapsing period except in limited circumstances when the original consent was granted for less than five years. State-significant development is important to economic growth and employment throughout the State, especially in regional New South Wales. As I said, it tends to be more complex than local development and usually requires a range of licences, permits and approvals across the three tiers of government. In Penrith we have such a development; it is called the Penrith Lakes scheme. I am proud that the Penrith Lakes scheme—an initiative of the Unsworth Government, approved by the Premier when he was environment Minister in 1987—is now being brought to fulfilment under the Carr Government.

The Penrith Lakes scheme is a massive interlocking series of lakes and parks being built on old quarry and dairy farms within the Penrith electorate, next to the Nepean River. It will become a world-class aquatic recreation area equal to Sydney Harbour, which is some 700 hectares. At present planning is under way for new housing and industrial estates above the lakes. It is important that this project be delivered in full and be environmentally sustainable. I want the lakes scheme to be something that the people of Penrith are unreservedly proud of, as I said in my inaugural speech on 5 May. The future of Penrith Lakes will be the evolution of this recreational, commercial and urban project. Hopefully, as I said, in the planned commercial centre, the residential village and the park plans, the principles of construction of the lakes scheme will be environmentally sustainable and involve community awareness.

Just last night at Penrith council we had a report from the University of Western Sydney on a research project that looks at freshwater mussels being introduced into the lakes to decrease turbidity or to make the water a little cleaner. Freshwater mussels are common in the estuaries and along the river but it is proposed to introduce them into the lakes scheme to reduce the turbidity and to make stormwater management much more environmentally sustainable. So I commend that PhD research that has been undertaken by the University of Western Sydney. In New South Wales people have the right, under statutory or common law, to initiate legal proceedings against approvals. Even if such proceedings are unsuccessful, they have the potential to delay the physical commencement of projects and they make it difficult for companies or people to activate development consents before they lapse.

This bill will enable the Minister to extend the lapsing of development consents to compensate for any delays associated with relevant legal proceedings, but only for a maximum of three years. These extensions will have no impact on people's rights or on ongoing legal proceedings. If the physical commencement is delayed beyond the maximum eight-year period, for whatever reason, the applicant will have to lodge a new development application for the project. The bill gives greater certainty to the retention of State-significant development within New South Wales and all the economic benefits that flow from such development. The bill will also allow an applicant to voluntarily surrender any development consent, subject to appropriate checks and tolerances. I commend the bill to the House.

Mr ADRIAN PICCOLI (Murrumbidgee) [8.08 p.m.]: I raise a couple of issues about the bill. As the Opposition spokesman for planning said, the Opposition will not be opposing the legislation. Indeed, we support the legislation in the sense that it will more or less throw a lifeline to the Lake Cowal gold project. The Lake Cowal goldmine project is eagerly looked forward to by the West Wyalong community. The project will create a great opportunity for that part of western New South Wales, initially with jobs in the construction and running of the mine but also in ancillary jobs in the Bland shire, in West Wyalong, in surrounding areas and throughout the region. I live in Griffith, which is not too far away, and even Griffith will benefit from a project of that size and sort. I support the legislation as it will allow an extension of the approval period for the mine and other projects of State significance. Litigation or other matters can delay these types of development until approval lapses. This legislation, however, will provide an opportunity for developments to go ahead, and I am sure every member supports that.

However, I repeat the point made by the honourable member for Southern Highlands about why it has taken so long for the Lake Cowal project to get going. The Minister for Infrastructure and Planning and the Premier must accept some responsibility for the delay in getting the project off the ground. Why has it taken so many years for the project to reach this point? We have not seen any substantial commencement of the project. I know there are other factors that are outside the control of the Government. A ratbag element has tried to disrupt the development as much as possible. I am sure that some of the litigation and other matters that delayed the project were initiated just for the purpose of holding up the project in the hope that the development application period would expire, and that the company would have to reapply for approval.

It is incumbent on the Government, after nine years in office, to put a system in place that will allow these types of development an easier ride to reach their potential. No member, least of all me, would suggest that we should cut corners environmentally. We should make sure that all these developments are economically, environmentally and socially responsible. We all support those objectives, but the Lake Cowal project fiasco is an opportunity for the Government to introduce legislation to make sure it does not happen again. The honourable member for Southern Highlands quoted comments by several mining executives reported in various newspapers about these types of delays acting as serious disincentives for mining investment in New South Wales. These delays or development restrictions do not exist in certain other State and international jurisdictions, and if we have them in New South Wales we will see the flight of investment to those other jurisdictions. I am pleased that the Lake Cowal project is being thrown a lifeline. The Government will be able to take the necessary steps to ensure that similar developments, particularly mining projects, experience a slightly easier progress through to fruition, and ultimately create jobs in New South Wales.

Mr GEOFF CORRIGAN (Camden) [8.13 p.m.]: I support the Environmental Planning and Assessment Amendment (Development Consents) Bill. I congratulate the Opposition on supporting the bill. I look forward to the support of the honourable member for Southern Highlands when the State Government puts forward a State-significant development for the removal of the container operations to Port Kembla. Since 1995 this Government has approved more than 180 State-significant projects. Together, these projects have a capital investment of more than $11 million and have generated or will generate more than 16,500 full-time jobs—a record to be envied by any other State in Australia.

Both the honourable member for Murrumbidgee and the honourable member for Southern Highlands commented that other States are ahead of us. The other States in Australia—all Labor States—are trying to catch up with New South Wales. The honourable member for Southern Highlands talked about Queensland. The Beattie Labor Government in Queensland is learning from this State's example and is attempting to catch up with what we are doing here. No longer do we see the rape of the environment that occurred under the Bjelke-Petersen Government in Queensland. To quote the honourable member for Southern Highlands, what is occurring in New South Wales is sound, sustainable development with economic growth.

At present the Department of Infrastructure, Planning and Natural Resources is assessing more than 40 State-significant projects that have a capital investment value of more than $4 billion and the potential to create up to 4,000 full-time jobs. State-significant projects generally require several licences, permits and approvals in addition to development consent. It is critically important that once approval is granted for these projects there is sufficient certainty for investors to implement approvals. Under current legislation and common law any person can initiate legal proceedings against the issuing of these licences, permits and approvals.

The honourable member for Murrumbidgee called them the ratbag element. I would not say that. Quite often they are well-meaning community or green groups, or corporate competitors seeking to delay developments to gain competitive advantage. They are taking advantage of the law to do that. The bill will provide some certainty for those who have State-significant developments. Legal proceedings can delay the physical commencement of State-significant projects, making it hard to attract the necessary investment, and in some cases preventing the physical commencement of any development before the consent lapses. This could result in the loss of jobs and significant economic effects.

The bill will allow the Minister to extend the five-year lapsing period for development consents for a maximum of three years in special, clearly defined circumstances. It does this without compromising any existing statutory or common law rights to initiate legal proceedings, and places strict controls on the grant of any extension. It also will allow applicants to surrender development consents voluntarily with the consent of the consent authority. With the support of the Opposition and the goodwill of the Government, this bill deserves our support.

Mr MILTON ORKOPOULOS (Swansea) [8.16 p.m.]: In my brief contribution I want to respond to some of the statements that have been made by the Opposition spokesperson. The technical aspects of the bill have already been debated. However, when we hear statements that development has been delayed, and that right-wing groups like the Warren centre and the New South Wales Minerals Council and the Property Council have complaints about the New South Wales Government, we should consider that since 1995 the State Government has approved more than 180 State-significant projects with a total capital investment value of more than $11 billion. Where is the delay? The Opposition says it wants simpler and fairer environmental planning and assessment legislation. In the seven mad and chaotic years of the Greiner-Fahey Government, when did it create any amendments to the Environmental Planning and Assessment Act that produced simpler and fairer planning and assessment solutions?

The Opposition—certainly the honourable member for Murrumbidgee—is suggesting that no one should have the opportunity to seek relief in the courts from developments. The bill will give the Minister an ability to extend planning consents, especially for State-significant developments. That is sensible, straightforward legislation. Next year the department is expecting to receive at least 40 State-significant development applications with a capital investment value of more than $4 billion, with the potential to create between 3,000 and 4,000 full-time jobs. What is the criticism? Why are we having this debate? Members opposite should be congratulating the Minister for having the foresight and intelligence to negotiate this excellent legislation through Parliament. The Opposition's complaints about this legislation are very minor, of no consequence at all. That is the reason why I support the bill.

Mr CRAIG KNOWLES (Macquarie Fields—Minister for Infrastructure and Planning, and Minister for Natural Resources) [8.19 p.m.], in reply: I draw this part of the debate to a conclusion by thanking those who have contributed and note that in Committee I will move five amendments in globo.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Mr CRAIG KNOWLES (Macquarie Fields—Minister for Infrastructure and Planning, and Minister for Natural Resources) [8.21 p.m.], by leave: I move amendments Nos 1 to 5 in globo:

No. 1 Page 4, schedule 1 [3], proposed section 95B (9), lines 24 and 25. Omit all words on those lines. Insert instead:

(a) has been instituted but not determined, or

No. 2 Page 4, schedule 1 [3], proposed section 95B (9), lines 26-30. Omit all words on those lines. Insert instead:

(b) has been determined without the court or tribunal granting the relief (whether in whole or in part) sought by the person who instituted the proceeding or by the court or tribunal concerned dismissing the proceeding.

No. 3 Page 4, schedule 1 [3], proposed section 95B (9), line 33. Omit "that".

No. 4 Page 4, schedule 1 [3], proposed section 95B (9), line 34. Omit "was brought". Insert instead "in which relief was sought".

No. 5 Page 5, schedule 1 [3], proposed section 95B (9), line 1. Omit "was". Insert "that was".

Amendments Nos 1 to 5 are relatively straightforward drafting amendments to provide greater certainty as to which proceedings may be considered relevant legal proceedings in the context of the bill. The amendments seek to provide more explicit instruction to those interpreting this legislation in determining the inclusion of a time period from the conclusion of a hearing until judgment. The intention is to count all time from the initiation of proceedings until judgment. The second amendment, which links to the first amendment, includes the words at the conclusion of the proposed paragraph "or by the court or tribunal concerned dismissing the proceeding". There is also a consequential amendment to the paragraph as a result of those changes reflected in amendments Nos 3, 4 and 5. I would like to place on the record of *Hansard* my thanks to Sam Haddad for nine years of perseverance with Lake Cowal.

Ms PETA SEATON (Southern Highlands) [8.23 p.m.]: The Opposition does not oppose the amendments.

Amendments agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

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

SUPREME COURT ACT 1970: DISALLOWANCE OF SUPREME COURT RULES (AMENDMENT NO. 380) 2003

Debate resumed from an earlier hour.

Mr BRAD HAZZARD (Wakehurst) [8.26 p.m.]: As I said earlier, defamation law in Australia, indeed in New South Wales, is extremely complex. Under section 9 of the New South Wales Defamation Act there is a separate cause of action for the publication of each defamatory imputation to each recipient. In New South Wales a cause of action for defamation does not arise from the defamatory matter that the imputations are embodied within, but rather from the publication of the defamatory imputations themselves. The result is that a plaintiff may receive a verdict for some imputations but not for others. It also means that there is a very complicated pleading regime where each imputation gives rise to a separate cause of action. It is with this complex background that one needs to consider the issue of costs, which the honourable member for Manly has brought before the House by way of his motion to disallow the regulation. Under the Supreme Court rules prior to the implementation of the regulation, which the honourable member for Manly now seeks to disallow, the situation was determined by rule 33 (2) (f), which states:

> (2) Where:
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> (f) in respect of proceedings commenced after 1 October 1997, where a plaintiff recovers:
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> (i) in the case of proceedings that include a motor accident claim—a sum not more than $500,000, or
>
> (ii) in any other case—a sum not more than $225,000
>
> the plaintiff shall not be entitled to payment of his or her costs of the proceedings unless, it appearing to the Court that the plaintiff had sufficient reason for commencing or continuing proceedings in the Court, the Court makes an order for payment.

Excluding the paragraph that relates to a motor accident claim, in the other broad category defamation proceedings were one of the many proceedings that came before the Supreme Court. The effect was that a judge had to start from what could be considered a prima facie position in all cases—I emphasise, not only defamation cases—that costs should not be awarded in the normal course if the total damages were less than $225,000. However, in defamation cases, because of the complex issues of defamation law and the fact that a plaintiff may succeed on one or more imputations but not on others, a judge had to look at the qualifications contained in subparagraph (ii). More often than not a judge would probably have found, and will continue to find, that the issues faced in defamation proceedings were or are so complex that costs should be awarded even for verdicts of less than $225,000. This situation was highlighted in a number of cases. Justice Simpson observed in her judgment in *West and Another v Nationwide News Pty Ltd* 2003:

> 2. The plaintiffs now seek an order that the defendant pay their costs of the proceedings. In doing so, they must confront the hurdle that is placed in their way by *SCR* Part 52A Rule 33. That rule, relevantly, provides that, in proceedings commenced after 1 October 1997, where a plaintiff recovers a sum of not more than $225,000, that plaintiff shall not be entitled to payment of his or her costs of the proceedings unless, it appearing to the court that the plaintiff had sufficient reason for commencing or continuing proceedings in the court, the court makes an order for payment (r33(2)). By sub-r(3) a sufficient reason for the commencement or continuation of the proceedings in this court is the existence of reasonable grounds for the plaintiff to expect that he/she/it would recover an amount in excess of the amount prescribed by sub-r(2).
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> 3. For completeness, sub-r(4) should also, so far as it is relevant, be noted. That sub-rule provides that, in respect of proceedings commenced after 1 October 1997, where a plaintiff recovers a sum of more than $225,000 but not more than $450,000, that plaintiff is entitled to the payment of costs of only a half of the whole amount that would otherwise be assessed. Again, by sub-r(5), if it appears to the court that the plaintiff had sufficient reason for commencing or continuing proceedings in the court, the court is empowered to order that the amount of costs payable to the plaintiff be some greater part of the whole of the amount which would be payment to him, her, or it apart from the sub-rule. And again, by sub-r(6), a sufficient reason for the commencement or continuation of proceedings in this court is the existence in the plaintiff of reasonable grounds for expecting to recover an amount in excess of the amount prescribed by sub-r(4).
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> 4. The plaintiffs' claim, is, therefore, in effect, for the exercise, in their favour, of the discretion conferred by sub-r(2) to make an order for payment of their costs notwithstanding that the verdict sums do not reach the threshold, or anywhere near it.

Justice Simpson's point was that there could be a complex set of facts that by the nature of the various imputations in the pleadings may mean that a plaintiff succeeds on some grounds but loses on others. The fact that a verdict is found in favour of the plaintiff but results in an order for less than $225,000 should not of itself exclude the plaintiff from having a right to damages. The regulation, which was apparently introduced after recommendations of the Rules Committee of the Supreme Court, simply recognises that reality. It recognises it

in a simple way by saying that defamation proceedings will be excluded from this provision, which would normally have a judge erring on the side of not making an order for costs.

I understand the aim of the honourable member for Manly. Unfortunately, he has it bottom up. The problem is that it may be appropriate in some cases for wealthy persons not to have orders for costs handed down in their favour. However, we cannot exclude that possibility if the plaintiff has brought a lawful claim and has perhaps presented a complex set of defamation matters. Equally, if we were to accept the proposition of the honourable member for Manly, poor members of the community who brought proceedings and who received a verdict for less than $225,000 would find themselves on the outer with no discretion in the court to award costs. That is a nonsensical position. The Opposition supports the Government on this matter.

Mr DAVID BARR (Manly) [8.33 p.m.], in reply: I thank the Attorney General and the honourable member for Wakehurst for their considered comments. Of course, I do not agree with them. The threshold issue is whether trivial matters should ever come before the Supreme Court. We are applying an exaggerated notion to people's reputation and placing the arcane complexities of defamation law before free speech. This Chamber should pursue free speech. Many people have spoken about the chilling effect of defamation laws. If matters are brought before the Supreme Court with all the costs involved in such an action, that will have an even more chilling effect on defendants. The issue that I have been concerned about is the use of costs as a punitive device against less well-off defendants. It is sometimes stated that this would disadvantage the not-so-wealthy plaintiff. The law is about the big end of town. Most people recognise that the legal system is not for ordinary folk; it is for those who can afford it. Nowhere is that more evident than in defamation. The wealthy can afford to have a reputation, but the less well-off cannot. The wealthy can afford to bring an action and the not-so-well-off bear the consequences.

To what extent is this House, which is about free speech, prepared to recognise the impact of defamation on free speech? It has a more chilling and claustrophobic effect on free speech in New South Wales than it does in other jurisdictions, for example the United States. Generally speaking, governments have put reform of defamation law in the too-hard basket. It is too difficult, there is too much involved and there are too many vested interests. Allowing this regulation will mean that it is left to the lawyers and the judges, who have a vested interest in the issue. If the disallowance motion had been passed, rule 33 would have remained as it was, and people would have been allowed to demonstrate that they have sufficient reason to bring a defamation action in the Supreme Court.

The costs issue has concerned me from the outset. The Attorney General referred again to damages. That has been a concern for governments in many jurisdictions. Costs can exceed damages manyfold in defamation cases. Once the treadmill is set in motion, neither plaintiff nor defendant knows where it will end, but they do know that it will be a costly process. What is the aim of this process? It will protect or restore someone's reputation on what may be trivial grounds. The Government should grasp the nettle on defamation law and do something to address the issue of costs. It should help to ensure that ordinary people are not bullied by the wealthy. I have provided an example in this Chamber of what can happen and the exaggerations that occur.

The Bannockburn Yellow Gum Action Group was formed after the local water authority, Barwon Water, announced plans to clear 20 hectares of woodland. The group conducted a campaign against the clearing. The Chief Executive Officer of Barwon Water was Frank De Stefano. The objectors put up stickers that read "Barwon Water: Frankly Foul". There was a play on his first name. In response, Frank De Stefano sued and sought $2 million in damages from the seven members of the group. The writ stated that the group was saying that Mr De Stefano was a foul person, a person smeared with the sewage of the authority of which he was chairman, a person who smelt like sewage and that he was unfit to hold the position of chairman of Barwon Water.

That is the kind of exaggeration that takes place in defamation cases. The barristers engage in hyperbole in an attempt to get the maximum benefit for their clients. That results in gross distortion of the truth and people's reputations, and lengthy arguments before the courts. It appears that the concept of reputation which the law seems to hold so dear these days is outmoded and anachronistic. Indeed, it is more attuned to feudal thinking than modern, twenty-first century thinking. The current defamation laws need drastic reform. I have a bill before the House that deals with the costs issue. I believe the Government will not support that bill, and I am not aware of the Opposition's position in relation to it. It is time we addressed this issue, even if it is extremely difficult. Something should certainly be done about costs. It appears that the Supreme Court is

casually putting aside a rule because it was not complying with it. This House should disallow the recent amendment to the Supreme Court rules. I therefore urge the House to support this disallowance motion.

Question—That the motion be agreed to—put.

Division called for. Standing Order 191 applied.

Ayes, 2

Mr Barr
Ms Moore

Question resolved in the negative.

Motion negatived.

BILL RETURNED

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

Gaming Machines Amendment (Miscellaneous) Bill

ROYAL BLIND SOCIETY (CORPORATE CONVERSION) BILL

Second Reading

Debate resumed from 17 October.

Mr ANDREW TINK (Epping) [8.47 p.m.]: The Opposition supports the Royal Blind Society (Corporate Conversion) Bill, the principal objects of which are to amend the Royal Blind Society of New South Wales Act 1901 to provide that members of the society be limited to the current members of the council of the society and such other persons admitted to membership after applying to the council for membership, and to authorise the society to apply to be registered as a public company limited by guarantee under the Commonwealth Corporations Act 2001. The current corporate arrangements are antiquated in the extreme, to say the least, and lead to anomalies in relation to the people who are deemed to be covered by the legislation and formally involved with the society. The bill brings the corporate structure of the Royal Blind Society from the beginning of the twentieth century to the beginning of the twenty-first century. I understand that a recent poll of current members showed that 484 members are in favour of the bill and about 20 are against it. I have briefly discussed the bill with the key office-bearer of the Royal Blind Society, who indicated his strong support for it. I congratulate the draftsman of the overview of the bill, which is extremely comprehensive and straightforward and has been of great assistance to the Opposition.

Ms VIRGINIA JUDGE (Strathfield) [8.49 p.m.]: I support the Royal Blind Society (Corporate Conversion) Bill, which authorises the Royal Blind Society to apply to be registered as a public company limited by guarantee under the Commonwealth Corporations Act 2001. The bill also makes a number of amendments to the Royal Blind Society New South Wales Act 1901 dealing with, among other matters, the objects of the society and its membership. In New South Wales and the Australian Capital Territory about 100,000 people experience sight loss. According to the Royal Blind Society web site, sight loss affects around one in 60 Australians and, unfortunately, it is one of the most common causes of disability in Australia. The incidence of blindness or severe vision impairment for Australians over 75 is closer to one in six because of eye conditions related to ageing. As our population ages we can expect ever-increasing numbers of people in our society to suffer from vision impairment.

The Royal Blind Society assists people who are blind or vision impaired to maintain independent and fulfilling lives. It provides information, advice, equipment and training in specialist skills. Each year about 15,000 people receive services from the Royal Blind Society throughout New South Wales, the Australian Capital Territory and Queensland. The society has offices at 4 Mitchell Street, Enfield, which is in my electorate, as well as in Albury, Canberra, Coffs Harbour, Gosford, Lismore, Newcastle, Orange and Wollongong. Services provided by the Royal Blind Society include Vision Assist, which offers a range of integrated services to help its clients make the most of any remaining sight they have and to overcome challenges at home and in the community. The Royal Blind Society provides assistance for people who are blind

or vision impaired to find employment, to make career changes or to retain jobs that are in jeopardy. It provides training to help people access printed information and produces information in accessible formats, such as audio and braille. The Royal Blind Society library offers an extensive range of titles in audio and braille, as well as talking newspapers. Specialist staff members offer advice to promote children's development from an early age, and they support them through school.

This wonderful organisation offers a wide range of activities to the community and, as I said earlier, I am privileged to have offices of the Royal Blind Society in the electorate that I have been honoured to have been elected to serve. The society is currently constituted under an Act of the New South Wales Parliament. A body corporate that is constituted under a New South Wales Act can be registered as a company under the Corporations Act 2001 using the provisions of part 5B.1 of that Act. The bill sets out the process for the Royal Blind Society to convert to a public company limited by guarantee under the Corporations Act 2001.

The Royal Blind Society conversion process involves members of the Royal Blind Society passing a registration resolution that their society be registered as a public company limited by guarantee under the Corporations Act 2001, and members approving a new constitution. Once the resolution is passed the Royal Blind Society can apply to the Australian Securities and Investments Commission [ASIC] to be registered as a public company limited by guarantee. The bill also authorises the Royal Blind Society to continue to use its existing name after it is registered. This is necessary as a Corporations Act company is normally required to include the word "Limited" in its name and is normally not allowed to use the word "Royal" in its name.

The objects of the Royal Blind Society are set out in the Act. They limit the Royal Blind Society's activities and do not specifically allow the society to undertake commercial ventures and other arrangements when providing assistance to blind and vision-impaired people. The change to the objects clause made by the bill will facilitate the society's participation in a national organisation catering to the needs of children and adults who are blind or vision impaired. The bill will bring about some changes to the membership of the society. The Act currently provides for three classes of members: honorary life members, life members and ordinary members. A person becomes an honorary life member if the council of management of the Royal Blind Society confers such membership. A person becomes a life member by making a donation of at least $1,000. A person becomes an ordinary member until 30 June of the next year following the date of the donation or the conclusion of the next annual general meeting following the date of the donation, whichever is the later, simply by donating at least $10, but less than $1,000.

The Royal Blind Society believes that the majority of its donors are not aware that they become members of the organisation when they donate funds to the society. The bill will provide that members of the society will be the current members of the council and that anyone over 18 years of age will be admitted to membership after lodging an application form and paying a $10 annual membership fee. The Royal Blind Society has entered into negotiations with the Royal Victorian Institute for the Blind and Vision Australia Foundation to form one national organisation.

The Royal Blind Society's present status as a body corporate under the New South Wales Act poses legal difficulties in its participation in the national body. The bill will facilitate the process of forming one national organisation. I am pleased to support the bill as it will enable an important and vital service provider for the vision-impaired community to better serve its clients and the New South Wales community—our community, our fellow Australians. I commend the bill to the House and I congratulate the Government and the Minister for introducing it.

Ms GLADYS BEREJIKLIAN (Willoughby) [8.56 p.m.]: I am pleased to support the Royal Blind Society (Corporate Conversion) Bill. In doing so, I acknowledge the presence of members of the Royal Blind Society in the gallery, particularly Graham Innes, whom I have known for the past few years. The work he does for the society and for disabled people in general is truly inspiring. The bill will allow the Royal Blind Society to better serve the people it represents and to increase even more the efficiency of the wonderful work that it does in the community. Many of us cannot understand what it would be like to lose our sight or to be born without sight. The wonderful work done by the Royal Blind Society through its formal activities and through its volunteers in raising awareness of issues affecting disabled people is truly inspiring. The objects of the bill are:

(a) to amend the *Royal Blind Society of New South Wales Act 1901* to provide that the members of the Society are to be limited to the current members of the council of the society and such other persons admitted to membership after applying to the council for membership, and

(b) to authorise the Society to apply to be registered as a public company limited by guarantee under the *Corporations Act 2001* of the Commonwealth.

I place my support for the society on the record. I am pleased that such an overwhelming number of the society's members support the bill, which I commend to the House.

Ms LINDA BURNEY (Canterbury) [8.57 p.m.]: As the honourable member for Willoughby has said, the Royal Blind Society (Corporate Conversion) Bill has two objects: first, to amend the Royal Blind Society of New South Wales Act 1901 to provide that the members of the Royal Blind Society are to be current members of the council of the society and also any other persons who apply for membership, and second, to authorise the Royal Blind Society to apply to be registered as a public company limited by guarantee under the Commonwealth Corporations Act 2001. The Royal Blind Society is constituted as a company under a New South Wales Act of Parliament. It is the major service provider in New South Wales and the Australian Capital Territory for children and adults who are blind or vision impaired.

There would be not one person in this State who would not be familiar with the Royal Blind Society of New South Wales. It is an old institution that attracts incredible respect, not only because of its longevity but because of the extraordinarily important work that it does across New South Wales and the Australian Capital Territory. The Royal Blind Society meets the needs of adults who require training and support to substitute for the loss of sight in relation to daily living skills. Many people in the community do not give a great deal of thought to those who face the challenge of not having any sight or who have only partial sight. They do not realise how much we take for granted the ordinary things that become a challenge for people who are sight impaired.

I refer to orientation, mobility, recreation and counselling. Daily tasks can be simplified following advice and training, with different approaches to household jobs such as using the telephone, preparing meals, personal care, shopping, handling money, reading and writing. The Royal Blind Society has done a wonderful job in breaking down prejudices, stereotypes and misunderstandings in the general community. Its present status as a body corporate under the New South Wales Act poses legal difficulties to its participation in the national body. Essentially, that is the motivation behind the bill. The Royal Blind Society called a special meeting of members to consider resolutions to convert it to a public company, limited by guarantee registered under the Corporations Act 2001 and to change its membership base. At that meeting members of the Royal Blind Society overwhelmingly supported the proposal.

I have been president and chief executive officer of an organisation that covered the State, and I understand the difficulties in bringing about substantial change. I take my hat off to the society for making its changes. A body corporate under a New South Wales Act can be registered as a company under the Corporations Act 2001 using the provisions of part 5B.1 of that Act. The bill sets out the process for the Royal Blind Society to convert to a company under the Corporations Act 2001. After this bill is enacted members of the Royal Blind Society will need to pass a resolution requiring that the Royal Blind Society be registered as a public company, limited by guarantee under the Corporations Act 2001 and approving a new constitution. I understand the time and effort that has gone into the reorganisation and the change to the constitution of the society. It has required enormous administrative work and energy from its members and staff. I am sure the society will endorse the new constitution and, once the resolution is passed, it can apply to the Australian Securities and Investments Commission to be registered as a public company limited by guarantee.

I conclude by making an important statement. The Royal Blind Society supports the bill, which has been worked through and developed in a co-operative and constructive manner. It held a special meeting on 7 July to consider the following resolution:

> That the Royal Blind Society of New South Wales proceeds to convert to a public company limited by guarantee registered under the Corporations Act 2001 (Cth) and that as part of that process, the membership base of the Royal Blind Society is changed but continues to be available to anyone on application.

The meeting had been previously advertised in the *Australian* and the *Daily Telegraph*, on Radio 2RPH and on the society's web site. An explanatory statement, draft constitution and issues paper were made available to members on request. Information was also mailed to approximately 9,000 active members and members who have requested that they be kept informed. That demonstrates the status of the society and the way in which it is viewed generally. Information was also sent to approximately 7,200 stakeholders—an enormous mail-out. At the general meeting 512 votes were cast, with 484, or 94.5 per cent, in favour of the proposal and 28, or 5.5 per cent, against it. I reiterate that the bill has been drafted in consultation and in close partnership with the Royal Blind Society. As the honourable member for Willoughby stated, members of the society are present in the gallery. I bid them well and congratulate the Royal Blind Society on being a true partner in what is a very sensible move, not only for the Government but also for the society. I commend the bill to the House.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [9.05 p.m.], in reply: I thank the honourable members representing the electorates of Epping, Strathfield, Willoughby and Canterbury for their contributions to the debate. It is obvious that all sides of Parliament firmly support the Royal Blind Society and the changes it proposes through the bill. It is not necessary for me to reiterate the essential purposes of the changes or the obvious fact that there is overwhelming support within the membership of the society for those changes.

I acknowledge the presence in the gallery of Graeme Innes, AM, President of the Royal Blind Society, and his guide dog, Jordana. I acknowledge also the presence of the Chief Executive Officer of the Royal Blind Society, John Landau, whose competence is known to me, not least because he had the misfortune about 20 years ago to work with me. Between those times he was nothing less than the Deputy Commissioner of Taxation. It is a measure of the seriousness with which the society is regarded and the competence with which it is managed that a person of John Landau's outstanding qualities should be its chief executive officer.

The changes permitted by the bill and the consequent actions of the society will increase the probability of the society being able to conclude arrangements for amalgamation with the Royal Victorian Institute for the Blind and the Vision Australia Foundation. Together, those three organisations will be a formidable charity and will provide services for people with vision impairment that are equal to those provided by its international counterparts. It is hoped that as time goes by organisations in other States might come under the umbrella of the society to make it completely national. In the meantime the new organisation will be one to be reckoned with in the international arena of providing assistance to those who are vision impaired. I know that the stature of the society and its capacity to raise funds are the envy of most other charities in Australia, and for very good reason. I am pleased to be able to introduce a bill that has the universal support of members of this House, and I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

DISTINGUISHED VISITORS

Mr ACTING-SPEAKER (Mr John Mills): I acknowledge the presence in the gallery of the Minister for Community Safety in the Western Cape province of South Africa, Mr Leonard Ramatlakane, and his wife, Mathabo. I acknowledge also the presence of members of his staff, Simion George and Omar Valli, together with the President of the Australia-Southern Africa Business Council of New South Wales, Mr Josh Abdurahman. We wish you a safe journey home, and trust that the co-operation between the Western Cape and other provinces of South Africa and New South Wales continues into the future.

BUSINESS OF THE HOUSE

Routine of Business: Suspension of Standing and Sessional Orders

Special Adjournment

Motion by Mr Carl Scully agreed to:

That:

(1) standing and sessional orders be suspended to provide at this sitting:

(a) until the rising of the House no divisions or quorums be called; and

(b) the House shall adjourn without motion at the conclusion of Government business.

(2) the House at its rising this day do adjourn until Wednesday 29 October 2003 at 10.00 a.m.

FUNERAL FUNDS AMENDMENT BILL

Second Reading

Debate resumed from 15 October.

Ms KATRINA HODGKINSON (Burrinjuck) [9.11 p.m.]: I state from the outset that the Opposition will not oppose the Funeral Funds Amendment Bill, which seeks to introduce measures designed to improve the prudential management of funeral funds in this State. The proposals contained in the bill are largely based on

recommendations borne out of the national competition policy [NCP] review of the Funeral Funds Act 1979. That review concluded that the funeral fund industry requires ongoing close prudential scrutiny. In addition, the bill contains a number of issues that involve refining the powers exercised by the Commissioner for Fair Trading. The Opposition consulted extensively with many key stakeholders to ascertain their views on the bill's contents. I take this opportunity to thank those stakeholders for their prompt responses.

The stakeholders contacted by the Opposition included the Funeral Industry Council, the Australian Funeral Directors Association, the Funeral Directors Association of New South Wales, the Combined Pensioners and Superannuants Association of New South Wales, the Australian Consumers Association, the Council on the Ageing of New South Wales, Norwich Union, the Australian Unity Friendly Society, W. T. Dennis and Son Funeral Directors from Yass, Lady Rose Funerals from Goulburn and R. J. Sydney Craig Funerals from Goulburn. The Funeral Funds Act 1979 aims to protect prepayments made by consumers for funeral services through the registration of funeral funds. These funds are either in the form of a contribution fund or a prearranged contract for a specific service.

Members of contribution funds make small regular contributions for as long as they remain in the fund, and these funds contribute towards the funeral service or provide a cash benefit towards the cost of the service. The funeral service is usually then carried out by a funeral director associated with a fund. As an alternative to making ongoing regular small payments, most consumers now choose to prepay for a funeral by making one lump-sum payment or several large instalments over a period of time, and in such cases consumers enter into a contract with the trustee for the provision of a specified service by a funeral director or undertaker. The provider of the service is then reimbursed from the fund where the consumer's money is being held.

There is no additional cost to the consumer for this service. These are known as prearranged or prepaid funds. It is understood that there are some 15 registered prearranged funeral funds that operate in an almost identical manner, holding contracts for approximately 50,000 consumers. Consumers choose to prepay for funerals in the full knowledge that the service is unlikely to be provided for many years. Decades can often pass between the time the consumer enters into a contract with a funeral fund and the contract's fulfilment. Since funeral directors remain the public face of the industry, consumers usually approach the director they expect to deliver the service to discuss the purchase of a prearranged funeral.

Clearly, there is a close link between funeral funds and the broader funeral industry. Funeral funds rely on consumers going to funeral directors to arrange prepayments, while funeral directors benefit from consumers participating in funeral funds as a way of securing market share and future business. It is estimated that the current value of prearranged funds in New South Wales is more than $160 million. At this point I thank the department for providing me with a briefing before the bill was introduced. There are a number of steps involved in the management of these prearranged funeral funds. In the first instance a consumer approaches a funeral director to arrange a prepaid funeral. The funeral director then discusses with the consumer the type of funeral he or she wishes to arrange and the cost associated with providing such a service.

Arising out of these deliberations, the consumer enters into a contract for the prearranged funeral of choice. At that time the funeral director may offer fund contracts from one or more funeral funds. The funeral director is required to send the money paid by the consumer to a funeral fund, which opens a friendly society account in the name of the consumer. The money is then held in that account until the consumer dies. Once the funeral director has carried out the funeral, and when the funeral fund has been provided with evidence of the consumer's death and the completion of the funeral, the money held in the friendly society account is remitted to the funeral director. The system in place provides a high level of security for consumer prepayments, with the risk associated with the investment of funds being borne entirely by the funeral director.

The consumer will be delivered with the funeral service, regardless of how the fund performs between the time of the original payment and when the service is delivered. Clearly, if the fund does not perform well and the amount in the friendly society account is insufficient to meet the expenses of the funeral service, the funeral director may make a loss in carrying out the funeral service. I was questioned about this point during my deliberations with the Opposition in relation to this bill. I am pleased that the Minister's office has been able to clarify that point. It is worth noting that the funeral director is prevented from bringing a claim against the consumer's estate to make up the difference.

The consumer is also protected if the funeral director goes out of business. The funeral director cannot access the consumer's prepayment. If one funeral director goes out of business the funeral fund might make arrangements with the consumer to transfer the responsibility for carrying out the funeral to another funeral

director, or to arrange for the refund of the funds. The Funeral Funds Act 1979 is intended to regulate the operation of funeral funds to give protection to consumers to use the funds. The legislation separates the operation of funeral funds from funeral directing services. The Act creates a licensing regime that prohibits entities from undertaking the activity of a funeral fund unless they are registered or have permission to operate without registration. The intention is to provide proper management, investment and accountability for the money received to protect the interests of consumers.

Although the Funeral Funds Act 1979 does not set out the objectives of the legislation, the provisions of the Act indicate that the intention of the legislation is to ensure the provision of agreed funeral services when required, achieve accountability for money paid by a buyer of funeral services which have an indefinite delivery date, and properly managed money paid for funeral services in the long term to provide agreed benefits to the buyer and the anticipated payment to the supplier of funeral services. Such provisions recognise the special nature of the funeral industry whereby a service or product is not delivered for many years after it is arranged and the original consumer is not able to monitor its delivery.

In relation to annual reporting, the time that can elapse between the taking out of a contract and delivering a funeral can stretch to several decades. While it is common practice to provide the customer with the relevant paperwork at the time of entering into the contract, in the past there has been no requirement to provide any further ongoing documentation. Over such a prolonged period it is more than likely that the relevant papers could easily have been mislaid, the fund concerned could easily have changed its trading name or it could have been taken over by a larger fund, as often happens. The Opposition recognises that this bill seeks to introduce annual reporting to members of contributory funds, which is a measure designed to reduce uncertainty for members and their families about the precise nature of an entitlement. It is argued that providing consumers with regular reports ensures that fund members are made aware of changes in fund management, even if it is only a change in the name of the fund, giving members greater opportunities to keep track of their entitlements.

It is recognised that the provision of annual statements will necessitate an additional cost that must be incurred by the industry, but the Opposition agrees that this is inevitable if consumers are to enjoy greater peace of mind regarding their entitlements. While the bill establishes the need for contributory funds to report annually to members, it also provides that the level of detail to be included in the report must be prescribed by regulation. The reporting provision has not been extended to prearranged funds since there is no scope for variation of the entitlement. In relation to registration and exemptions, the national competition policy [NCP] review of the Funeral Funds Act 1979 found that the various classes of exemptions permitted under the legislation created market inequalities by providing an advantage to those funds not subject to the prudential and regulatory requirements of the Act.

The review concluded that all funds should be subject to registration and recommended that previously exempted funds be required to seek registration under the Act, subject to appropriate transitional arrangements. While no funeral contribution fund has ever been registered under the Act, 14 funds have been exempted from registration. Twelve funds were established prior to the commencement of the legislation and have been provided with a special exemption. These funds deal exclusively with pre-1980 contributors and are prohibited from accepting new members. They were either unable to, or chose not to, meet the criteria required for registration but were allowed to continue provided they did not accept new members.

It has been suggested that the majority of the funds have provided funeral services for their members and have ceased operating. The Opposition recognises that no prearranged funds have received general exemptions, but 48 funds were exempted in 1982. Those funds were not permitted to accept any new business. Most of these funds are no longer operating; however there are a few funds with remaining contracts. It has been suggested that approximately 1,250 contracts remain with funds to the value of about $1.65 million. The bill contains transitional arrangements that will allow the Office of Fair Trading to consult with affected funds about the nature of their current arrangements with members, the number of contracts remaining and the amount of funds held.

Funds will be required to apply to the Office of Fair Trading for registration within six months of the commencement of the relevant legislative provisions. The office will have up to six months to work with the affected funds to determine whether full or conditional registration is appropriate. I note the assurance given by the Minister when introducing the bill that the Government will ensure that the removal of the exemption provisions from the Act does not have an adverse impact on the funeral funds industry. I note that the bill also seeks to introduce a cooling-off period for prepaid contracts. This measure is considered necessary in order to provide greater protection for those vulnerable elderly consumers and their grieving relatives who may find it difficult to avoid the temptation to buy a prepaid funeral service offered using high-pressure sales tactics.

While it is recognised that the overwhelming majority of persons engaged in the funeral industry operate in a highly ethical manner and with a suitable degree of sensitivity, it is disturbing to learn that the Office of Fair Trading has received at least one report of an agent soliciting business on behalf of funeral companies in a manner that many would consider inappropriate. The Opposition shares the view that the tactic of approaching relatives at a cemetery and seeking to sign them up for a prepaid funeral is well and truly worthy of condemnation. However, a cooling-off period should provide consumers with an opportunity to get out of a prepaid funeral contract if they feel they have been pressured into making a hasty decision. While it is not clear at this stage what constitutes an appropriate time limit for a cooling-off period, the Minister has indicated that this will be arrived at through consultation with the industry.

The NCP review identified certain legislative duplication between State and Federal Government regulatory regimes covering funeral funds. It has been suggested that the duplication of prudential reporting requirements upon funeral funds has created administrative difficulties, requiring different reporting times and different types of financial information. It is argued that the need to comply with these differing legislative requirements has only added to the funds' administration costs, without any apparent benefit to consumers. Since friendly societies operating funeral funds in this State are also subject to the regulatory regime supervised by the Australian Prudential Regulation Authority, the bill seeks to enable a fund that can demonstrate its compliance with other appropriate prudential regulation to be exempt from complying with certain parts of the prudential requirements of the Funeral Funds Act.

The bill also seeks to remove the restriction on the maximum number of fund directors permitted to manage a contributory funeral fund. Under the Act's current provisions, funeral contribution funds may have no more than seven and no fewer than three directors. Although submissions to the NCP review suggested that the existing restrictions on company management structure did not impact upon fund operation, it is not apparent what benefit is derived from prescribing different company structures from those provided for under the Corporations Law. It has been suggested that removing the restriction and enabling a greater number of directors to become involved in the management of a contributory fund may serve to further enhance fund accountability and stability.

In relation to the limits on funds, one of the registration requirements for contributory funeral funds is that a fund may not pay a benefit of more than $20,000 upon the death of a consumer. This limit on benefits may necessitate some consumers to transact with more than one fund if they seek to obtain prepaid funeral services with a value in excess of $20,000 through a contribution fund. It is not apparent that consumers need to be protected from paying larger amounts into a contributory fund. The bill therefore seeks to remove the cap on the maximum level of benefit that can be made to a consumer under a contributory fund.

The Act provides that pre-arranged funds must open and maintain deposit accounts with a New South Wales bank, building society or credit union to deposit money received under a prearranged contract. These accounts are intended to act as holding accounts between receipt and investment of funds. It has been suggested that this is an outdated provision that can lead to a double handling of funds and creates unnecessary costs for industry. The bill therefore proposes to remove the requirement for funds to open and maintain deposit accounts based in New South Wales and seeks to replace it with one stipulating that the account be with an authorised deposit-taking institution.

The Act provides a maximum level that a fund may pay itself for management expenses. Currently this is set at 2 per cent of accrued income on investments. The size of the management fee in relation to a prearranged funeral fund is of little relevance to consumers given that they will have the funeral delivered regardless of the performance of the moneys collected by the fund. Since most benefits offered to contributory fund members are fixed according to the length of time they have participated in the fund, their age at death or a proportional discount on a funeral service, they would also not be affected by the level of the fee. The NCP review concluded that the 2 per cent limit did not appear to be effective in controlling fund costs.

The bill seeks to remove the cap on management expenses that both prearranged and contributory funds are permitted to pay themselves as fund managers, as it is considered that other provisions relating to the disclosure of benefits and charges afford greater consumer protection. The requirement to include the words "Funeral Contribution Fund" in the company name is one of the current entry requirements for funeral contribution funds. The NCP review considered this provision to be outdated, especially in light of the fact that no naming restrictions are applied to prearranged funds. The review concluded that the requirement that certain words be included in the company name amounted to an unjustifiable restriction on trade and therefore recommended this provision be repealed. This is just commonsense to the Opposition.

In relation to character and reputation requirements, the Act provides that the Commissioner for Fair Trading shall refuse the registration of a prearranged funeral fund if the applicants are not fit to be registered having regard to matters of character and reputation. This enables the commissioner to refuse an application for registration if the potential exists for the applicant to have an undesirable impact on the industry or on consumers based on having a known poor record in relation to business failures or consumer complaints. The bill seeks to extend the provision to include contributory funds, thereby ensuring that disreputable individuals will be excluded from participating in the management of both types of funeral funds.

In relation to the transfer and amalgamation of funds, the Act currently provides that the approval of the Commissioner for Fair Trading must be sought whenever funds propose to amalgamate with, or transfer to, another business. This provides an opportunity to scrutinise any proposed transfers and amalgamations to ensure that funds will be administered carefully. The bill seeks to prescribe set guidelines for the approval of transfers and amalgamations of funds. Since the registration requirements of the legislation are of central importance to the objective of providing consumer protection and fund stability, it is argued that the intention of the legislation would be undermined if funds could be transferred or amalgamated without scrutiny. Given the inevitable changes that take place from time to time with fund management, it is important to ensure that new managers are capable of meeting the standards set by the legislation. The provisions in the bill are designed to enable guidelines to be set to assist the commissioner in making determinations on a scheme of transfer or amalgamation.

The Funeral Funds Amendment Bill seeks to extend some of the grounds for cancellation of prearranged funds to contributory funds. While the grounds on which prearranged funds may currently be cancelled are clearly stipulated, there are very limited grounds for cancellation of contributory funds. The bill therefore seeks to introduce similar cancellation grounds for both types of funds in addition to removing the requirement for a funeral contribution fund to carry on no other business and replace it with the restriction that currently applies to prearranged funds.

The different restrictions on the type of business to be carried on by contributory and prepaid funds limits the ability of contributory funds to diversify and cater for other types of financial products or business. Whereas the prearranged funds are only restricted from running a funeral fund as part of a funeral director business, contributory funds on the other hand are not entitled to carry on any other business. The bill seeks to apply the same restrictions for both prearranged and contributory funds. The Opposition does not have any concerns about that.

The bill also seeks to enable the commissioner to take action against a fund if the directors or trustees of the company change and they are deemed to be of questionable character or reputation. While the commissioner has the ability to refuse an application for registration based on character and reputation or to not approve the transfer of ownership or amalgamation of funds, there is no mechanism available to prevent persons of questionable character becoming involved in the management of a fund if a change in personnel occurs at the company. The bill seeks to enable the commissioner to request the fund to show cause why the fund's registration should not be cancelled if such a person became involved with the fund's management.

The bill seeks to introduce a provision that will make it an offence to lodge any documents with the commissioner that contain false and misleading statements or that omit information that would make such material misleading in content. The bill also seeks to extend the requirement for actuarial assessment to prearranged funds. At present, both types of funds must provide audited annual reports to the commissioner whilst contributory funds must undergo actuarial assessment every three years. The national competition policy review concluded that actuarial assessment enhanced fund accountability and recommended that both funds should be subject to this requirement. The bill proposes to make some changes to the administration of actuarial reporting requirements to include the introduction of a provision enabling the commissioner to request the entire actuarial report prepared in relation to a fund, should it be deemed necessary.

The bill seeks to enable the engagement of independent actuaries to assist in assessing the actuarial reports submitted by funds. The commissioner would be able to give such directions to the fund as considered necessary if a deficiency is detected in the assets of a fund. The bill also seeks to give the commissioner the discretion to waive the requirement for actuarial assessment for both types of funds. As the Minister indicated when she introduced the bill, a number of matters that arise from the bill will be dealt with in the regulation. The Opposition has been informed that they relate to requirements for prearranged contracts. The Government has indicated that it intends engaging in an appropriate level of consultation with consumers, industry bodies and the funeral funds themselves prior to any new requirements being introduced through regulation in these areas.

Some eyebrows have already been raised about the amount of detail that is to be dealt with by way of regulation. The Opposition, together with the many industry stakeholders, will await with interest their further development and implementation.

As I indicated earlier, the Opposition does not intend to oppose the bill. Consultation with industry groups has revealed no major areas of concern, with changes provided in the legislation being either welcomed or considered to be non-controversial. In general the changes will increase consumer protection and remove some reporting burdens on industry. While the Combined Pensioners and Superannuants Association of New South Wales has endorsed the bill, it has argued that it would like to see the introduction of further measures affording greater protection to consumers. I refer to a letter from the Combined Pensioners and Superannuants Association of New South Wales Inc. dated 21 October, which was sent to me as part of the consultation process. The association states:

> On the whole CPSA is pleased with the changes that have been proposed in the funeral funds Amendment Bill 2003 and we endorse many of them. Our concerns, however, remain in the view that certain important provisions have been overlooked or not considered with due respect.

The association goes on to make a series of recommendations, which are:

> Recommendation 1: That The Legislation Provides Complete Consumer Protection
>
> CPSA remains concerned that neither the current legislation nor the proposed reforms completely protect the consumer. We acknowledge that increased close prudential scrutiny of the funeral fund industry will afford greater consumer protection than previously afforded under the Act and we also endorse the change of name for "prearranged" to " pre-paid".
>
> CPSA believes, however, that ultimate consumer protection lies in the details of funeral fund contracts being lodged with the Office of Fair Trading for safekeeping. Operating in a similar way to the Wills Register by the NSW Registry of Births Deaths and Marriages, the Funeral Fund Register would include the name of the trustee company, the funeral director who has been commissioned to perform the service (if any), the amount invested and a detailed description of what has been paid for (as per their contract).
>
> We understand that administration costs make this an unfavourable option at this time but would still hope to see it on the agenda for all future discussions.
>
> **Recommendation 2: That funeral funds are portable in specified circumstances**
>
> CPSA believes that in extreme circumstances, such as death occurring away from home, a consumer's funeral fund should be transferable. The person's family should have the right to transfer the funds to a local funeral director without any additional costs being borne should they choose to do so.
>
> Furthermore, in the instance that a person changes their religion and their funeral plan is not able to be changed in accordance, they should have the right to cancel that funeral plan and take out another one through a funeral director who is able to provide the desired service. For example, a person who has pre-paid a Christian service but becomes Muslim should be entitled to change their plan to meet the needs of their new religion.
>
> CPSA understands that provisions have been made in the Funeral Funds Amendment Bill 2003 (Schedule 1 [52]) for these changes to occur at a later date, but we cannot urge strongly enough the importance of portability for the ultimate protection of the consumer.

As to "Recommendation 3: That the government enforce the provision of "no frills" funeral plans" the association states in part:

> Currently, funeral plans start at around $5000 but a "no frills" funeral plan would cost no more than $2500 for cremation and $3000 for burial. The "no frills" funeral would be a simple but dignified service without expensive extras. There would be a choice of budget coffins and caskets, including the cardboard option.

As to "Recommendation 4: That funeral fund contracts be accessible in language and style" the association states in part:

> CPSA believes funeral fund contracts should be prepared by the Office of Fair Trading to ensure they are produced as a standard form. They should be written in plain English, using a size 14 font so that all consumers can easily read the details.

As to "Recommendation 5: That the refund provisions be retained and extended" the association states in part:

> CPSA is pleased to see the addition of Section 49J into Schedule 1 [36]. This section introduces the cooling-off period …

They are some of the recommendations of the Combined Pensioners and Superannuants Association of New South Wales Inc. I also received written responses from the Council on the Ageing (New South Wales), Noel

Woff, manager of Funeral Plan Management, and others. The Opposition does not oppose the bill. I thank the House for the opportunity to speak to this bill.

Ms ANGELA D'AMORE (Drummoyne) [9.37 p.m.]: When somebody close to you dies the initial shock can be overwhelming. Even if the death was anticipated it can still be hard to believe that it has actually happened. To then have to make important decisions about funeral arrangements in a relatively short space of time, while trying to cope with grief, can be a traumatic experience. Shopping around for a good funeral director at such a time is probably the last thing on people's minds. Being determined to do the best they can for their recently departed loved ones, people often arrange a funeral at tremendous expense, which they cannot afford. They do it out of a sense of duty and honour to their loved one, and they may even be prepared to commit themselves to payments that their financial commitments do not warrant.

Many consumers choose to enter into prepaid funeral funds because it allows them to make decisions about how they would like their funeral carried out, such as whether they wish to be buried or cremated, the type of coffin to be used and the sorts of flowers they prefer. These decisions are made in collaboration with their chosen funeral director and they then pay for their selected funeral by way of a lump sum or by large instalments. These sorts of arrangements might appeal to people who have strong views on how they would like their funeral carried out or who may wish to relieve their family and loved ones of the task of making such decisions and from having to cover the cost of the funeral. It also gives consumers time to shop around for a competitive price and to find a funeral director that they are happy with to carry out their service.

Another advantage of purchasing a prepaid funeral is that the consumer pays for the funeral at today's prices. No matter when the service may be delivered in the future and no matter how much the cost of a funeral has risen in that time, no more can be charged to carry out the chosen service—unless, of course, family or loved ones wish to make enhancements to the service at their own cost. Under the funeral funds legislation, the money that is paid ahead of time by the consumer is not kept by the funeral director. Instead, it is invested with a financial institution, such as a friendly society or insurance company, that is registered by the Office of Fair Trading to operate as a funeral fund in New South Wales. After the person's death, and after demonstrating that the funeral service has been performed, the fund then releases the money to the funeral director.

The Funeral Funds Amendment Bill makes some important reforms to the way these funds are managed under the legislation and will further strengthen the provisions protecting prepayments made by consumers in advance for funeral services. While death is not something we like to think or talk about, this Government also feels that it is important for the community to look at funerals in a different light and to understand the business of a funeral before one is required. Knowledge is power for a consumer and knowing what to do and what to expect when someone close to us dies can help make such a traumatic event less so. Consumers should also be mindful of making inquiries in advance of any financial commitment to a prepaid funeral product because they may already be entitled to some form of funeral benefit through their private health insurance or an income protection or superannuation policy.

The bill also includes provisions to introduce a cooling-off period, which will be set following consultation with the industry. It also provides for prepaid funeral contracts to protect consumers from potentially high-pressure sales tactics. It introduces annual reporting to members of contributory funds to ensure consumers are aware of how their funds are being managed and prescribes a set of information, such as terms of cancellation and aspects of the funeral service not covered by the contract, to be provided to the consumer before entering into a prepaid funeral contract. It removes the current cap on the maximum level of benefit permitted—currently $20,000—to be paid by a consumer into a contributory fund.

This will enable a consumer to contribute more into their fund if they wish. It also removes the exemption provisions in the Act and introduces transitional arrangements for affected funds. It removes the requirement for prudential reporting for funds that are already subject to adequate prudential supervision at the Commonwealth level and the restriction on the maximum number of fund directors permitted to manage a contributory funeral fund, which will enhance accountability to consumers. It extends the existing requirement for actuarial assessment for contributory funds to prepaid funds. In the interests of all consumers who elect to make prepaid funeral arrangements ahead of time, this bill deserves to be supported. I commend the bill to the House.

Ms MARIE ANDREWS (Peats) [9.43 p.m.]: I congratulate the Minister on introducing this bill. Its objectives will benefit consumers throughout the State. It is particularly relevant for many of my constituents. It was once said that there are only two things that one can ever be certain of in this life: death and taxes. Like it or

not, death will befall all of us at some time or another. However, according to anthropologists, humans worldwide are alike in their instinctive aversion to death and are therefore inclined to look sceptically at people who work in the funeral industry and who make a profit from death. However, when a death of a loved one occurs, most of us prefer to rely on a funeral director to guide us through the difficult process, rather than organise the funeral ourselves. As such, funeral directors provide a very valuable service to the community, a fact that is often overlooked by the media in its commentaries on the funeral industry.

While most people look to a funeral director to help them make decisions about funeral arrangements after the death of their loved one, funeral directors can also provide assistance to people who choose to plan ahead for their funerals. We plan ahead for many things in life, such as our retirement, through making contributions to superannuation. We also make plans to protect ourselves against possible eventualities in life such as ill health by taking out private health insurance or income protection policies. Making decisions about and prepaying for our own funeral is simply another area of life that we can choose to plan and cater for ahead of time to relieve our loved ones of what can be an emotional and financial burden. This does not have to be a depressing or unpleasant experience. Planning for a funeral should be considered a sensible and practical thing to do, just like making a will.

For consumers who take the time to visit a funeral director to specify how they would like their funeral carried out, it is important that they feel confident that the money that they have paid for this service is secure and will be available whenever they or their families might need it. The Funeral Funds Act 1979 was originally introduced by the then Labor Government to give consumers that certainty. The bill before the House will simply strengthen the legislative provisions that protect prepayments made by consumers for funeral services. I am also pleased that the bill will potentially require a prepaid fund to provide certain information to consumers before they enter into a prepaid contract.

This will effectively operate as a mandatory disclosure requirement to consumers and may, for example, require a statement or brochure to be provided and explained to consumers detailing in plain English the rights and obligations of each of the parties to the prepaid contract. This provision complements other reforms proposed in the bill that aim to ensure that consumers better understand their entitlements and obligations under the contract, such as the terms of cancellation, payment obligations and aspects of the service not covered by the contract. Notwithstanding these new provisions, if consumers find themselves locked into contracts that they may not have fully understood at the time, the bill also provides for a cooling-off period that will allow them to go away and perhaps seek independent advice, and then to get out of the contract if it is not suitable.

The Minister in a recent media release cited an example of a returned Second World War serviceman who joined a prepaid funeral plan. The ex-serviceman, who was a constituent of mine, unfortunately passed away on 15 June 2003. He joined the funeral fund because he did not want to be a burden to his family. When he died, his daughter contacted the funeral fund to arrange her father's funeral. To her dismay, she was informed that because her father had missed his last payment, the fund would not pay out his funeral benefits. The daughter informed the funeral fund the unfortunate circumstances surrounding her father's death and provided a letter from the hospital at which he had been treated for a lengthy period until his discharge and transfer to a nursing home in May.

A statutory declaration was also provided to the fund. The daughter then contacted my office seeking my assistance in the matter. Representations were made on her behalf to the Minister for Fair Trading, the Hon. Reba Meagher. The Minister asked the Office of Fair Trading to examine the matter, and as a result the funeral fund subsequently agreed that a benefit of $3,000 would be paid to my late constituent's daughter to cover the cost of her father's funeral. This bill will prevent such a situation happening to anyone else. It is designed to ensure that consumers and their families are fully informed about the terms and conditions of the funeral fund contract. These are important consumer protection provisions that deserve the support of honourable members. I commend the bill to the House.

Ms VIRGINIA JUDGE (Strathfield) [9.49 p.m.]: I support the Funeral Funds Amendment Bill 2003, which introduces reforms to strengthen the prudential management of funeral funds in New South Wales and to enhance protection for consumers who deal with these funds. No-one likes to think of their death, or indeed the death of a loved one. However, funeral costs can, and indeed often do, run into many thousands of dollars. It is often a sensitive but wise decision to make funeral arrangements in advance to reduce financial and emotional distress on families. The population of my electorate of Strathfield is about 78,000 people, and the last census revealed that 11,113, or 14.19 per cent, are older than 65. The Strathfield local government area has a vibrant

and active older population that contributes a great deal to the community. This legislation offers protection to consumers, many of whom are elderly, from unscrupulous operators. At least 80 funeral funds are operating in New South Wales and they hold more than $160 million in trust.

There are two types of funeral funds: contributory funds, which enable consumers to make a set contribution over a period of time, and prepaid funds, which accept full payment for funeral arrangements in either one payment or several large instalments. Consumers who make arrangements for their own funeral need to be confident that these prepayments are secure and that arrangements will occur as they had planned. While the majority of the funeral industry operates in an ethical and sensitive manner, over the years there have been some disturbing reports of people being pressured to sign up to prepaid funeral contracts when they may be particularly vulnerable, such as while attending the funerals of relatives or friends. It is absolutely disgraceful that this occurs at a time when people are distressed, lonely and in sorrow. In these situations people may be more susceptible to suggestions that making arrangements for their funeral and paying for it ahead of time could save their loved ones from what they are going through.

To protect people who want to make a prudent financial decision, the bill introduces a cooling-off period for prepaid contracts, which will provide vulnerable consumers greater protection from potentially high-pressure sales tactics. The cooling-off period will give consumers an opportunity to withdraw from a contract within a certain period if they change their mind completely and no longer want to prepay for their funeral service, or they simply decide that they really do not need a lavish, expensive funeral and want to change it to a more basic funeral. The duration of the cooling-off period will be established in close consultation with the industry.

To ensure that consumers are fully aware of the terms of the agreement they are entering into, the bill provides for information to be prescribed that must be provided to the consumer before entering into a prepaid funeral contract. Potentially this will enable the Government to require consumers to be given a plain English statement about their rights and obligations under the prepaid arrangements before signing the contract. The bill also provides for information to be prescribed which must be included in the prepaid contracts themselves, such as terms of cancellation and aspects of the funeral service that may not be covered by the arrangement.

The bill addresses problems that consumers have encountered with contributory funds. Contributory funds usually require small payments to be made on a regular basis until a person's death—for example, as little as $12 a year or a few dollars a month. Payments contribute towards a funeral service or provide a cash benefit towards the cost of the service. The Office of Fair Trading has received advice that suggests that members may contribute regularly all their lives, only for their families to discover that their entitlement may be as little as a few hundred dollars or a small "discount" on a funeral. I believe that it is also not uncommon for only one set of paperwork to be provided to the consumer at the commencement of the contract. It is possible that more than 50 years will lapse between the time the contract is entered into and the time it is delivered.

The bill proposes to introduce annual reporting to members of contributory funds, to ensure that consumers are aware of how their funds are being managed. Regular reporting in the form of an annual statement will ensure that consumers are kept up to date regarding any changes to their funds, and make it easier for members to contact the fund with any questions about their entitlement. It may also remind them of their entitlement under the contract, and their rights and obligations regarding that entitlement, such as the consequences of missing a payment. I am pleased to support the bill, which demonstrates that the progressive Carr Government will not tolerate individuals taking advantage of vulnerable consumers in times of sorrow. The bill will give consumers, and their families and loved ones the protection they deserve, and I commend it to the House.

Mr DARYL MAGUIRE (Wagga Wagga) [9.54 p.m.]: Dealing with death is one of the subjects that most human beings are reluctant to face, but obviously death comes to us all. It is therefore prudent that people are encouraged to plan for the inevitable future with contributions to funeral funds. The shadow Minister, the honourable member for Burrinjuck, competently highlighted the amendments proposed by the bill, but I seek the Minister's clarification on one matter. Schedule 1 [19] inserts new section 21,which provides:

> **Management expenses in administration of funeral contribution funds**
>
> A funeral contribution fund is entitled to receive a commission for its services in acting as trustee of contributions received by it from or on behalf of a contributor.

I note that the bill will remove the cap on management expenses paid for prearranged contributory funds, which are currently 2 per cent of accrued income on investments, to encourage competition. I note also that the Commissioner for Fair Trading will continue to be able to direct a fund to reduce its management expenses or improve benefits to the consumer. I ask the Minister to explain in her reply the terminology used in the bill. I understand that an administration fee is an annual fee for managing a fund and that the fee is currently capped at 2 per cent.

If the administration fee is removed, how will a consumer know what annual administration fee he or she will be charged, and will the fee be specified in the regulations or the contract? Does the reference to "administration" in proposed new section 21 refer to an annual administration fee or a commission paid for the sale of the contribution? I assume that when the contract is entered into, the funeral director or agent who draws up the contract would be entitled to a commission. Proposed new section 21 is confusing, in that it refers to "commission" instead of "administration fee". I ask the Minister to clarify whether commission will be paid upon the contract being entered into, and in which document that commission will be specified.

Ms LINDA BURNEY (Canterbury) [9.58 p.m.]: Other speakers in the debate have addressed many of the matters I intended to raise, so I will not reiterate them. The principal objects of the bill are to provide protection for people who have contributed to funeral funds, and to ensure accountability on the part of individuals and organisations that establish funeral funds. As other members have said, there are some things in life people can be sure of: they will be born, they will be taxed, and they will die. Something else they can be sure of in life is that they will experience change, and those who are left behind when a loved one, a work colleague or a friend passes away do experience change. This legislation deals with a considerable amount of money. Indeed, it is estimated that $160 million is invested in funeral funds.

I wanted to speak on this bill because it invoked memories for me of when I was a small child. I grew up in a household that was, like the households of many members of this Chamber, very poor. I remember clearly the important discussions and the absolute adherence by the adults in the household to the idea of contributing to funeral funds. That is an important point to remember because many people who know they cannot afford to pay for a funeral, or would not want to put the burden of paying for a funeral onto their family once they pass on, are often motivated to contribute to funeral funds. I am sure that all of us have been involved not only in losing a friend or a loved one but also in the challenging experience of organising a funeral. I had that experience earlier this year with a close relative, my stepfather. It is a shock to realise how expensive it is to put someone to rest. A family or a community would be lucky to not expend something like $5,000 to $6,000 at a minimum to put a loved one to rest.

As other speakers have said, that enormous burden often comes at a time of great stress. As the honourable members for Strathfield and the honourable member for Burrinjuck have both said, to try to think about putting that sort of money together at a time of great grief is impossible for some families and for some communities. Therefore, the idea of a contributory funeral fund is a great comfort to many families and individuals. The Minister is to be commended for putting in place measures to make funeral funds accountable to their members, which has not been the case in the past.

I refer briefly to an earlier experience of my own. In a previous life I had cause to be involved in discussions about the probity of an outfit called the Aboriginal Community Benefit Fund Pty Ltd [ACBF], which operates out of Queensland. As far as I am concerned that group epitomises everything that is bad about the way in which some funeral funds have operated in the past. Under the Funeral Funds Act funeral funds in New South Wales are required to be registered. The main objective of the Act is to protect consumers' prepayments for funeral services. In 1994 under the Coalition Government the ACBF was granted an exemption from registration under the Act after it agreed to post a $50,000 bank guarantee to give voluntary undertakings to comply with the more important provisions of the Act. I am pleased to say that the Government is closely monitoring the ACBF.

That is an example of why this bill is important to protect the members who have contributed to funeral funds. Other speakers have outlined other examples in great detail and I will not repeat them. The bill is also important to make these funds accountable to their members. The ACBF has been around for a long time. Its activities have been monitored, but I will describe some of the practices of this fund to get indigenous families and communities to sign up. In the Koori community, as we all know, there is a shamefully high early death rate. Unfortunately, there is also a great deal of illiteracy amongst the community and many of these families and communities are not experienced in dealing with bureaucracy, let alone a slick organisation that is basically, in my view, out to rip off these families.

I believe that not only have the consumer rights of the people who have been touched by this benefit fund been abused but, to some degree, their moral rights have also been abused. This organisation has called on Aboriginal people at their homes, without invitation, and pressured them to become members of the fund. It has displayed the Aboriginal flag on its promotional material—it has now been removed—and the Aboriginal colours. From the way its agents spoke, clients incorrectly believed that the ACBF was an Aboriginal organisation managed by Aboriginal people. Agents quickly rushed through applications without allowing time for proper understanding by clients, and there was no explanation to the people involved about cancellation conditions and penalties.

I do not want to go into any more detail. I believe that people will understand from what I have said that this organisation is a perfect example of why the bill is so important. Most of the other points I intended to make have been covered by other speakers. I congratulate the Minister on introducing the bill. It may seem fairly straightforward, and I suppose in some ways it is. However, as other speakers have said, arranging a funeral is something that touches families and affects all of us at times of great stress and grief. If there is any protection or accountability that we can provide to those who are grieving and to those who administer these funds, it is important that we do so. I commend the bill to the House.

Ms MARIANNE SALIBA (Illawarra) [10.07 p.m.]: I support the bill, which makes some key refinements to the Funeral Funds Act 1979. I am particularly pleased that the bill introduces a cooling-off period for all new prepaid contracts. That will provide greater protection for vulnerable consumers, particularly the elderly, if they find themselves the subject of high-pressure sales tactics to buy a prepaid funeral when they cannot afford it or if they have not understood what they were signing up for.

It is not uncommon for consumers to be approached about purchasing a prepaid funeral when they are arranging a funeral service for a loved one, or shortly thereafter. In those situations, they may be more susceptible to suggestions that making arrangements for their funeral and paying for it ahead of time could save their loved ones from what they are going through, from having to make decisions about funeral arrangements and from having to come up with a large sum of money at a difficult time. While these are all valid arguments for entering into a prepaid arrangement, those who have just lost a loved one and are grieving, will not be in the same frame of mind as they might be under ordinary circumstances and, hence, may be more susceptible to parting with a large sum of money.

There may also be a practice employed by some in the industry of approaching people at the cemetery when they are visiting the grave of their loved one on special days of the year, such as Mother's Day, to discuss the option of purchasing a prepaid funeral. The Government does not begrudge people making a living and it is acknowledged that the funeral industry is a business like any other. It is also probably fair to say that the majority of those in the funeral industry operate in a responsible and compassionate manner. However, the Government will not tolerate rogue operators taking advantage of vulnerable or grieving consumers to get the sale at any cost.

The cooling-off period will, therefore, give consumers who find themselves locked into contracts which they may not have fully understood or which may have been signed when they were in a vulnerable state the chance to further consider their decision and to seek independent advice. They will then have the option of getting out of the contract within a certain period if that is their wish. The cooling-off period will complement the existing provisions in the legislation that allow for cancellation of a prepaid contract and refund of money to a consumer in certain circumstances, such as when a funeral director has gone out of business or if the estate has arranged for another funeral director to conduct the service because it was not aware that the prepaid arrangement existed. It also fits well with the current requirement that protects grieving families from being charged more, and from high-pressure sales tactics to purchase a more elaborate service than has already been paid for under a prepaid contract.

A cooling-off period is already available to consumers who enter into certain prepaid funeral contracts with friendly societies. It is understood that consumers who purchase prepaid funeral arrangements through salesmen who may come to their home are already covered by a cooling-off period under the Door-to-Door Sales Act, which is soon to be incorporated into the Fair Trading Act. That would apply also to situations in which a person's primary residence is a retirement village. This provision will, therefore, simply extend the right to a cooling-off period to contracts offered by all prepaid funeral funds and will ensure that it applies in all circumstances in which they might be sold to consumers.

The cooling-off provision for prepaid funeral funds will also be consistent with similar provisions for various other transactions covered by fair trading laws, such as those involving motor vehicle dealers, real estate

and moveable dwellings. It is not intended to make the cooling-off period retrospective, and it will apply only to new prepaid contracts. The Government is also committed to consulting further with industry about an appropriate period for the cooling-off provision and the provision will not come into effect until that has occurred. The bill is a positive move by the Carr Government to address issues that are in need of reform in relation to funeral funds. I have dealt with a number of constituents who have had problems with funeral funds. This bill will strengthen the controls that are in place to protect money paid by consumers in good faith for prepaid funerals and will enhance the existing consumer protection provisions in the legislation. I commend the Minister for introducing the bill and I encourage all members of the House to support it.

Mr WAYNE MERTON (Baulkham Hills) [10.12 p.m.]: The funeral industry in New South Wales is a substantial and important business that will affect everyone at some time. The Funeral Funds Amendment Bill makes certain refinements to the Funeral Funds Act 1979, which regulates the operation of funeral contribution funds, in relation to which a member makes regular payments to contribute to the cost of a funeral service or provides a cash benefit towards the cost of the service, and prepaid funeral funds, in relation to which the consumer enters into a prepaid contract for a specific service. The Act aims to protect prepayments made by consumers for funeral services through the registration of funeral funds.

The object of the bill is to make certain changes to the Act, and the Opposition supports those changes. Prepayments held by the funeral industry in New South Wales amount to approximately $160 million, which is a substantial sum of money. Many people have friends and families who have been faced with the tragic and sudden death of loved ones, only to find that an agreement entered into some time earlier is completely inadequate. There may have been a misunderstanding by the person who paid in advance for the service many years ago or the amount of instalments may not cover the cost of the funeral at the time it is required. The Government must carefully consider all those matters. I am pleased to note that the bill deals with funeral contribution funds and prearranged funds. Prepaid funds allow for many of the expenses to be met and arrangements to be made in advance, with the consumer paying for the cost of a funeral service by way of a lump sum or instalments.

With a prearranged fund, the consumer pays for the service at the current price and, in return, is guaranteed delivery of that funeral service, whenever it may be needed, at no extra cost. With a contributory scheme, small payments are made on a regular basis until the death of the contributor. The funeral service may or may not be carried out by a funeral director associated with the fund. It is the elderly in particular and those on limited incomes who make small instalments and who are lulled into a false sense of security. They believe the funeral service is fully paid for when, in fact, only part-payment had been made. Consumers must completely understand their rights in that regard. In many cases funerals pose considerable hardship to families. Many cannot afford the expenses associated with funerals while others are forced into debt to pay for the funeral service of loved ones. It is essential that certain rules are set out with respect to the funeral industry, particularly the funding of funerals by those who pay a lump sum in advance, a prepaid funeral, or those who pay a number of instalments for a funeral to be held at a future time.

The bill introduces a cooling-off period that allows those who have entered into an agreement to seek advice from an accountant, solicitor or bank manager on whether to rescind or terminate an agreement because it does not suit their purposes. Alternatively, they may have been induced to sign the agreement by strong and aggressive salesmen. The majority of those associated with the funeral industry are honest and reputable. However, it is inevitable in any network of sales organisations that some are a little overzealous, aggressive and may use sales tactics that can cause hardship and duress to people trying to plan a funeral.

From my experience as a solicitor, most of these cases involve the elderly. They may sign up for a funeral service, but when their son and daughter look at the agreement, they realise it is merely a down payment and the funeral will not be paid off for another 20 or 30 years. The chances are minimal that people in their seventies will be able to pay off a funeral. They would find that they paid money and at the end of the day the service is not available when it is needed. A cooling-off period will enable them to terminate the agreement.

I keep emphasising the need for complete and simple disclosure to people in terms of a cooling-off period. Many elderly people become secretive, tight-lipped and close-chested about their business dealings and, in particular, sensitive matters such as funerals. Indeed, many elderly people enter into an agreement and do not tell members of their family. In some cases the cooling-off period has expired and, although people have made, or continue to make, tremendous sacrifices out of their pension, at the end of the day their family is left with a debt. If there are no other assets the family must pay for the funeral. In some cases that is not a problem, but when people have limited income and assets it becomes a difficult situation for them to face.

In the meantime the person who has passed on was making sacrifices to meet these payments and the benefits that accrued have been largely inadequate. I suggest—and I say this quite fairly—that that situation probably applies in a minority of cases. However, as legislators we have a responsibility to cover those contingencies. It becomes a matter of complete disclosure, and I am pleased to note that people will have the benefit of a cooling-off period. I suggest to the Minister that the regulations should ensure that people obtain independent advice. People should be encouraged to get independent advice, when they are entering into contractual arrangements, whether it be a mortgage to the bank, the purchase of property or other matters for which the law requires them to do so. I do not see any avenue in the bill's provisions for encouraging people to seek independent advice. However, the Opposition regards the bill as a step in the right direction.

I do not propose to canvass all the provisions of the Act. The shadow Minister, the honourable member for Burrinjuck, has done that thoroughly, comprehensively and competently. The issues I have raised concern ordinary Australians, the battlers. Many of them have worked for the country for many years—some of them have been to war, and some have just given their all for the Australian lifestyle as we understand it. However, at the end of the day they have left their family a legacy in the form of a financial obligation in terms of their funeral costs, which was not their intention. These people firmly believed that they had entered into an arrangement to overcome that dilemma and stress at the time of their demise.

I reiterate that the majority of those involved in the funeral industry are of extremely high repute. However, we must make allowances not only for the few who are overzealous and who may be a little aggressive on sales but also, and just as importantly, for the misunderstanding that can arise between people and those in the funeral industry they are dealing with. So the bill is good legislation. Cooling-off periods must be encouraged, but a complete disclosure document is essentially what is needed. Contracts must clearly set out the benefits, particularly for those who are paying by instalments, so that they know exactly what their benefits will be or what the obligations of their family will be upon their demise. A prearranged fund is important, provided it conclusively states that the cost of the funeral will be covered at the time it is needed, irrespective of how much might have been paid originally. In that case a fund will be adequate. However, I believe the documents cannot spell out clearly and simply enough what benefits would flow from the agreements relating to the funeral funds that these people have entered into.

Ms REBA MEAGHER (Cabramatta—Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [10.25 p.m.], in reply: The Funeral Funds Amendment Bill introduces certain reforms to strengthen the prudential regulation of funeral funds. The object of the bill is twofold: first, to enhance consumer protection; and, second, to streamline the regulation of funds by removing impediments to their competitiveness. I thank honourable members for their contributions to the debate. I acknowledge the concerns of the Combined Pensioners and Superannuants Association, which were brought to the attention of honourable members by the honourable member for Burrinjuck. I assure honourable members that the views and concerns of the association have been taken into account and will continue to be given great weight in the drafting of the regulations.

Officers from the Office of Fair Trading have consulted widely to date, and I will ensure that they continue to do so. The honourable member for Wagga Wagga raised a question relating to new section 21 in the bill. In response I can confirm that new section 21 is not a new provision to allow a commission to be paid to a funeral director. Rather, this section relates to the right of the fund to charge an administration fee on an annual basis. The proposed disclosure requirements in the bill will enable the Government to require the level of fee to be disclosed to the consumer. In addition, as part of the requirement for audited annual returns to be submitted to the office, consideration will be given to include this information. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BILL RETURNED

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

Police Association Employees (Superannuation) Amendment Bill

The House adjourned at 10.27 p.m. until Wednesday 29 October 2003 at 10.00 a.m.