

LEGISLATIVE ASSEMBLY

Wednesday 12 November 2003

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

Mr Speaker offered the Prayer.

AUDITOR-GENERAL'S REPORT

Mr Speaker announced the receipt, pursuant to section 52 of the Public Finance and Audit Act 1983, of the report entitled "Auditor-General's Report—Financial Audits—Volume Four 2003—Total State Sector Accounts".

MOTOR ACCIDENTS COMPENSATION AMENDMENT (TERRORISM) BILL

Second Reading

Debate resumed from 29 October.

Mr CHRIS HARTCHER (Gosford) [10.02 a.m.]: The students and staff in the gallery are from my old school, St Ignatius College. I welcome them to Parliament House and I hope that they have a pleasant and educational experience. I also welcome the boys and girls from Denman Public School, in the Hunter region.

The New South Wales Opposition does not oppose the Motor Accidents Compensation Amendment (Terrorism) Bill. This sad bill was forced upon us after the events of September 11, 2001. Everybody in the world is familiar with what happened on that day when the Al Qaeda movement and the Islamic terrorists struck at New York and Washington and caused the deaths of thousands of people. Since then the world has been at war with terrorism. The implications of terrorism live with us even when we drive our cars.

When we get into our motor cars we know that we are insured if we suffer any loss or injury as a result of a motor vehicle accident. If we are in a motor vehicle when a terrorist incident takes place and we are injured as result of that terrorist incident, we are not covered by third party insurance. A person might be innocently driving along the road and terrorists might decide, as they do, to detonate a roadside bomb. That person's car might be one of the cars that is caught in the fireball that ensues as a result of that bomb and he or she might be injured, seriously burned or killed. Anyone who is injured or seriously burned will have no recourse to compensation under his or her third party insurance policy. That tragedy has been forced upon us, as have so many other incidental matters, as a result of September 11. People in the community should never think that terrorism does not relate to or affect them. It affects all of us in our daily lives.

The third party insurance scheme—a statutory scheme—was originally introduced in the 1940s to ensure that people involved in a motor vehicle accident and who suffered death or injury would be covered by that scheme. We pay into that scheme through our third party insurance, or our green slips. In most cases anyone who is injured as a result of a motor vehicle accident is covered under that scheme but he or she will not be covered for any incident that occurs as a result of terrorist activity. Major reinsurance companies such as Munich and Swiss, which are largely based in Europe, have made it clear that they will not include terrorism or terrorist-related incidents in their area of coverage. Our green slip system operates through a system of licensed insurance companies. When we renew our motor vehicle registration we also have to lodge with it a green slip from one of the insurance companies showing that we have paid our third party insurance premium for the year.

Those licensed insurance companies then seek to offset their own risks by reinsuring, normally with the big German or Swiss reinsurance companies. Those overseas insurance companies have a clear policy that they will not allow anyone to offset that risk unless certain areas are excluded from the area of liability, for example, terrorism and terrorist-related incidents. We reluctantly accept that fact. That situation is not unique to New South Wales; it applies to all States in Australia, to all States in the United States of America and to every other country. Accordingly, the Coalition, along with the Government, accepts the inevitability of life, and we will not oppose this bill.

The bill seeks to make permanent what was originally only temporary legislation after the incidents that occurred on September 11, 2001. Legislation was urgently introduced in this Parliament to provide for a short period that motor vehicle accident claims would be covered if those accidents were caused as a result of terrorist activity. It is clear that that exemption must be made permanent otherwise reinsurance companies will simply walk away from extending insurance cover to motor vehicle accidents in New South Wales, or allow insurance companies to offset part of their liability through reinsurance. On behalf of the Opposition I indicate that the Opposition does not oppose this legislation.

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [10.07 a.m.], in reply: The temporary exclusion of terrorist acts from the motor accidents scheme was introduced last year to maintain the effective operation of the competitive green slip scheme in New South Wales. When Parliament was considering the initial legislation in the 2002 budget session, the House was informed that some compulsory third party [CTP] insurers had indicated that, in the absence of any government response to the withdrawal of reinsurance cover for terrorist-related losses, they would have to reconsider whether to write CTP slips in New South Wales.

Clearly it is essential for the ongoing viability of the competitive green slip scheme that insurers continue to write CTP business. The Parliament has considered this matter on two previous occasions. In enacting the Motor Accidents Compensation Amendment (Terrorism) Act 2002 in the budget session last year, and the Motor Accidents Compensation Further Amendment (Terrorism) Act 2002 in the spring session, the Parliament accepted that it was necessary to exclude terrorist acts involving a motor vehicle from the CTP scheme to maintain the effective operation of the green slip scheme in New South Wales. The world reinsurance market circumstances that necessitated the introduction of the terrorist exclusion have not changed, nor is it considered likely that the reinsurance position will improve in the short term.

It is the view of the New South Wales Motor Accidents Authority, which has been closely monitoring the reinsurance position and assessing requirements for further action, that terrorism cover for CTP reinsurance will continue to remain unavailable for the immediate future. Since the issue of insurance cover and terrorism emerged post-September 11, 2001, the State Government has been urging the Commonwealth to develop a national response to address the withdrawal of terrorism cover. Following the Commonwealth's offer late last year to consider coverage for State-Territory statutory insurance schemes under a proposed national scheme for replacement terrorism insurance, the State Government immediately indicated its interest in commencing discussions to determine whether an affordable alternative arrangement can be put in place to cover the New South Wales CTP scheme. The Government has given an unequivocal undertaking to continue to pursue discussions with the Commonwealth to assess whether a viable and affordable national arrangement can be put in place for terrorism cover.

As the terrorist attacks of September 11, 2001, and Bali last year have demonstrated, the potential cost of injury could be very high. The example referred to by the Opposition would not ever have been covered by the motor accidents scheme, as the scheme only covers accidents between motor vehicles. Nonetheless it is possible that a terrorist may use a motor vehicle as a weapon, and it is for this reason that the amendment is necessary. A national scheme that spread the cost across the whole insuring community could make a terrorism reinsurance fund more viable than if that cost were to be borne solely by a single scheme. The extension of the terrorism exclusion approved by Parliament last year is in place until 1 January 2004. It is imperative for the ongoing viability of the green slip scheme that the exclusion continues to operate beyond 1 January next year. I reiterate that the Government will continue discussions with the Commonwealth and the other States and Territories on a national arrangement for terrorism cover for statutory schemes, and that it will review the position in the light of those developments.

Mr ANTHONY ROBERTS: I apologise to the House and seek leave to speak in debate on the bill.

Leave granted.

Mr SPEAKER: Order! I have reminded the House a number of times that the Chair is not a clairvoyant. On a number of occasions there seems to have been a presumption that the Chair is aware of who wants to speak in the debate and members sit in their seats and wait to be given the call. I cannot give members the call unless they stand and seek it in a loud voice.

Mr ANTHONY ROBERTS (Lane Cove) [10.12 a.m.]: Again, I apologise, Mr Speaker, and thank you for your informative discussion. With respect to reading people's minds, it is something that you show great

presence in doing in the House most of the time. I point out that students and staff from my alma mater are in the House today. Mr King and Mr Macdonald are here. Mr King was my tutor in Ritchie House at St Ignatius College. Mr Speaker, are you a De La Salle boy?

Mr SPEAKER: No, Christian Brothers.

Mr ANTHONY ROBERTS: Part of the same broad church. I welcome the staff and students from St Ignatius. They are very well-behaved. It is a wonderful school. I also welcome students from the Hunter Valley and hope they enjoy their time here. My honourable colleague here, Mr Chris Hartcher, is also an old boy of Riverview and is a fantastic member of Parliament for Gosford.

The Opposition does not oppose the bill. It is extremely sad that this bill must go through the Parliament now, but we live in a different world. Many of us who lived in quite an innocent western civilisation had that innocence shattered after so many lives were destroyed on September 11. We all recall that awful night when we saw those planes tear into the buildings, reminiscent of some sort of movie. I recall that at the time I was working for the Prime Minister and I was taken into our Phillip Street offices to organise communications with the Prime Minister, who was in Washington at the time. After talking to the Prime Minister and staff who experienced it, I came to realise the devastating effect the attack had on the city of New York, but what came out of that was the resilience of the people of the United States.

I commend to this House the leadership shown by the Prime Minister and the Federal Government as part of the Coalition of the Willing to pursue terrorism and smoke terrorists out of every hole around the world. We have to continue with that. We cannot let it slide. It is affecting every part of our lives every day. While walking over the bridge this morning, I saw security guards at the gates. Men in yellow jackets were patrolling backwards and forwards, obviously conducting counter-terrorist operations.

Things have changed. I visited a local school last week and one of the biggest fears expressed by the children is that there could be some sort of terrorist attack. The fear filters through our society. It filters through even to motor accident compensation. In the residential market more people are spending money on renovations to their own home. I spoke to Mr Reg Cain, head of my Chamber of Commerce at Gladesville, who said that people are spending a lot more money on home entertainment systems. People are going out less because they are concerned about their safety. There is a perception that their home is safer than walking through the streets of Sydney or visiting public places. Please God, I hope we never get into the situation that Israel is in. I visited Israel only two years ago as part of a delegation with Coalition and Labor Party members and we saw the devastation that occurred from acts of wanton violence and terrorism.

One cannot protect oneself from individuals who choose to take their own life and the lives of innocent people. It is tragic this legislation has to be introduced. As we know, the purpose of the bill is to exclude within third-party motor vehicle insurance policies provisions for compensation when the act that caused death or injury could reasonably be considered an act of terrorism. As my honourable colleague mentioned earlier, temporary provisions are in place to exclude acts of terrorism and that is consistent with all insurance policies since September 11, 2001. We know that no insurer or reinsurer will cover death or injury from terrorism or terrorist-related incidents. This bill will remove the expiry date for the sunset provisions and continues them indefinitely until the date of proclamation. I use your words, Mr. Speaker, that today we are making history. It is unfortunate that we as a government have to introduce this legislation. It is unfortunate that the works of Al Qaeda and other terrorist groups have affected us in this small way, and I just hope that it does not affect us further. It is a shame that this bill is before the Parliament but the Opposition will certainly not oppose it.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PODIATRISTS BILL

Bill read a third time.

COURTS LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 31 October.

Mr ANDREW TINK (Epping) [10.21 a.m.]: Most of the Courts Legislation Amendment Bill is technical in nature and, except for one hidden provision, does not cause the Opposition any concern. The provision in question is an amendment to the Industrial Relations Act that I believe gives unprecedented powers

to the Industrial Relations Commission to keep secret its proceedings and everything to do with a case before it for "any other reason". I know of no other body that has this power. No court or commission has the unfettered discretion to keep its proceedings secret. I think it is outrageous. This matter is of great importance because the scope and range of the commission's jurisdiction are expanding rapidly in ways that are causing grave concern to no less than the President of the Court of Appeal in New South Wales. When the Government seeks to move an amendment to keep secret in an unprecedented manner the proceedings of the Industrial Relations Commission, it is important for me to outline the way in which the commission's jurisdiction is expanding to the great discomfort and concern not only of many members of the Court of Appeal but of many members of the wider legal profession.

The Attorney General and I recently attended a dinner celebrating the centenary of the commercial causes jurisdiction of the Supreme Court of New South Wales. I think we both agree that it was a great night and a fitting recognition of the importance of the jurisdiction over a century in leading the English-speaking common law world in the commercial causes area. I have heard it said on many occasions not only by the Attorney General and the Premier but by others on both sides of the House that the commercial causes division has represented in the past and represents even now—when its expertise rests with the equity division—a regional resource of the first order to the extent that this jurisdiction and this city, in particular, hold themselves up as centres of excellence in financial regulation and in the legal regulation, adjudication and determination of commercial disputes. Mr Andrew Rogers, a former Chief Judge of the commercial division, said the other night that some very exciting opportunities are opening in China and in other parts of south and north Asia.

This area of jurisdiction is now under threat from the relentless expansion of the Industrial Relations Commission and, most worrying, from the bill's clauses that seek to make its proceedings secret for "any other reason"—which means for any reason. We must understand that under this Government statute law is developing in such a way as to give the Industrial Relations Commission more commercial causes. This provision is worrying for that reason, and for many others. I refer honourable members to the 2003 case of *Mitchforce Pty Ltd v Industrial Relations Commission of New South Wales & Ors* in the New South Wales Court of Appeal. I have already mentioned the President of the Court of Appeal, Justice Mason, who would probably be the most respected judge in the Supreme Court of New South Wales today. In paragraph 147 of his judgment—it is worth noting that he agreed strongly with Chief Justice Spigelman on this point—Mason J said:

Like the Chief Justice, I am profoundly troubled by the march of the Commission's—

that is the Industrial Relations Commission, which is the subject of this bill—

jurisdiction into the heartland of commercial contracts that Hungerford J's decision—

Justice Hungerford was a judge of the Industrial Relations Commission—

and other single instance decisions in the Commission represent. This is a significant inroad into the effective and efficient exercise of the Supreme Court's jurisdiction in commercial causes. The matter is all the more troubling because I strongly disagree with the pattern of first instance jurisdictional decisions culminating in the one presently under consideration (while acknowledging that s179—subject to the constitutional issue—offers a significant penumbra of jurisdictional expansion to preclude this Court from doing anything about the matter, regardless of its views). The matter is also troubling because it must frankly be stated that the members of the Commission—

I remind honourable members that these are the comments of the President of the Court of Appeal, with whom the Chief Justice of New South Wales agrees—

do not generally have the experience of the judges of the Equity Division in such matters—

that is, commercial causes—

and because, on the same hypothesis, the Commission lacks the ongoing assistance of appellate and other supervision by the Court of Appeal or the High Court in such matters.

That is a comment about the Industrial Relations Commission, whose activities the Government is seeking through this bill to keep secret. It is outrageous and it puts under direct threat the commercial causes division to a greater degree even than identified by the Chief Justice and the President of the Court of Appeal. What is going on in the Industrial Relations Commission? The *Mitchforce* case is an interesting example. In the first paragraph of his judgement in this case, the Chief Justice says:

The first issue that requires consideration is whether or not the lease agreement is a contract or arrangement "whereby a person performs work in an industry" within the meaning of s106(1) of the *Industrial Relations Act 1996*.

The point is that, on any objective analysis, many matters would be considered commercial causes. However, one party decides to take a matter to the Industrial Relations Commission for tactical or other reasons that have nothing to do with the merits or the expedition of the case or the hearing and disposal of the matter—characteristics that are essential to an effectively functioning commercial court. One needs only the most tenuous link to the concept of work—in this case that someone remotely connected to a lease was employed in an office—for the case to be transferred from the jurisdiction of the commercial causes court to the Industrial Relations Commission. That is the essence of the jurisdictional problem. Also, this bill further exacerbates the problem by allowing these matters to be dealt with at the whim of the Industrial Relations Commission in Court Session in secret. This is compounded by amendments to the law made by the former Attorney General, now Justice Jeff Shaw, in 1996. Section 179 of the Industrial Relations Commission Act was amended and appears at paragraph 60 of the Mitchforce judgment, which states:

Subject to the exercise of a right of appeal to the Full Bench of the Commission conferred by this or any other Act or law, a decision or purported decision of the Commission is final and may not be appealed against, reviewed, quashed or called in question by any court or tribunal.

In other words, with even the most tenuous link to work, commercial causes can be transferred from the commercial causes court to the Industrial Relations Commission, with no avenue of appeal to the Court of Appeal and, under this bill, those proceedings can be held in secret. It is a disgrace that any jurisdiction that holds itself out as being competent can take that approach, and it is in the interests of genuine litigants in the Industrial Relations Commission to stop this nonsense. Employers and employees who wish to have substantive workplace issues and disputes adjudicated do not want the Industrial Relations Commission clogged with commercial cases. Indeed, they would not want judges without the relevant expertise dealing with commercial matters. The work of the commission should focus on workplace issues.

The delay in the hearing of cases is compounded further by the fact that proceedings can be held in secret. The Attorney General and I recently heard the proud boast of the commercial causes court that it is able to deal with complex matters within a couple of months. The turnaround time is extraordinary and is to the credit of those involved. In the Mitchforce case, Justice Hungerford delivered a judgment at first instance in the Industrial Commission on 3 November 2000. The Full Bench reserved its judgment on 10 May 2001 and handed down judgment on 30 April 2002. On 13 June 2003 the New South Wales Court of Appeal remitted the proceedings to the commission to reconsider its decision to refuse leave to appeal in light of serious errors of law.

On 22 August 2003 the Full Bench of the Industrial Relations Commission heard submissions from the parties and reserved judgment. A number of months have elapsed since the case was last before the court yet the Full Bench has yet to hand down its judgment. The appellant, whose case should be in the commercial list, sought a writ of mandamus from the Court of Appeal requiring the Full Bench to deliver its judgment. The writ is yet to be listed by the Court of Appeal. This commercial case, which has been going on for three years, should have been heard in three months in the commercial causes division. We now have the extraordinary situation that a party to the proceedings has taken out a writ of mandamus to force the Industrial Relations Commission to do its job, and this is the body that the Attorney General now wants to deal with proceedings on a whim, in secret. That position is untenable.

A person with commercial interests in China, Thailand, America, Singapore or India would not insert a clause in their contracts to have their matters judiciable in New South Wales. To do so would mean that the case could take three years to be heard by an Industrial Relations Commission judge without the relevant expertise in commercial law—on the authority of the President of the Court of Appeal, and, by association, the Chief Justice—and that court, on a whim and without recourse to appeal, can hear the matter in secret. One would be better off looking for justice in Thailand, Vietnam or India than under these arrangements.

This matter should not stand. The Industrial Relations Commission has undoubted expertise in matters relating to industrial law. Employers and employees do not wish the industrial jurisdiction to be clogged up, and those who deal in commercial litigation certainly agree. Of course, the more general question is not limited to commercial matters but to employer and employee litigants. No party to a clause in the Industrial Relations Commission would want that court to have the unfettered right to allow proceedings to be held in secret for any reason. I have received advice on this matter, which states:

The Courts Legislation Amendment Bill 2003 seeks to amend the Industrial Relations Act (1996) (NSW) to purportedly confirm the powers of the Commission to make orders prohibiting or restricting the disclosure or publication of matters before the Commission. The general principles upon which a court should approach the suppression of evidence in proceedings is well settled by the New South Wales Court of Appeal and High Court of Australia. The principle is that Courts must provide for a

public hearing of matters before it in order to ensure that not only is justice done but seen to be done. This principle will only be varied in exceptional circumstances, confined primarily to occasions when to allow publication of the courts processes may have the consequence that the trial may be impaired. (*John Fairfax & Sons Ltd v The Police Tribunal and Dickson v Dickson*). The proposed amendments to the Industrial Relations Act 1996, which seek to insert section 164A are aimed at confirming the powers of the commission in relation to suppression of its proceedings. However, section 164A (2) goes further than just confirming the powers of the Commission—

This is the essential point—

Section 164A (2) states "The Commission in Court Session may make any non-disclosure order if it is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason." The difficulty with this provision is that it provides the Commission in Court Session with that discretion to make a nondisclosure order for any reason.

They are the relevant words.

The Bill does not limit what reason may be taken into account by the Commission in exercising its power. No mention is made of the public interest in section 164A(2).

The bill should be opposed. I foreshadow an amendment to omit the words "subclause (2)" and "other than in Court Session" in proposed section 164A (3) for the following reasons. The commission already has the power to suppress proceedings before it if that is in the interests of justice. This is the subject of settled authority of the commission by reference to section 162 (2) of the Industrial Relations Act and the inherent power of the Commission in Court Session as a superior court of record. In the case of *Stonham v The Speaker of the Legislative Assembly of New South Wales*, which involved a member of staff of this Parliament, the former member for Parramatta originally obtained a suppression order in relation to proceedings brought by a former staffer. The order was obtained prior to the March 1999 State election and was overturned on appeal in August 1999. In overturning the order, the Full Bench, with reference to common law, found no support in the proper administration of the proceedings to suppress them.

The inclusion of the words "for any other reason" in proposed section 164A (2) creates difficulties for a single judge who is to exercise the power and the appellate court to review the decision of the judge who grants such an order because, first, the discretion is conferred in very general terms, such that the purpose of its exercise is unidentified. It will be difficult, or even impossible, for an appellate court to say that this or that consideration was irrelevant or extraneous to the power conferred to exercise the discretion. That is a reference to Justice Dixon in *Water Conservation and Irrigation Commission v Browning*. Second, the wide language of the discretion will give rise to differences of opinion as to what "any other reason" is referring to and may result in the departure from the settled principles concerning suppression of court proceedings which are summarised in *Stonham's* case.

My next point is one I have already referred to in relation to commercial causes. That is, section 179 of the Industrial Relations Act, *prima facie*, does not allow an appeal from any decision of the Full Bench of the Industrial Relations Commission in Court Session. It is not appropriate to give such a wide discretion as that set out in proposed section 164A (2) to a court that does not have the assistance of review of its decisions by the New South Wales Court of Appeal. The *prima facie* lack of appeal rights is a matter that should be given further consideration by the Legislature following the critical comments of the New South Wales Court of Appeal in the case of *Mitchforce*, to which I have already referred. This Parliament must revisit the issue of appeals to the Court of Appeal from the Industrial Relations Commission. The Coalition certainly believes that there should be appeals from the Industrial Relations Commission at least on points of law, and perhaps by leave. The current arrangements are totally unsatisfactory.

One has to search hard and long to find some very limited point for this amendment relating to the Child Protection (Prohibited Employment) Act 1988. I accept that it is a very important issue but I do not accept that the secrecy provision in this bill needs to be nearly as wide as it is to deal with the child protection issue. There has to be a way in which the very specific and real concerns relating to child protection can be identified and isolated with particularity in this bill for appropriate orders to be made about the suppression of proceedings. But it is no excuse to then drive a massive wedge into this whole issue of secrecy of court proceedings and justify a test that refers to "for any other reason". There is no basis for that, and the second reading speech contains no justification for it. The speech covered a number of issues because the bill amends a number of Acts. The speech referred to the contempt power and stated briefly that the bill:

... amends the Industrial Relations Commission Act 1996 to confirm that the Industrial Relations Commission has the power to make non-publication orders at any time, where it is necessary for the proper administration of justice. The need for non-publication orders is especially important in Child Protection (Prohibited Employment) Act 1998 cases to protect the identity of

individuals alleged to have been convicted of a "serious sex offence", the employer, such as a school, and/or other associates, such as a teacher's former students.

Obviously all members on this side of the House agree with the need for non-publication orders in those cases, but we do not see a need for an amendment in this form to aid in achieving that outcome. The second reading speech contains no reference whatsoever to the words "for any other reason", which are the great problem. Yet they are the words that the Opposition thinks are offensive in terms of providing an unfettered, unappealable discretion to this court. There is no defence and no mention of them at all. The closest the second reading speech comes to referring to them is by reference to the making of non-publication orders at any time where it is necessary for the proper administration of justice. The problem is that that is not the test.

There is no test in this legislation in relation to the Commission in Court Session considering "the interests of justice". Yes, there is, in relation to the commission, but it is made clear that it is the commission other than in Court Session. The real fly in the ointment, subsection (2) of proposed section 164A, does not relate to that test at all. Therefore, the second reading speech does not even address the words that are so problematical. I have taken the advice of Parliamentary Counsel and I foreshadow an amendment to delete subsections (2) and (5), and in subsection (3) to delete the words "(other than in Court Session)". The instruction has been to just deal with this problem about the unfettered power of the Commission in Court Session.

I want to assure the House that the test in relation to this vital issue of the Child Protection (Prohibited Employment) Act 1988 remains in the legislation. My foreshadowed amendments do not affect the power of the commission in relation to proceedings under that Act. We have been very careful to take the best advice we can to leave that in the bill because that is a vital public interest issue. But subsection (2) is not needed or required to do that, and there is no explanation as to why it is required at all. Even if I heard a reason I cannot imagine circumstances in which it would be necessary, but we have not even reached the threshold issue of the reason for the inclusion of those words.

The provision that I am concerned about, and the advice I have received from experienced counsel, is that it is unprecedented, unnecessary and dangerous for the traditional and most important litigants in the commission, namely, employers and employees. It is difficult and dangerous also for litigants whose cases are increasingly, against their will, being taken to the Industrial Relations Commission out of the commercial causes list. For those reasons, whilst I will obviously not oppose the bill, I will move that amendment.

Ms VIRGINIA JUDGE (Strathfield) [10.47 a.m.]: I support the Courts Legislation Amendment Bill. The series of amendments in this bill seek to improve the efficiency of the courts and provide an improved and, in many ways, more accessible service for legal practitioners and most importantly the public, particularly those who live in rural areas. A number of Acts are proposed to be amended, but I will briefly focus on two areas in relation to the proper administration of justice and the accessibility of that justice, that is, the equity of those services to the public.

This bill amends section 68 (1) of the Jury Act 1977 to increase the penalties for wilfully disclosing the address or identity of a juror to a maximum fine of \$250,000 in the case of a corporation, and two years imprisonment or an equivalent fine of 50 penalty units in other cases. The bill also amends the Local Courts (Civil Claims) Act 1970 to increase the Local Courts general civil jurisdiction from \$40,000 to \$60,000, providing better access to justice for rural residents, as mentioned earlier, and also those on lower means. Farmers and workers who live in the bush are always subject to the perils of the wonderful and good things of nature but also of bushfires, droughts and floods, and they are often struggling. Whatever we can do to make services accessible to those who live in rural Australia must be a step in the right direction. The increase will reflect approximately the consumer price index and real wage changes since 1991, when the limit was set.

Schedule 3 will amend the District Court Act 1973 by extending the number of locations where the District Court may sit. The amendment will allow the court to conduct sittings at venues that are closer to where parties and witnesses live, and closer to where the cause of action arose. It will allow the court to arrange special sittings in rural or remote locations where there are sufficient cases, most likely utilising a Local Court. As I said, it is about convenience. It is about saving people who must appear before a court the extra expense of having not only to travel but also to pay for accommodation, meals and transport. All these things add up, particularly when we all know that, unfortunately, having sufficient funds or disposable income is ever diminishing these days.

Schedule 5 amends the Jury Act by increasing the penalty for disclosing the identity or address of a juror or any information likely to lead to the identification of a juror or former juror in a trial or inquest. The

current maximum penalty is a fine of 50 penalty units for a corporation and 20 penalty units for a person. This is grossly inadequate as a sufficient disincentive to discourage publication and protection of the identity of jurors. I am advised that the penalty unit is currently set at \$110. This amendment therefore is in line with comparable provisions in other Australian jurisdictions.

It is proposed to increase the penalty provisions in section 68 (1) of the Jury Act 1977 by providing for a fine of \$250,000 in the case of a corporation and two years imprisonment or an equivalent fine—50 penalty units or \$6,500—in the case of an individual. It is an integral and essential principle of the criminal justice system that the anonymity of jurors be preserved. Women and men who are called upon to perform this important task should be able to do so without fear, interference and harassment. They need to know that they exercise their civil right in a democracy to participate as a juror without worrying that someone will identify their name, address or perhaps family members. They must be absolutely free and not have any threat of that happening. The same applies to big corporations. Often we must make it hurt in the hip pocket, and such a fine says that we mean business. If people break the law they must pay.

Schedule 6 amends the Local Courts (Civil Claims) Act 1970 to increase the jurisdictional limit of the General Division of the Local Court from \$40,000 to \$60,000. There has been no increase in the jurisdictional limit of the Local Court since it was last adjusted in 1991. It was not just yesterday; it was some time ago. The jurisdiction of the District Court has twice increased during this time. The District Court has also assumed unlimited jurisdiction in respect of motor accident claims. Taking into account consumer price index increases and the rise of average weekly earnings, the value of the Local Court jurisdiction has significantly diminished in real terms over the past 12 years. It might be interesting to know that the Local Court sits in 156 locations throughout the State, making it accessible to urban dwellers as well as people living in the most remote areas of the State. The Local Court provides a cheaper, quicker, simpler and more accessible forum for resolving civil disputes.

A series of practice notes introduced 12 months ago by the former Chief Magistrate has seen more matters dealt with more quickly in the court's General Division. The gradually diminishing value of the jurisdiction has forced rural litigants to travel further to access District Court registries and sittings. As I said, it has forced those with limited means to pay the higher fees that are applicable in the District Court for a relatively small dispute. This adjustment will restore the value of the jurisdiction to what was intended in 1991—as it should be—enhancing the services provided by the Local Court, particularly for rural litigants. I congratulate the Minister and his hard-working staff on bringing this timely bill before the House. It is great that the Government has an opportunity to do something to ensure that the law in this country is accessible to all, no matter where they live, without fear or favour. I commend the bill to the House.

Mr PAUL LYNCH (Liverpool) [10.55 a.m.]: I support the Courts Legislation Amendment Bill. I commence by responding to comments made by the honourable member for Epping in relation to the jurisdiction of the Industrial Relations Commission [IRC] and a case called Mitchforce. I have no idea whether the Attorney or caucus will eventually agree with me, but it seems a very dangerous course to allow full appeals on points of law from the Industrial Relations Commission to the Court of Appeal. My understanding of the history is that that was in fact allowed under the 1991 legislation of the previous conservative Government. This Labor Government removed that option for litigants in the IRC.

Frankly, the objection to it is that the big end of town, with a lot more money and much deeper pockets, will use appeals to the Court of Appeal from the IRC to make life considerably more difficult for unions. Lots of appeals will be pursued as simply another negotiating tactic by bosses. Because they have a lot more financial and legal resources, in my view that will unfairly advantage them in industrial disputes with unions. Having said that, if there is a problem with Mitchforce—while I have not had a look at the judgments, from what I have heard from the honourable member for Epping and other people there may well be a problem with Mitchforce—there would seem to be other ways of resolving it than by simply reinstituting the right of appeal on a point of law, with or without leave, either through amendments to the IRC legislation or a much narrower right of appeal.

I suspect that there is probably a degree of agreement that there is an issue that needs to be resolved. I am simply not sure that a proper, appropriate response from this side of the House is a carte blanche right of appeal on points of law to the Court of Appeal. Having made those comments, I turn now to other provisions in the legislation. Schedule 3 deals with venues at which the District Court sits. Currently the District Court Act provides for the Chief Judge of the District Court to determine where the court may sit, but the legislation restricts that to proclaimed places. As the term suggests, "proclaimed place" is a place proclaimed by the

Governor. The legislation introduces a new definition of what is called a "sitting place". These are established simply by a direction of the Chief Judge, which is a simpler and easier process, I apprehend, than having a place proclaimed by the Governor.

Presumably, as a matter of theory, in principle it provides great power to the court to control its own affairs and separates still further the exercise of judicial functions from the Executive or the Legislature. The Parliamentary Secretary, on behalf of the Attorney, argued in his second reading speech that this would allow the court to conduct sittings at venues much closer to where parties and witnesses live, and where the cause of action arose. It is assumed that the venues will most likely be the Local Court. I am delighted to hear this, although I find it more than a little ironic. It is dramatically opposed to the experience in Liverpool, where the District Court used to sit. First its civil jurisdiction and then its criminal jurisdiction were removed from Liverpool. When its civil jurisdiction closed I was advised that this was because it had too much criminal work to do. Then its criminal jurisdiction was removed.

Honourable members can no doubt imagine my cynicism at that course of events. Indeed, I have spoken about it in this place previously. It seemed to me at that time, and continues to appear to be, unfair to both parties and practitioners based in Liverpool for the District Court not to sit there. However, I am delighted to learn from the Parliamentary Secretary that there has been a change in attitude in the District Court. Schedule 5 makes significant amendments to the Local Court jurisdiction. This bill increases the jurisdictional limit of the General Division of the Local Court from \$40,000 to \$60,000. It does not apply to proceedings commenced before the amendment to the relevant section of the Act. The justification put forward for this amendment is that the jurisdictional limit of the lower court has in real terms decreased over 12 years.

In practical terms, this means cases that have had to be brought in the District Court can now be brought in the Local Court. Because the Local Court sits at far more venues than does the District Court, this has the benefit of convenience, despite the previous section of the bill that I dealt with. Court fees and probably legal fees are less in the Local Court, and that is an added financial benefit to the parties if cases are litigated in the Local Court rather than in the District Court. As I understand the anecdotal evidence, proceedings are probably quicker in the Local Court.

One concern expressed to me is that Local Court magistrates may not have the expertise required to deal with the larger and more expensive claims. I am not persuaded to the legitimacy of that concern. Simplistically, I am inclined to think that if one can adjudicate on a claim worth \$40,000, adjudication on a claim of \$60,000 is no great jump. Certainly, a fairly impressive array of skills are available amongst the many magistrates now on the bench. That is certainly so from my experience of some of them. Concerns about the expertise of magistrates were raised many years ago when jurisdictional limits for the Local Court were significantly increased. I think they were related to magistrates hearing third party personal injury claims, which historically they had not done and therefore would not have had much expertise in. In practical terms, that is no longer a live issue, granted that we have effectively decimated personal injury claims.

The other change that I would briefly mention is contained in schedule 5 to the bill, and particularly the penalty increases under section 68 of the Jury Act. The amendment will increase the penalty for wilfully disclosing the address or identity of a juror to a maximum fine of \$250,000 for a corporation, and two years imprisonment or 50 penalty units for individuals. Those of us who defend the institution of the jury also have an obligation to protect the process. This provision enhances the privacy of jurors and will save them from the excesses of the tabloid media. That is important, not just for individual jurors but also for the institution of the jury. So, whilst in a sense this is a comparatively small amendment, it is nonetheless important in principle. I commend the bill to the House.

Mr WAYNE MERTON (Baulkham Hills) [11.01 a.m.]: I support the position adopted by the shadow Minister and member for Epping, Mr Andrew Tink, and the Opposition on the Courts Legislation Amendment Bill. In essence, the Opposition does not oppose the bill. However, the shadow Minister has foreshadowed that he will move to amend parts of the bill. I believe those amendments are vitally important to ensure the transparency and openness of the operations of our court system. The Opposition has some grave concerns that, if the bill passes in its present form, those concepts will not exist in the Industrial Commission of New South Wales. I will not deal further with that issue at this stage. I now turn to some of the specific provisions of the bill. In some respects, the bill proposes some quite admirable amendments relating to the administration of justice in New South Wales.

In that respect I refer to the amendment to the Crimes (Local Courts Appeal and Review) Act 2001 to "confirm the power of an appeal court under that Act to take into account any period of suspension of a driver

licence under section 34 of the Road Transport (General) Act 1999, and any other periods during which the defendant was or was not licensed to drive, when deciding whether to backdate the commencement of a disqualification from holding a driver licence that it confirms or varies on appeal". In other words, in the event of an unsuccessful appeal, the power of the court to backdate the commencement of any disqualification is confirmed. Many years ago, when I was practising in magistrates courts, certain problems arose where a person had been prohibited from driving a vehicle in the period leading up to an appeal. If the result of the court proceeding was dismissal of the appeal, the question arose as to whether or not the period of suspension should in fact start on the day that the magistrate dismissed the appeal, or whether it should be backdated to commence from the day the person ceased driving. Clarification of that question is very much worthwhile. This is a question that has caused concern to many people over many years.

I note that the Criminal Procedure Act 1986 is to be amended to extend the classes of person who may take depositions from dangerously ill persons in order to preserve evidence of indictable offences for court proceedings. That is an important mechanism, because quite often potential witnesses are in a life and death position. Tragically, on occasions there is little time in which to obtain that evidence from a person facing inevitable and imminent death. It makes sense to preserve the testimony of such persons by making it easier for their depositions to be obtained. If that evidence is unable to be obtained because a presently defined class of person is not available to take that deposition, that evidence could be lost forever. Thus, further down the track, when it comes to the court proceedings relating to the relevant matter or any other matter on which the person could have given evidence, justice would be denied for the want of a statement, by way of deposition of a deceased person, that is admissible in court.

The District Court has served New South Wales admirably for many years. The District Court probably is one of the most important courts for the people of New South Wales because the scope of the cases it deals with is more extensive than cases in the Local Court, though not as great as those in the Supreme Court jurisdiction. However, in my view, in recent years commendable steps have been taken to increase the jurisdiction of the District Court to ensure that jurisdiction is more accessible to the people of New South Wales. The District Court has the advantage of sitting in a number of places. Indeed, some years ago, when the District Court hit town it was a big day for the town; people who were waiting for their cases to be heard would have them determined by the judge without having to travel to Sydney. Justice was being brought to their doorstep, in their own regional centre.

It makes sense that this legislation allows the Chief Judge of the District Court to make arrangements to enable that court to sit in places, even if they are not proclaimed places within the meaning of the Act. This is a move forward in dealing with the contingencies of litigation in the year 2003 and thereafter. The learned shadow Attorney General foreshadowed an amendment to the provisions of the bill relating to the Industrial Relations Act. I support the foreshadowed amendment. I am concerned, in particular, about proposed section 164A (2), which provides:

The Commission in Court Session may make any non-disclosure order if it is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason.

Quite clearly, one has to anticipate that from time to time there will be circumstances in which courts will take evidence in camera. However, to have such an open and unfettered right as is proposed by the bill, without any criteria being set or without any justification being given, is fundamentally wrong. It is a basic concept of our courts in Australia—indeed the whole Westminster British judicial system, which we have inherited with great pride—that they should be open and transparent. In most cases, people should be entitled to go to court, listen to the evidence and find out how justice works. It is as true in 2003 as it was many years ago that justice must not only be done it must appear to be done. We oppose the amendment in the legislation to allow the industrial court, without any criteria, justification or circumstances enunciated in the legislation, to rule that evidence is confidential and that it not be disclosed. The shadow Attorney General will move an amendment in that regard.

Amendments to the Jury Act are appropriate. Recently, disclosure of information about members of the jury has been a problem. The concept of a jury has to be considered in the context of life in 2003 and thereafter. There is no doubt that we are living in a violent age when people's privacy and security have been undermined by communication and accessibility of addresses. Anyone who is called to serve on a jury is discharging a community service. The charm, fascination and success of the jury system is that juries consist of normal Australian people who are taken out of their secure family environment and brought into court to deal with serious and often brutal crimes. People who are doing their civic duty as a citizen of New South Wales certainly deserve every security measure and protection the Government can offer. Previously when people applied to be excused from jury duty, the response was that it was their duty as a citizen to participate in the jury process. Such a duty cannot be denied, but jurors must be protected. We support increased penalties for disclosing the address or identity of a juror. We have a strong commitment to protecting jurors.

The amendment to the Local Court (Civil Claims) Act to increase the jurisdictional limit of the Local Court from \$40,000 to \$60,000 is a necessary and sensible change. The limit has increased over many years, as it should. There is no doubt that local courts presided over by learned magistrates are the coalface of the judicial system. If Australians have anything to do with justice, in the first instance they will deal with the Local Court. Many claims that previously would have gone to the District Court, which by its very nature and structure incurs additional legal costs, should be dealt with conveniently at the Local Court. Further down the track consideration should be given to increasing the limit even further. Justice administered by magistrates is quick and efficient. A dispute involving \$60,000 is a big dispute—not as heavy as many commercial disputes—and would cover the greater number of Australians engaged in litigation. Car accidents, damages to motor vehicles and similar disputes should be dealt with in the Local Court by a magistrate. Increasing the jurisdictional limit of the Local Court from \$40,000 to \$60,000 is an excellent idea.

An amendment to the Oaths Act will authorise barristers, as well as solicitors, to witness statutory declarations, and take and receive affidavits. For many years solicitors have been able to fulfil the role of a justice of the peace to administer oaths and affidavits, et cetera. However, for many years solicitors were unable to witness a document if the document was part of the solicitor's practice or if the document was part of a case in which the solicitor was a litigant. That rule has now changed. It is only logical to include members of the bar. I am surprised that they were not included in the first instance. We support the amendment. It will be convenient for barristers who, at 5.30 at night, have to find a justice of the peace in chambers or somewhere else in the building to witness an affidavit that has to be filed either that night or early the next morning. The bill certainly introduces a number of worthwhile changes. However, we have grave concerns about the matters raised by the shadow Attorney General, such as transparency and other matters that are dealt with in his proposed amendments.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [11.16 a.m.], in reply: I thank honourable members for their contributions to the debate. At this time it is necessary to respond only in anticipation of the amendments concerning the Industrial Relations Commission and the non-disclosure orders referred to in the bill. I thoroughly endorse the complimentary remarks made by the honourable member for Epping about the Commercial Jurisdiction of the Supreme Court. However, for the purposes of this debate they are entirely beside the point. I have paid a good deal of attention to the case of *Mitchforce* and its implications. It is a matter about which there will be more discussion as time goes by. But, again, it is entirely beside the point in the present matter. In this respect the honourable member is barking up the wrong tree. There is no way that the powers proposed in the bill are without precedent.

Members opposite have sought to suggest that, in some way or other, this small amendment introduces a measure that is extraordinary, but that is not so at all. More to the point, the Opposition's amendment would limit the power of the Industrial Relations Commission [IRC] in Court Session to make non-disclosure orders in circumstances concerning Child Protection (Prohibited Employment) Act issues. In other words, as I read the amendment, it would contradict the alleged purpose for which it had been introduced. The Opposition's amendments would severely restrict the scope of the Government's proposal by limiting the existing power of the IRC in Court Session to properly protect the identity of a person in circumstances when such protection is warranted by the confidential nature of the information. It is well established law that higher courts, including the Industrial Relations Commission in Court Session, have the power to make a non-publication order when that is necessary to secure the proper administration of justice. I find it extraordinary that it should be suggested that that power should be undermined.

The purpose of the Government's amendments is, first, to confer limited power on the commission when it is not sitting in court session to make non-disclosure orders, but to confer power that is wide enough to deal appropriately with child protection matters and, second, without affecting the existing powers of the court in session, to clarify that it has the power to suppress confidential information. The kinds of non-publication orders that I am talking about might include orders to protect the identity of a police informer and orders made in the interests of national security. There is no doubt that the Industrial Relations Commission has that implied power when it sits in court session, but the authorities are less clear with respect to tribunals. New section 164A (2), which the Opposition seeks to remove from the bill, is identical in its wording to section 75 of the Administrative Decisions Tribunal Act 1997. I emphasise that point. Far from it being some kind of unprecedented power, we are just introducing a kind of power that already exists in respect of another tribunal.

The Administrative Decisions Tribunal and the IRC share jurisdiction under the Child Protection (Prohibited Employment) Act 1998. It is essential that both tribunals should have the same power to make non-publication orders. I emphasise that, with this small amendment, we are giving the IRC powers that already exist

in respect of the Administrative Decisions Tribunal. Proceedings under the Child Protection (Prohibited Employment) Act 1998 involve applications by individuals who have been convicted of a serious sex offence and are seeking exemption from the prohibition imposed on them by the Act on undertaking child-related employment. Non-publication orders may be necessary in these proceedings to protect the identity of the individual's employer, such as a school, and the identity of other persons about whom evidence may be given, such as former or current students or victims of sexual offences. They are the kinds of circumstances in which non-publication orders might be necessary. In fact, if an application for exemption is successful, the success is substantially undermined if the identity of the applicant cannot be suppressed.

I take the example of a 15-year-old male who unfortunately gets his 15-year-old girlfriend pregnant and is convicted of the serious sexual offence of having sex with a minor. The pair gets married and go on to teachers college, later go on to have successful teaching careers and then a new law is introduced that threatens his unblemished career. That is the type of case that would warrant an exemption, but the exemption would surely not be worth much if the tabloid newspapers have spread his name about in connection with having committed a serious sex offence. As the courts have said, "if the very openness of the Court proceedings would destroy the attainment of justice in the particular case ... or discourage its attainment in cases generally" then it is necessary to restrict that openness with a non-publication order. By mirroring the language that is presently in the Administrative Decisions Tribunal legislation in section 164A (2) and providing in section 164A (5) that these provisions will not detract from any implied power that the Industrial Relations Commission, as a superior court record, may have at common law, the Government is ensuring that the IRC in Court Session may, without any doubt, make non-disclosure orders as required for the effective operation of the Child Protection (Prohibited Employment) Act 1998.

As is appropriate for the commission when it is not sitting in court session, section 164A (3) puts beyond doubt the circumstance that the commission may, like the courts, make non-disclosure orders when necessary in the interests of justice. In addition, it grants the wider power necessary for the effective operation of the Child Protection (Prohibited Employment) Act 1998, but confines that power to the prohibited employment jurisdiction. As the Commission in Court Session has the same status and implied powers as has the Supreme Court, it is critical to include a provision such as section 164A (5) whenever there is any legislative tinkering to clarify these powers. Without such a provision, the legislation could be read as confining the powers of the Commission in Court Session which would result, particularly if the Opposition's amendments to subsections (2) and (3) of section 164A were adopted, in significant stripping away of the Industrial Relations Commission's current powers. The Government's amendment is essential to remove any doubt that the court and the tribunal might make non-publication orders if satisfied that it is desirable to do so by reason of the confidential nature of any evidence or for any other reason. It is appropriate that that power be removed. Therefore, I urge honourable members to reject the amendments that have been foreshadowed by the Opposition.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Schedules 1 to 3 agreed to.

Mr ANDREW TINK (Epping) [11.27 a.m.], by leave: I move Opposition amendments Nos 1 to 3 in globo:

No. 1 Page 10, schedule 4 [4], proposed section 164A (2), lines 20-23. Omit all words on those lines.

No. 2 Page 10, schedule 4 [4], proposed section 164A (3), line 24. Omit "(other than in Court Session)".

No. 3 Page 10, schedule 4 [4], proposed section 164A (5), lines 35-39. Omit all words on those lines.

As I foreshadowed during my contribution to the second reading debate, the amendments go to the issue of the Industrial Relations Commission's power to prohibit disclosure of matters before it. I emphasise that the intention of the amendments is not in any way to ease up on the court's power in relation to suppressing any necessary matters under the Child Protection (Prohibited Employment) Act. I can deal only with the bill that is

before the Committee. I can deal only with the bill in the form in which the Government has presented it to the Parliament. I can deal only with it in relation to concerns I perceive on advice of the Parliamentary Counsel. The Parliamentary Counsel's advice in relation to this amendment is that this is what is necessary to do away with the special power proposed for the Commission in Court Session to effectively exercise a suppression power for any reason it likes.

I noted carefully the Attorney General's comment that the Administrative Decisions Tribunal has this power under the 1998 Act. I do not doubt that is true. If it is true, frankly I do not think it should have that power. Its power ought to be constrained in a fashion similar to the constraint proposed in the amendments. I do not think that every tribunal or court in this State or in this country ought to have unfettered power for any reason it sees fit to make its proceedings secret. I just do not believe that every tribunal in New South Wales should have that power, perhaps with the exception of the Crime Commission—although perhaps even not in that case. Even the Crime Commission has to provide reasons for the exercise of such powers, or at least I would like to think so. Some reason must be given that is based on some type of test. On examination of this bill I noted, for example, that the Independent Commission Against Corruption has broad powers to suppress proceedings before it under section 112 of the Independent Commission Against Corruption Act, but there is a public interest test.

What I find so wrong about this proposal is that no test has been set out against which one could say that a decision to suppress is right or wrong, because any reason will do. If that is the wording, if that is the test of the Administrative Decisions Tribunal [ADT], it ought to be changed. I carefully noted that the Attorney General said, basically, that the Commission in Court Session ought to have the power where necessary to serve the proper administration of justice, or words to that effect. I agree with that; it is exactly right. However, the trouble is that that is not what the bill provides. The bill does not set out that test. If the bill set out a public interest test or a test about the proper interests of justice, the Opposition would support it.

Proposed section 164A (3) (b) in item [4] of schedule 4 provides that the commission may make any non-disclosure order if it is satisfied that it is necessary to do so in the interests of justice. The Commission in Court Session is treated separately, because that provision is not included in proposed section 164A (2). It cannot be argued that there is any sort of flow-on power to the Commission in Court Session, because it simply is not there. The words are "The Commission (other than in Court Session)". That reinforces the idea that the necessary-in-the-interests-of-justice test does not apply to the Commission in Court Session. If it did, I would not be taking part in this debate; I would save the Mitchforce argument and all the questions of the vexed issues on appeal rights for the Industrial Relations Commission for another day. The reason we are talking about this today is because of some sort of misconception in the drafting of the bill.

The bill has enormous knock-on consequences to a host of related jurisdictions, not the least of which is the commercial jurisdiction, where there is an unfettered power to run secret hearings. That is very wrong. I agree with the Attorney General that the test is correct, where it is necessary to make a non-disclosure order in the interests of justice. But that is not the power given to the Commission in Court Session by this bill. The power is totally unfettered. If that is the power for the ADT—and I accept that the Attorney General said that it is—it is wrong. The ADT needs to have some justiciable test about its power to undertake secret hearings. For those reasons I commend the amendments to the Committee.

Mr JOSEPH TRIPODI (Fairfield—Parliamentary Secretary) [11.32 a.m.]: The Government rejects the Opposition amendments for the reasons given by the Attorney General in his speech in reply.

Mr CHRIS HARTCHER (Gosford) [11.32 a.m.]: The Industrial Relations Commission [IRC] is well established and well recognised and I have the highest regard for its President, Lance Wright, and for the other members of the commission; they are well respected throughout New South Wales. That ancient body has been in existence for 100 years; it celebrated its centenary in 2002. Along with the Supreme Court it is one of the oldest and most august bodies in the State. Nonetheless, like all courts and commissions, the Industrial Relations Commission needs to be part of a system in which appropriate correction is available, if necessary. It has become clear to the Opposition that there is a great deal of concern in certain economic sectors that the Industrial Relations Commission should be more accountable. The appropriate way to bring that about is to allow a right of appeal to the Court of Appeal. That is what is set out in the amendments moved by my colleague the honourable member for Epping.

The amendments are in no way a reflection on the role of the IRC and should not be seen as such. The fact that the Court of Appeal is oversighted by the High Court of Australia is no reflection on the Court of Appeal; it simply ensures a structured system in which there is review of decision making. The final decision is achieved after an exhaustive process. While the IRC is a specialised body, it nonetheless operates within the

legal framework of the rule of law. It is important that the principles of the rule of law are maintained and upheld. That, of course, is the primary role of the Court of Appeal. That was demonstrated only yesterday—

The TEMPORARY CHAIRMAN (Mr Paul Lynch): Order! I have shown discretion in allowing the honourable member to continue, but the arguments he now raises are for another day. The points he raises are not covered by the amendments and are, therefore, out of order. Perhaps he may wish to check with the honourable member for Epping.

Mr CHRIS HARTCHER: Yes, that is an argument for another day, and that argument will be put by the Opposition. I abide by the ruling of the Temporary Chairman on that matter. I was going to commend him for a letter he recently co-signed with a number of other people, but I will not go into that. Recently, the secrecy clauses contained in the Act were used in a case involving a member of Parliament and a electorate staffer employed by that member. It is my understanding that the member of Parliament had no real problem with those matters being heard in open court; she had nothing to hide. The member was vindicated by that hearing but the processes were conducted in secret. Closing doors simply creates enormous speculation as to what is happening. The only time secrecy is needed is when the public interest is paramount.

One would not think that matters involving the IRC are best conducted behind closed doors. The paramount public interest is, of course, in ensuring that justice is done, that everyone is given a fair hearing and that the result is in accordance with law. That is for the benefit of the community as much as for the benefit of the litigants. That is why the Coalition, through the honourable member for Epping, has taken the stand it has. I am not aware of what arguments the Parliamentary Secretary, the honourable member for Fairfield, used to reject the amendments. He simply read the little note that was handed to him, which he does well. I give him full marks for that; he is probably one of the best readers of ministerial advisers' notes in the Chamber.

The TEMPORARY CHAIRMAN (Mr Paul Lynch): Order! The honourable member for Gosford will return to the substance of the amendments.

Mr CHRIS HARTCHER: I am speaking to the bill.

Mr Joseph Tripodi: You are wasting time. We have got other legislation. Get on with it!

Mr CHRIS HARTCHER: I am making the pertinent point that the Government has not outlined its reasons in any comprehensive fashion, despite the interjection by the honourable member for Fairfield, as to why it is not prepared to accept the amendments moved by the honourable member for Epping. The Opposition would be interested to know why a political party wants secrecy to be maintained when that political party has used the secrecy provisions when the staff of members of Parliament are involved, and made sure that a particular matter was not ventilated before the public prior to the 2003 election. No matter what veneer is put on it, members opposite always have that self-interest lurking underneath the surface.

The honourable member for Fairfield is the last person who should want to talk about the results of inquiries being made public. The Temporary Chairman would rightly pull me up if I ventured down that path, so I will not. The Chairman and the honourable member for Fairfield are members of the same faction and strongly support each other every time there is a factional fight. I know all about that: the honourable member for Liverpool runs to the honourable member for Fairfield, saying, "Give me 50 members for the next branch meeting". So what is the rationale for the provision in the bill? We simply do not know. For those reasons we need to make clear that we support the amendments moved by the honourable member for Epping.

Question—That the words stand—put.

The Committee divided.

Ayes, 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	Mr Iemma	Mr Price
Mr Black	Ms Judge	Ms Saliba
Mr Brown	Ms Keneally	Mr Scully
Ms Burney	Mr Knowles	Mr Shearan
Miss Burton	Mr McBride	Mr Stewart
Mr Campbell	Mr McLeay	Mr Tripodi
Mr Collier	Ms Meagher	Mr West
Mr Corrigan	Ms Megarrity	Mr Whan
Mr Crittenden	Mr Mills	Mr Yeadon
Ms D'Amore	Mr Morris	<i>Tellers,</i>
Mr Gaudry	Mr Newell	Mr Ashton
Mr Gibson	Ms Nori	Mr Martin

Noes, 32

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

Pairs

Mr Debus	Mr Brogden
Ms Gadiel	Mr Hazzard
Dr Refshauge	Mr O'Farrell

Question resolved in the affirmative.

Amendments negatived.

Schedule 4 agreed to.

Schedules 5 to 8 agreed to.

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

CORONERS AMENDMENT BILL**Second Reading**

Debate resumed from 29 October.

Mr ANDREW TINK (Epping) [11.54 a.m.]: The object of the Coroners Amendment Bill is to make miscellaneous amendments to the Coroners Act 1980 with respect to the holding of inquests and inquiries. The Opposition has real concerns about the bill's provisions regarding bushfires. I will move amendments to those provisions in Committee, and I presume the Committee will divide on them. I have done my best to examine the bill. I was grateful for the opportunity to speak to the State Coroner, Mr Abernethy, about it and to seek the advice of the Attorney General's Department. I have considered the bill carefully but, unfortunately, I still do not believe the Opposition can support the provisions in question. Items Nos [3], [4] and [5] of schedule 1 seem to narrow the Coroner's powers regarding investigations of and inquiries into fires. Section 15 (1) of the current Act is extremely broad. It states:

A coroner has the jurisdiction and duty to hold an inquiry concerning a fire or explosion ...

To my way of thinking, the key word is "concerning". Section 15 (2) provides that where, after consideration of any information in his or her possession relating to a fire or explosion, the coroner is of the opinion that the circumstances of the fire or explosion are sufficiently disclosed certain things will follow. The key words regarding the breadth of the inquiry or investigation that a coroner can perform are "concerning" and "circumstances". Item [3] omits the word "concerning" from sections 15 (1), (2) and (3) and inserts instead the phrase "into the cause and origin of". Item [4] omits the word "circumstances" from section 15 (2) and inserts instead the words "cause and origin". That constitutes a significant narrowing of a coroner's jurisdiction in investigating fires. It is true that under the bill the Coroner retains the power to instigate a wider inquiry independent of the Minister, the Commissioner of the New South Wales Rural Fire Service and of New South Wales Fire Brigades. Proposed section 15B (2) states:

If a request has been made under subsection (1) or the State Coroner is of the opinion that a general inquiry concerning a fire or explosion that has destroyed or damaged any property within the State should be held, the State Coroner must direct a coroner to hold the inquiry.

I mention that subsection because the State Coroner pointed it out to me and said that he believed it was sufficient to allow him to hold an inquiry independent of the Government and to apply the wider test. It is incumbent upon me to address the essence of my concerns in relation to that jurisdiction. It is clear that existing section 15 does not offer a coroner any discretion; it states that a coroner has the "jurisdiction and duty to hold an inquiry". The words "jurisdiction and duty" remain in the amended section but they are now limited to an investigation of the "cause and origin" of a fire rather than an investigation "concerning" a fire, which is the word used in the Act. So the "jurisdiction and duty" relate to the wider test.

Under the law as it stands a coroner is required to apply the wider test but under the law as proposed and as argued to me by the State Coroner that duty becomes a discretion. I have a problem with that. I do not think the wide power should be limited to the discretion of the coroner. It should be the coroner's duty. I say that with the greatest respect to the State Coroner and to his office. I am grateful to him for the time that he spent recently going through the bill with me. However, a discretionary power is not enough; the Coroner must retain the "jurisdiction and duty" to hold a wider inquiry.

The Coroner told me—and it is clear from other material in my possession—that it is an issue of resources. Fires are complicated by causation and by the parties concerned. The Coroner said that for the police and for him it is an issue of resources. But the answer is not to narrow down the powers to fit the resources; surely the resources have to fit the powers. This Parliament cannot pass laws that are tailored to limit resources; we have to make the power broad enough in the public interest, and set the resources to match the powers. The Government issued a briefing note, not all of which appeared in the second reading speech. It stated, in part:

During early 2003, a Bushfires Investigations and Procedures Roundtable was convened to identify the issues causing delays and improve the efficiency of the system. The Roundtable consisted of the State Coroner, and representatives of the court registry, the Attorney General's Department, NSW Police, the Office of Emergency Services and the Cabinet Office. It was agreed that long delays could best be avoided by modifying the reporting protocol between the police and the Coroner and narrowing the scope of the inquiry to the "cause and origin" of the fire rather than the broader and less easily defined term, "circumstances".

It is unfortunate that a representative from Treasury was not present at the roundtable to address the key issue of resources. Having said that there ought to be more resources, I suppose governments must weigh up competing interests when deciding where to provide those resources. Matters relating to bushfires are of paramount importance to the whole community and to the Parliament. Each bushfire season the Premier, the Attorney General, the police Minister and others hold press conferences and say that there will be greater and more onerous penalties in relation to the setting of fires.

Narrowing down the jurisdiction of the Coroner to investigate fires will undermine the priority that the Government has given to targeting those who light and cause fires, both in a criminal sense and in the wider sense in relation to fires that could have been prevented or better fought. The Government has talked about increasing penalties for those who light fires, but at the same time it has introduced a bill that limits the power of the Coroner to undertake investigations into fires. That does not make sense, except in the very narrow context of resources. If resources are the problem, they should not be driving and narrowing down powers. Powers should be driving the level of resources necessary to give effect to the full and appropriate powers in the broader sense.

Each fire season members on both sides of the Parliament are extremely concerned about the impact of fires. I represent a densely populated urban electorate not 17 kilometres from Parliament House. Each bushfire season we have great trepidation that something will happen in Lane Cove River National Park. In 1994 and in January 2002 a considerable amount of property was destroyed and lives were threatened by fire, so it is an ever-present threat. In the investigation into the cause of the last Pennant Hills fire it was discovered that a person had tried to light a fire on both sides of the main ridge, which would have started a fire in the Lane Cove valley stretching 15 to 20 kilometres towards the city, and a fire on the western side of Pennant Hills Road which would have set the whole Berowra Valley on fire.

These issues are of the utmost ongoing importance. I would not be able to tell a public meeting in North Epping, Pennant Hills or Marsfield in February or March 2004 that I had voted to narrow the powers of the Coroner to investigate fires. My constituents want me to fight to ensure that the Coroner retains his power, and that the Government provides resources to the Coroner and the police to investigate fires. Until that job is done and resourced properly our property and lives will remain at risk. With every passing summer fire incidents seem to be getting worse. I do not know whether that is because the average temperature seems to be higher and it is drier, but there appears to be a higher overall fire risk. In relation to resources, the current legislation still provides an out for the Coroner in section 15 (2), which provides:

Where after consideration of any information in his or her possession relating to a fire ... the coroner is of opinion that the circumstances of the fire ... are sufficiently disclosed or that an inquiry concerning the fire ... is unnecessary, the coroner may ... dispense with the holding of an inquiry ...

The Coroner is not required to hold an inquiry, but I would hope that he would never have to make such a decision based on resources. The Act does not contain an inflexible requirement that the Coroner must hold an inquiry. His duty to hold an inquiry is set out in subsection (1) of section 15. On my reading of those two subsections, which are not 100 per cent clear, the jurisdiction and the duty to hold an inquiry are narrowed down a little, in a commonsense way, to require the Coroner to consider the information. The Coroner would then apply the wider tests of "concerning" and "circumstances"—one would hope without resources being an issue in the decision. That is the right and current balance. The new balance is not a balance at all because the jurisdiction and the duty do not relate to "concerning" and "circumstances" but instead to "cause and origin".

Under proposed section 15B (2), what was a duty in relation to circumstances now becomes discretionary. The Coroner expressed concerns that the exercise of that jurisdiction will be influenced by resources. The unintentional effect may be to provide a get-out-of-gaol card for the Government, which is underresourcing the Coroner's office and the police by permitting them to decline to hold an inquiry. All honourable members would be well acquainted with the appalling tragedy of the Canberra bushfires. I did some work in the aftermath of the fires in Canberra, and there appears to be confusion about the Coroner's jurisdiction at the highest levels of the Australian Capital Territory Government. In his second reading speech on this bill the Parliamentary Secretary referred to the Australian Capital Territory, South Australia and Northern Territory jurisdictions. He said:

These jurisdictions allow the Coroner to inquire into and make findings in relation to the cause and origin of a fire.

I think that is accurate. But, of course, that is the test proposed by the bill now before us. As a result of the Canberra fires, the Australian Capital Territory Coroner, Magistrate Maria Doogan, issued a press release dated 24 January in which she said:

The office of the Coroner has a legal duty to investigate all aspects of the manner and cause of deaths of those persons who lost their lives, as well as the cause and origin of the fires that destroyed and damaged property.

It seems that the Australian Capital Territory Coroner is saying that the essential test is "the cause and origin of the fires". However, the Australian Capital Territory Chief Minister seems to have a different view. The *Hansard* of 6 March for the Australian Capital Territory Assembly contains the following statement from Mr Jon Stanhope, Chief Minister, in answer to a question upon notice from Mr Smyth, the Leader of the Opposition:

It is the role of the ACT Coronerial inquiry to examine and report on the cause, origin and circumstances of the bushfires ...

If the Parliamentary Secretary in this State and the Australian Capital Territory Coroner are right, then the Chief Minister in the Australian Capital Territory, with great respect to him, is wrong. Either way, there is a real problem because it is clear that Mr Stanhope, in his answer to the question, is saying—as Chief Minister and head of the Australian Capital Territory Government—that it is not enough for the coronial inquiry to examine and report on the cause and origin of bushfires. He said the coronial inquiry should examine and report on the cause, origin and circumstances of the fires.

As I recall, the Chief Minister was very much involved in the aftermath of the fires and the emergency arrangements to fight those fires. The Chief Minister was saying in that statement that it is critical to examine the circumstances of the fire. He was saying also that was the role of the Australian Capital Territory coronial inquiry. As I read his statement, the Chief Minister clearly was saying that it is a jurisdictional requirement, and duty, of the Coroner to consider not only cause and origin but also the circumstances. I am sorry if I am speaking at some length on this matter, but it is right at the heart of the bill that we are debating because the bill's amendment provides that it is the New South Wales Coroner's duty to inquire into cause and origin, but not necessarily the circumstances, of a fire.

The word of warning from the Canberra disaster is that the Australian Capital Territory legislation—which is where the New South Wales Government seeks to take this State—is narrower than the Australian Capital Territory Chief Minister thought it was, and wanted it to be, as a result of the Canberra fires. The cautionary note here is that the response of the Chief Minister to the Canberra fires and the way he then addressed the issue of coronial jurisdiction indicate that he was opting for a wider test than the New South Wales Government wants to foist on this State. In other words, the Chief Minister was saying that he trusted,

assumed and understood the test was wider, and that circumstances were key to the test to be applied. I quote from *Hansard* of 19 February the response of Mr Stanhope to a question without notice asked by Mrs Cross, a member of the Australian Capital Territory Assembly:

As a result of the notion of the separation of powers, I cannot direct the Coroners Court in the handling of the conduct of any inquiry or inquest. What I have been seeking to achieve this afternoon is a clear understanding from the coroner of the nature and breadth of the inquiry.

That is another cautionary note arising from a parliamentary debate following the aftermath of the Canberra fires—the type of event which, perish the thought, could happen in New South Wales during any fire season. The Chief Minister was reinforcing the point that the Australian Capital Territory Government could not direct the Coroner to do anything. As I understand it, under the present New South Wales Act or the amendments proposed by the bill, a New South Wales Minister could not direct the Coroner to do anything. The current Act in New South Wales talks about the Coroner being requested to hold an inquiry by a Minister or one of the fire commissioners. The amendments in the bill, as I understand them, do not seek to change that provision. What the amendments really propose is that it be left to the discretion of the Coroner whether he will or will not inquire into the circumstances of a fire.

It is a matter of the most intense public interest, in the aftermath of these fire disasters, what a New South Wales government can and cannot direct the Coroner to do. It is appropriate that a government and a Minister cannot go behind an Act of Parliament and direct a judicial officer to do anything. To do that would be outrageous. The only body of people that can direct a Coroner to do anything is the Parliament, that is to say, all of us. We set down, in an Act of Parliament, the rules under which a coroner operates. I refer to the cautionary words of the Australian Capital Territory Chief Minister to emphasise that we should not, and must not, surrender the current statutory instruction from this collective body to the Coroner, which is that he has a duty to inquire into the circumstances of a fire. If we gave up that power of instruction the Coroner's position would become completely discretionary, and we would give up a very important direction, which I think the Chief Minister was clearly implying he would like to have. We would then put ourselves in the position in which I believe the Australian Capital Territory Chief Minister found himself following the Canberra bushfires. I do not think we want to be, or should be, in that position. The Chief Minister went on to say, in answer to the same question asked of him on 19 February:

I am aware of the deep concern that all issues be investigated, that the inquiry be broad ranging, and that it not be constrained.

Under the current New South Wales Act, that is precisely the position of the Coroner. The rules and directions of the Parliament tell the Coroner that he has the jurisdiction and duty to hold an inquiry into the circumstances of a fire; it is not a matter of discretion. The only slight limitation on that duty is that the Coroner may, after considering the information, dispense with it. But he must first consider it. Under the amendment before the House, that requirement is lost and it ultimately comes down to the discretion of the Coroner. I, for one, am extremely uncomfortable with the notion—and I do not think I do the Coroner an injustice in saying this—that the exercise of that discretion may be influenced by a lack of resources provided by government to his office and to the Police Force. Of course, this is not the only Act under which the Coroner has jurisdiction. The Coroner has an enormously wide and complex jurisdiction, and there are very significant and competing demands on his resources. Once we put in place a discretion on these matters, my great fear is that the exercise of that discretion will be influenced by a lack of resources. That simply should not be the case.

This Parliament must not change and tailor the rules to accommodate a resources problem. The rules must be set in the public interest. I have to be able to attend a public meeting in north Epping, and the Attorney General has to be able to attend a public meeting in Katoomba, and be able to say, "We have set the rules and we are providing the resources so that the Coroner has the capacity to run with those rules." It cannot be the other way round. I certainly could not go to a meeting in my electorate and argue for rules that could be resource influenced. I think these are extremely important amendments. The Coalition cannot accept a narrowing of the Coroner's fire jurisdiction, and we will move amendments to maintain the status quo.

Ms LINDA BURNEY (Canterbury) [12.19 p.m.]: I support the amendments, and I draw to the attention of the House that they are also supported by the State Coroner, the Senior Deputy Coroner and the Deputy State Coroner. It is important to note that the amendments are the result of extensive consultation and inquiry. I recognise the work we are doing to improve the way in which the Coroner and his court operate in New South Wales. Honourable members will recall that in the last session we passed legislation to regulate how the Coroner deals with families of deceased and treats the deceased person with dignity. We heard many examples of why these changes are very important to the people of New South Wales. The bill will amend

section 13B of the Act to ensure that the jurisdiction of the Coroner is limited to deaths that occurred less than 100 years ago. It will clarify that all coroners have the right to give directions to NSW Police about investigations for the purpose of coronial inquest or inquiry.

The figures articulated by the Opposition will not be borne out when the role and responsibilities of the Coroner are clarified. I am sure the Minister will respond to the comments of the shadow Attorney General. The bill will allow a coroner, in special circumstances, to exclude any or all persons from an inquest or inquiry if it is in the interest of any person or of justice. It will allow the Coroner to issue a subpoena to any person whose evidence is deemed to be necessary for the inquest or the inquiry. Finally, it will amend section 15 to restrict the scope of a fire inquiry to cause and origin unless a broader inquiry is requested by the Minister, the State Coroner or the fire services. The final amendment deals with many of the concerns raised by the Opposition.

I am pleased to note that section 13B of the Act, which limits the jurisdiction of the Coroner to deaths that occurred less than 100 years ago, has been corrected in the bill. The original section introduced by the former Coalition Government commenced on 1 February 1994, and was inserted to prevent the Coroner from having jurisdiction over "what are essentially relics of the past". However, because the amendment was not retrospective it would not, in its current form, become effective until 1 February 2094. I am sure that honourable members would agree that is not practical. The role of the Coroner is threefold: first, to ascertain the facts surrounding the death; second, to ascertain the identity of the deceased; and, third, to determine how, where and by what means that person died. Investigating the circumstances of a death is a great challenge.

The Coroner is required to investigate and inquire into all unnatural, unexpected, unexplained or unattended deaths. This important function ensures that all deaths are properly investigated and explained. We have heard testimony from many people that their interaction with the Coroner following the death of a loved one has been a challenging experience. The inquest provides answers and, in some cases, finality for the family and friends of the deceased, or the community. But for many families who have lost a loved one in extremely tragic or unusual circumstances, finality is something only they can define. The inquest may uncover evidence of foul play which could lead to criminal prosecution and punishment. Often it is a long exercise for family and friends of the deceased and for the community.

Often the findings and recommendations of the Coroner can lead to greater awareness about a particular hazard or condition and, therefore, help to prevent a similar tragedy. The bill is particularly relevant to bushfires and other fires, which, unfortunately, have become an extraordinarily regular part of the life of everyone in New South Wales. It is in these situations that the resources of the Coroner should be absorbed and where the Coroners Act was intended to apply. When human remains are more than 100 years old and an inquest will not achieve any of these aims it is most unlikely that any investigation into cause and manner of death would be conclusive. If criminality were detected there would be no surviving suspects to pursue.

No recommendation on a death that occurred more than 100 years ago is likely to be of any use in this century. It is important to note that indigenous remains that predate European settlement of the continent are not appropriate subjects for coronial investigation. It is vital that proper protocols are followed when dealing with indigenous remains to prevent harm and grief to related communities. In focusing on section 13B I point out that the amendments are about a number of issues that are sensitive to particular communities in our State, not just about fires. I reiterate that these amendments are the result of extensive consultation with the State Coroner, the Senior Deputy Coroner and the Deputy State Coroner. In many ways they tidy up the role of the Coroner and try to even it out. I commend the bill to the House.

Mr ANDREW HUMPHERSON (Davidson) [12.28 p.m.]: I have a number of deeply held and strong concerns about the Coroners Amendment Bill. I support the comments of the honourable member for Epping. The minor mechanical amendments in the legislation are of no concern. However, I have a strong interest in emergency services and bushfires, and the impacts of the legislation on investigations into fires, particularly bushfires. The bill will restrict the capacity to hold coronial inquiries into bushfires and create two types of bushfire inquiry. The first is a minimal inquiry into the cause and origin of the fire, and the other is what exists now—a general inquiry into the broader circumstances of the fire. The announcement of two weeks ago has been sold to the public as providing for quicker outcomes to coronial inquiries. On the contrary, the intention is to have more superficial investigations of bushfires and other fires for a range of political motives.

In short and simple terms, this bill will provide for either a token inquiry or a general inquiry, as exists now. I suggest that the option of a token inquiry will be far more frequently taken up in circumstances when it should not be. Whether that happens for the reasons of the exercise of a discretion by the Coroner or for political reasons at the instigation of a Minister is a moot point. I think it is more likely, and in practice would happen more frequently, that the Minister would be in a position to dictate the type of coronial inquiry that takes place.

The Minister will be able to initiate either of those two types of inquiry, as can the Coroner, the Commissioner of the Rural Fire Service or the Commissioner of the New South Wales Fire Brigades. Sadly, the Commissioner of the Rural Fire Service has virtually indicated that he has relinquished an apolitical role in relation to bushfires by being party to a press release issued last week in relation to the Federal Nairn inquiry into the Canberra bushfires. He relinquished a reasonable degree of apolitical judgment and engaged in nothing short of a political slanging match against the Federal parliamentary inquiry. If the commissioner had comments to make he should have restricted himself to comments made on his behalf; he should not have made a joint statement with his political masters. He should have made comments only after reading the full report, instead of confining himself to what were largely mythical observations based on inaccuracies. His comments did not relate to the primary basis of the recommendations of the bipartisan report.

Why would a government want two types of coronial bushfire inquiries? I believe the answer is that there is a desire to control political fallout when there is any suggestion of neglect or culpability on the part of the Government. In practice, this bill should not be necessary. Under the current law there is a capacity for a coronial inquiry to be held. This bill has been motivated by difficulties that have been experienced most recently in relation to the Canberra bushfire inquiry. Inevitably, if the Minister announces that there will be a coronial inquiry under restricted parameters of the cause and origin of the fire, the Minister will be able to say publicly in response to questioning by the media or the Opposition that a coronial inquiry is under way and that the outcome should be awaited. However, when the outcome is reached and findings have been made they will not range into relevant circumstances, which could be anything from hazard reduction, to resources, and to communication and training. There will be no grounds for the Coroner to look at any of those matters.

When it comes to the cause and origin of a fire—for example, I refer to the Canberra bushfires—the findings are limited to the cause being a lightning strike and the source being around the McIntyre's Hut area, and that is all. If the scope of an inquiry is constrained to the cause and origin of the fire only, the findings will not illuminate the full circumstances of the fire if the Coroner, because of a lack of resources or, more significantly, the Minister, for reasons of political expediency, want to conduct that type of inquiry. That is what will occur. It may be argued that a Coroner has the power to order a more general inquiry, but what Coroner will do that if the Minister has pre-empted him and said that there will be a cause and origin inquiry only? If that had occurred in relation to the Canberra bushfires, we would know far less than what we have learned from the coronial inquiry. In relation to the Canberra inquiry, I believe that the Deputy Coroner got a bit too close to the truth for the Government's comfort.

The Minister responsible for the National Parks and Wildlife Service, the Minister for Emergency Services, and government agencies were represented by Bret Walker, SC. I think the Deputy Coroner effectively knew—I surmise this from his comments—that the Government and the responsible Ministers knowingly and wantonly were negligent in failing to foresee and negate the Canberra fires. The Deputy Coroner identified that there should have been foresight in relation to the threat and that the Government failed to respond to that need. Submissions were made on matters that the Deputy Coroner felt constrained not to fully investigate. It was suggested that available resources were not used and that local knowledge and information were ignored. The primary aim of this bill is to restrict the Coroner, to constrain and tie the hands of the Coroner, and to restrict inquiries when it may be politically expedient to do so. I draw the attention of the House to a number of comments made in the coronial inquiry's report that was handed down on 18 September. The Deputy Coroner stated:

The jurisdiction for me to hold this inquiry is clearly on the grounds that I felt it was desirable to do so and so did the State Coroner and by delegation I have assumed that responsibility.

Clearly, the inquiry was not initiated by the Government. One would have expected the Government to do so, but the Coroner had to take the initiative to do it. If the Coroner had not done that—for whatever reasons—one wonders whether the Government or the Minister would have initiated the inquiry. In response to a submission received from counsel on behalf of the Government, Bret Walker, on constitutional matters, the Deputy Coroner stated:

... I may have no power to make any recommendations that may impact on the Australian Federal Government or the Government of the Australian Capital Territory or any other Federal or ACT agency.

At the outset, Bret Walker, SC, sought on behalf of the Government to constrain any wider assessment or analysis of the bushfires. The Deputy Coroner said in response to that:

I am of the view that I am not precluded from making any recommendations.

The Deputy Coroner went on to say:

... the correct position in law as I see it is that any recommendation that I may make may be persuasive and not necessarily binding on any Federal or ACT Government agency ...

In saying that, the Deputy Coroner put Bret Walker in his place. I am minded to query whether Mr Walker returned from that coronial inquiry and suggested directly to the Government the need to ensure that that type of thing would not occur again and that, if a coroner was being overzealous in investigating and reporting on matters that may not be desirable from the point of view of the National Parks and Wildlife Service or the Rural Fire Service, the bill now before the House ought to be introduced. Among the submissions made to the Canberra inquiry, 18 expressed concern about the degree of hazard reduction that occurred in the Brindabellas, 11 queried the non-containment of the fire by the strategic response group, and 11 related to the lack of a direct attack on the fire.

A range of other concerns was raised in relation to maintenance of fire trails, the management of the fire and the failure to use local knowledge. Many residents raised substantial concerns that were not dealt with in any respect by the Deputy Coroner during the inquiry. Those residents felt somewhat vindicated last week by the Nairn inquiry's recommendations. The views and concerns of those residents had been treated with contempt by this Government in its multi-ministerial/multi-commissioner response to those recommendations. The Deputy Coroner stated in relation to fuel load reduction:

... should it have been envisaged that the potentiality existed with existing fuel loads and the right weather conditions for what has eventuated.

When referring to the Canberra fire, which commenced in New South Wales around the McIntyre's Hut area and became three fires that decimated Canberra with the loss of 500 homes, the Deputy Coroner said:

Again with hindsight the answer must be—yes, it should have been envisaged. I have no doubt that reduced fuel loads in the Brindabella Range may have provided an opportunity for a quicker response without necessarily placing firefighters at risk and with reduced fuel loads it may have been possible to attack the fire directly.

The simple conclusion—which the Government would have preferred not to come out of the inquiry—is that if fuel loads had been properly managed in the seven preceding years, during which time the National Parks and Wildlife Service had jurisdiction and responsibility for the area, there would have been a lesser risk, a greater possibility of control and a greater potential for firefighters to contain the fire earlier in the 10 days of burning. The firefighters could have gone in between 8 January and 12 January. By 18 January the fires had been burning for 10 days, they joined up and they wiped out a large proportion of the Australian Capital Territory. The Coroner said that he had examined recommendations made by the New South Wales joint select committee on the 2001-02 Christmas-New Year bushfires. The Coroner identified a number of recommendations, and I will cite a number of them. Recommendation No. 1 states:

That all public and private owners and/or managers of land in bushfire prone areas of New South Wales be made aware of their responsibilities to protect their own and neighbouring properties from bushfire, from active implementation of appropriate hazard reduction regimes in conjunction with meeting their responsibilities in regard to the application of appropriate standards in building construction and maintenance.

The Coroner further said that there was a progress report in relation to that recommendation, which was clearly belatedly provided by the Government on 28 August—that is, after the inquiry had been under way for five months. Three weeks before the findings were handed down the report claimed that progress had been made in relation to a range of recommendations. How genuine was the Government in implementing the recommendations? I think only belatedly, when it became clear that the Coroner was asking questions about how the recommendations had been implemented. [*Extension of time agreed to.*]

On page 22 the Coroner drew attention to recommendations 23 and 7, which relate to the responsibility of public landowners—in this case the National Parks and Wildlife Service—to identify and manage fuel loads, particularly high fuel loads, that existed in the Brindabellas. The Coroner drew attention to recommendation 7, which was that the implementation of the Government's strategy to streamline the approval process for hazard reduction be evaluated by December 2003 by the review panel convened by the Commissioner of the New South Wales Rural Fire Service. Two years after the release of that report, that recommendation has still not been acted on. It was due to be acted on and reviewed by next month, but there has been no action. Belatedly, the Government advised the Coroner that it was progressing with that recommendation but, unfortunately, it will not start the implementation until March 2004, and the review panel will not report to the commissioner until December 2004.

Not only is the implementation a year behind the original bipartisan recommendation of the parliamentary inquiry, but the Ministers responsible for it have simply ignored the recommendation. Another two bushfire seasons will have passed before it is possible to reasonably appraise whether the hazard reduction strategies have been adequate and suitable. I do not believe that the Deputy Coroner was terribly impressed by the report, but I assure honourable members that the Government would rather he did not explore that area. Hence some of the rationale behind constraining the options available for investigations in coronial investigations into fire. On page 21 the Coroner said that two central issues were identified in his conclusions: first, the matter of direct attack versus indirect attack; and, second, hazard reduction. He said:

This is a matter where clearly it would be appropriate to make recommendations, had they not already been made by previous Coroners and Parliamentary Inquiries.

The Coroner commented that no adequate action had been taken by the Government in relation to the previous coronial and parliamentary inquiries. He said further:

If I was to make any recommendation in this area it would be that the implementation of the many recommendations in this area should be given priority and appropriately funded.

The Coroner clearly stated that the recommendations have not been given priority by the Government and have not been appropriately funded. Obviously, the Government did not want the Coroner to address that area. On 18 September, when his report was released, the Government issued a number of statements in response to the coronial inquiry. The Government said that it had been vindicated and that it had done nothing wrong in relation to the McIntyre's Hut fire. However, had any reasonable analysis of the inquiry been possible, the finding would have been to the contrary. Coronial reports are not readily and publicly available. At the outset, the Coroner said:

For members of the public I can't make copies available, other than the fact that no doubt it will be reported upon or it will form part of the public record which is accessible to any member of the public through the normal procedure of applying for a copy of the findings or a copy of the transcript.

That is simply and patently ridiculous. Coronial reports and findings should be readily available to the public. The Opposition will move an amendment to the bill to the effect that every future coronial report relating to a bushfire be made available on the Internet as soon as practicable. There should not be a delay, as experienced by the Opposition on requesting the Coroner's Office to provide a copy of the report. We were told, "It is not available. You cannot get a copy of it. You can go through the normal process, pay for it, apply through the courts." There is no scrutiny, no accountability. Those reports should be readily and openly available to the public. The intention of the bill is to restrain or confine bushfire inquiries away from general circumstances into purely cause and origin. If the Government is not willing to accept the Opposition's proposed amendments in this House, we will push for them in the upper House.

Currently there is no prospect of proper scrutiny of whether the Government has adequately managed hazard reduction, whether adequate resources have been applied or—as in the case of the McIntyre's Hut fire—whether available aerial resources were called upon. It was clearly and publicly stated that resources were available to be used, but were not called upon. Without changes to the legislation there is no prospect of knowing whether information that is publicly available from locals was ignored—which is patently obvious from the Nairn inquiry. These matters ought to be investigated. The Coroner should be able to investigate and make findings in relation to the broader circumstances. The Government did not like that, does not want it, and its intention is to ensure that that is prevented in future. That is why the Opposition will oppose that element in the bill and will try to add the provision that there be future and greater public availability of the Coroner's findings.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [12.48 p.m.], in reply: I did not take formal objection to the fact that the honourable member for Davidson was speaking outside the leave of the bill for about three-quarters of his speech. I do not propose to attempt to untangle the extraordinarily confused account he gave of the coronial inquiry in Canberra conducted by Coroner Milovanovich. I just remind him that so far as the issues he has raised are concerned, the Coroner made this finding,

I am of the view that to have sent firefighters into the Brindabella Range on the afternoon of 8 January 2003 would be contrary to all the basic firefighting knowledge and would have placed professional and volunteer firefighters in potentially grave danger.

Whichever way we look at it, that was a pretty forthright finding concerning the central issue of his inquiry—a finding to which the Government had no objection whatsoever. I also point out that, notwithstanding the quite

seriously confused accounts of this bill that Opposition members have given, there is simply no question that under the Act, as we propose to amend it, an inquiry that would take place into an incident like the one involving the so-called McIntyre's Hut fire would take exactly the same form as it took in the past. One would never guess that was the case after hearing what Opposition members have been saying, but it is self-evidently the case. The honourable member for Epping acknowledged that those who work in this jurisdiction, and not the Government, recommended the proposals that we are discussing.

The amendments that we are talking about were accepted by the Government on the recommendation of a group of people with the appropriate expertise to make recommendations of that sort. The group that made the recommendation include: the State Coroner, the executive officer of the Coroner's Court, the assistant director-general of the Attorney General's Department, the Assistant Commissioner of the New South Wales Police Force, the director of the Office of Emergency Services, together with representatives of the Ministry of Police and Cabinet Office. In turn, the group that made this recommendation that the honourable member for Davidson finds so offensive received representations from a broad range of interested parties, including the Commissioner of the New South Wales Fire Brigades and the Commissioner of the New South Wales Rural Fire Service.

The group found that it was necessary, in the interests of everybody who is concerned about these matters, to improve the procedures of the court, to streamline police investigations and to refine reporting protocols used by the Coroner and his administration. These amendments, which are not being imposed for some imagined political purpose, are supported by the entire administration of the Coroner's jurisdiction, by the State Coroner, Mr Abernathy, by the Senior State Coroner and by two Deputy State Coroners. I mention them particularly because we have their written confirmation of their support for this amendment. Their request to me was that this legislation should be introduced as soon as possible. I point out that one of the Deputy State Coroners who asked me to introduce this legislation is Coroner Carl Milovanovich, who, for several years now, has had responsibility for almost all the inquiries into bushfires. Of course, he was the person who conducted the inquiry into the McIntyre's Hut fire.

The honourable member for Davidson suggested that somehow or other this Government has a nefarious political motive. I suggest to him that he ought to think seriously about how he is reflecting on the reputations of a number of highly responsible public servants and coronial officers. It is particularly important that these reforms should be in place before the summer bushfire season so that people affected by fires this year can be assured that their cases will be dealt with consistently and efficiently. The honourable member for Epping made some play of what he saw to be the opposed concerns of the resources and powers of the Coroner. In reality, we are not talking about that kind of opposition; we are talking about ensuring that the resources—which are significant if not infinite—for the Coroner are used more effectively. To take up a theme of the honourable member, I will be more than happy to attend a public meeting in my electorate and say that I have voted to follow the advice of the Coroner and all the Coroner's senior assistants about how he can most effectively use the resources that are put into the investigation of bushfires.

Victims and their families all deserve to get real and prompt answers to the circumstances of a bushfire that has affected them so that they can get on with their lives. The honourable member for Monaro said to me only moments ago that he knows of an instance in his electorate where it has taken a year to complete a coronial inquiry into a fire that started after a car crashed in a paddock. The owner of the car has been unable to receive insurance replacement costs until that coronial inquiry is finished. That is a good example of how faster and more effective coronial findings can affect the lives of everyday folk. In my view, the Opposition's amendment is nothing more than an armature—an opportunity for some political point scoring by the honourable member for Davidson, who again wishes to display his fetish about hazard reduction. Clearly, the amendment has nothing to do with good government or with the needs of communities that are affected from time to time by a bushfire.

The New South Wales jurisdiction is broad compared to most others in Australia, including the Australian Capital Territory but also South Australia and the Northern Territory. In Queensland the Coroner does not investigate fires at all. At present, the wide breadth of the coronial inquiry means that every reported fire is investigated to an extent well beyond what is required for the Coroner to determine what happened, where and why—that is, the cause and origin of the fire. That has contributed to the significant delays that occur in finalising fire inquiries, making victims wait for answers and for the closure that will follow those answers. The major cause for that delay is the amount of time that it takes police investigators to prepare the brief of evidence for the Coroner precisely because they have to cover such a wide range of issues—issues that would not normally be considered relevant to an inquiry if it were not for the broad interpretation that presently exists for this concept of circumstances.

To be more concrete, during the 2002-03 summer season more than 1,000 fires occurred that required a report from the Coroner under our legislation. A large police task force called Tronto 2 was assembled to produce briefs of evidence on every reportable fire. By mid-year the Coroner had received 895 briefs. Of those 895 briefs 13 involved criminality, death, arson or large property damage. Only five potentially required an inquiry. In the vast majority of cases—882—an inquiry was dispensed with because the circumstance of the fire was sufficiently disclosed. It was clear how and where the fires had started. However, by requiring the police to investigate the circumstances rather than, more narrowly, the cause and origin, we ensured that a full brief of evidence covering all peripheral issues needed to be prepared by police. That is what unnecessarily increased the complexity of the briefs that were handed up and that led, as has always been the case, to the inclusion of many thousands of pages of statements that in many cases took 12 months to collect and collate.

By clarifying that the coroner is interested in determining the cause and origin of the fire we will ensure that the simple and clear cases are able to be presented much more quickly. The honourable member for Epping suggested—and his attempts to justify the position of the honourable member for Davidson in this respect were valiant—that the Coroner could use the present section 15 of the Act to dispense with an inquiry if he thought that necessary. The suggestion was that this was a way of simplifying procedures if the Coroner so desired. However, before dispensing with an inquiry the Coroner must have received a brief from the police. Those briefs are often extensive because of the broad definition in the Act. Section 15 is no use in resolving the complexities that this bill addresses.

The Australian Capital Territory case is a good example of a situation in which a broad inquiry would be called for. To use the honourable member's example, if the Australian Capital Territory Chief Minister had the advantage of the provisions that the Government is proposing in this bill, he would of course request a broader inquiry. There having been such a significant event, that would be appropriate. Indeed, commonsense dictates that it would be inconceivable that in circumstances such as those in the Australian Capital Territory the relevant Minister would not insist upon the establishment of a broad inquiry.

In any event, the State Coroner is an independent judicial officer and under this bill he will retain his discretion to direct a broader inquiry. The commissioners of the two fire authorities retain similar discretion. If the honourable member for Davidson is suggesting that this is an insufficient guarantee of the appropriate use of the broader form of inquiry in more serious or complex circumstances, he should consider to what degree he is reflecting upon the character and independent status of the State Coroner. It is surely appropriate that we dedicate finite resources—police resources and the coroner's resources can never be infinite—to those cases that, in serious objective terms, demand them. The reforms in this bill will not prevent the detection of arson or the scrutiny of actions taken by property owners, whether private or corporate owners or government land managers. The reforms will mean that the police investigators will not have to tick off issues that are not even in question.

The bill will ensure that resources are devoted to areas where they are needed and that the police will be available for the cases that require more detailed investigation, such as those that proceed to an inquiry or that involve suspected criminal behaviour, such as arson, injury or death. We are about ensuring that those kinds of cases get the attention and the resources they deserve. It is ridiculous to contend that we should simply devote more resources to every conceivable investigation. The taxpayers of New South Wales deserve a more intelligent response than that. In this and in every other area of government taxpayers should be assured that resources are used according to some reasonable discretion and are not used simply to prop up more and more inefficiency.

These reforms will lead to the improved investigation of matters when a thorough investigation is warranted. The bill self-evidently contains safeguards that ensure that no issue that should be addressed is ignored. The legislation not only allows the Attorney General but the State Coroner—an independent judicial officer—the Commissioner of New South Wales Fire Brigades, and the Commissioner of the New South Wales Rural Fire Service to request a broader and more general inquiry when a fire or an explosion has damaged or destroyed property. That will ensure that the new arrangements proposed are fair, open and effective and will not be subject to political manipulation, no matter how much the honourable member for Davidson would wish that were not so.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Mr ANDREW TINK (Epping) [1.05 p.m.], by leave: I move the Opposition amendments in globo:

No. 1 Pages 3 and 4, schedule 1 [3]-[5], line 10 on page 3 to line 10 on page 4. Omit all words on those lines.

No. 2 Page 7, schedule 1 [19], heading, line 1. Omit "**clauses 13 and 14**". Insert instead "**clause 13**".

No. 3 Page 7, schedule 1 [19], proposed clause 14, lines 9-14. Omit all words on those lines.

No. 4 Page 4, schedule 1, insert after line 19:

[8] Section 22B

Insert after section 22A:

22B Findings, verdicts or recommendations in relation to fires or explosions to be published on Internet

The coroner must cause the written record of findings or jury's verdict in relation to an inquiry concerning a fire or explosion, and his or her recommendations (if any) connected with the fire or explosion, to be published on the Internet as soon as practicable after that record is made.

As to the amendments relating to the public reporting of the coroner, I have nothing to add to what the honourable member for Davidson said during the second reading debate. As to the other amendments regarding the investigative powers of the coroner, I maintain what I said earlier in debate. This is an example of resources driving powers when powers should be driving resources. I put it on the record that I had a discussion with the State Coroner, Mr Abernethy, recently and he left me in no doubt whatsoever that this is a resources issue. The fact of the matter is that the coroner and the police do not have the resources they need to investigate bushfires and other fires under the powers that Parliament has conferred upon them. The Government is not giving the coroner and the police the resources they need to exercise their existing powers. It is a disgrace for the Government to then attempt to solve this problem by reducing those powers to match the available resources.

We are entering yet another fire season when property all over the State will be at risk. The Government's response to that threat is to cut the coroner's investigative powers. What a joke! If the Attorney General were to explain properly and accurately to a public meeting in Katoomba that a lack of resources is driving the problem, I believe those in attendance would have a different response. I do not believe existing section 15, which tapers down under subsection (2) to dispense with a full inquiry after the brief has been read, is an unreasonable compromise. What are we coming to when the police do not have the resources to compile briefs about fires for the coroner? It is a joke. I daresay the Premier, the Attorney General and the Hon. Tony Kelly will form a conga line and hold media conferences between now and April next year to say, "We're getting tough on this and that and we're cracking down on firebugs". Hello! Reality check: The last thing the Government did before Parliament rose at the beginning of the fire season was reduce the coroner's powers to investigate the causes of fires. That is an obscenity.

This provision is a joke. The senior members of the Coroner's Court are going along with it because they have no choice. Who told me that? The State Coroner told me that a resource problem was driving this measure. That is what is behind it. The Attorney General claimed that a Chief Minister or Minister would insist upon a coronial investigation. However, a Minister cannot insist that a coroner investigate anything. The Attorney General should know that better than anyone else in this place. A judicial officer can be compelled to do something only through rules established by this Parliament, which I fear that we are now about to change. Only Parliament can set the rules that govern coroners, and we are about to make them less insistent. No Minister can insist that a judicial officer do anything. The Minister ought to know that.

The Parliament is the only proper body that is able to insist on coroners taking action such as investigating fires in the proper way, and we are cutting down those powers. We have had the cautionary tale of the Australian Capital Territory Chief Minister, Mr Stanhope, who rightly said that he could not insist on the coroner doing anything. He said that a wider inquiry was important and he was frustrated that he was not in a position to insist on it. The outcome caused a great deal of difficulty, and in this jurisdiction that difficulty is

currently avoidable. If this bill becomes law before Christmas, we will labour under the same problems as Canberra in relation to the investigation of fires.

The only person missing from the powwow with the so-called interested parties to discuss these changes was a representative from Treasury with a chequebook to provide the necessary resources to investigate fires. The Attorney General said that taxpayers do not want their resources wasted. The taxpayers in the electorate of Epping and the electorates of the members for Southern Highlands, Lismore, Coffs Harbour and Orange and those who live near the Garigal National Park want money spent on proper investigations, properly resourced police and a properly resourced coroner so that if a fire breaks out in any of those electorates this summer—heaven forbid—we will know what happened, why it happened and what can be done better next time. Answers to those questions will not be obtained by narrowing the powers of the coroner. The coroner has told us that it is about dollars and resources. My constituents want dollars and resources spent to get to the cause of these fires; they do not want resources cut.

Mr Steve Whan: How much?

Mr ANDREW TINK: It is a disgrace that the honourable member for Monaro interjects "Rubbish." Half his electorate was burnt out before the last election and he says it is rubbish to argue to maintain a coronial jurisdiction. The constituents of the honourable member for Monaro would want the most effective and wide-ranging coronial inquiry into fires in his electorate. I sincerely hope that he is held to account for such a reckless statement at the next election because his comments are a disgrace to the firefighters, to all property holders and to all people who live in his electorate whose lives or property may be placed in danger this summer, next summer or the summer thereafter. If the honourable member for Monaro has that attitude to fires and the investigation of fires in his electorate, he will not be a member of Parliament come autumn 2007.

Mr ANDREW HUMPHERSON (Davidson) [1.12 p.m.]: I am cognisant of the time. I endorse the comments of the honourable member for Epping. I specifically want to speak to the amendment that seeks to add a clause requiring public disclosure of coronial reports into fires. The Minister in his reply to the second reading debate did not clearly indicate the reasons for opposing the amendment and I invite him to do so now. I see no justifiable reason why coronial reports should not be available on the Internet at the time the findings are handed down. If it is easy enough to place press releases on the Internet, it is easy enough to place a similar digital file with the details of the inquiry on the Internet. I ask the Minister to endorse the public disclosure of coronial reports or, if he is not prepared to support it at this time, to indicate that he is prepared to consider it when the bill is debated in the Legislative Council.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [1.13 p.m.]: The Government has only just been handed the amendment circulated by the honourable member for Davidson. As a general principle I do not object to court judgments being placed on the Internet. However, I do not consider it appropriate to force upon this jurisdiction a legislative requirement that is not forced on any other court in New South Wales. While the Government will not support the amendment, I assure honourable members that it will continue the significant efforts of recent years to ensure that more and more jurisdictions move towards placing judgments and findings on the Internet. Incidentally, the Supreme Court already does so on the web site called Lawlink, which was established by the Attorney Generals' Department.

However, the Committee should not be fooled for a moment into accepting the idea that judgments of the coroner are not available to interested parties. It has been the case since time immemorial that, like other courts and tribunals, the coroner supplies copies of transcripts and judgments to people who apply for them and otherwise takes measures to publicise them. For those reasons the Government will not accept the amendment circulated by the honourable member for Davidson. The Government does not accept the amendments circulated by the honourable member for Epping. It only expresses its disappointment that the honourable member for Epping seemed to have abandoned all attempts at rationality as he dealt with these matters and attempted to attribute the most extraordinary motivations to the Government for what is no more than an absolutely sensible amendment to bring about greater efficiency in the way that proper inquiries are conducted into bushfires.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 33

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

Noes, 48

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

Pairs

Miss Burton	Mr Brogden
Ms Gadiel	Mr Hazzard
Dr Refshauge	Mr Pringle

Question resolved in the negative.

Amendments negatived.

Schedule 1 agreed to.

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

[Mr Speaker left the chair at 1.26 p.m. The House resumed at 2.15 p.m.]

TRANSPORT LEGISLATION AMENDMENT (SAFETY AND RELIABILITY) BILL

Bill received and read a first time.

Second reading ordered to stand as an order of the day.

FILM INDUSTRY

Ministerial Statement

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [2.17 p.m.]: The success of the New South Wales film industry continues to grow, benefiting everybody in this State. Our reputation as a leading international film-making location is about to be enhanced. Columbia Pictures plans to make a \$50 million film at Fox Studios. It is expected to create 450 full-time jobs during production and 1,600 casual jobs. Pre-production has already begun on the action flick *Stealth*, which will star international actor Josh Lucas. It is another great win for New South Wales and a terrific vote of confidence in our dynamic local film industry. The film will be mainly shot in Sydney but shooting will also take place in a yet-to-be-disclosed regional location, giving country New South Wales a slice of the action.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [2.18 p.m.]: The Opposition welcomes this continuing investment in the New South Wales film industry. It proves that the Australian film industry is well positioned in terms of growth of the industry and the high standing of the Australian film industry internationally in terms of producers, actors and other professionals associated with the industry. I note that some of the impending filming will take place in regional New South Wales. That is extremely important. We would encourage further decentralisation of filming throughout the beautiful State of New South Wales, including the many undiscovered and untapped regional areas that have great potential to contribute to our burgeoning and successful film industry in New South Wales.

FEMALE GENITAL MUTILATION

Ministerial Statement

Ms SANDRA NORI (Port Jackson—Minister for Tourism and Sport and Recreation, and Minister for Women) [2.19 p.m.]: Recent media reports have highlighted the issue of female genital mutilation. Women and girls who were subjected to this barbaric practice in their countries of origin are receiving expert medical care from the New South Wales health system. Female genital mutilation is the practice, for cultural reasons, that involves the partial or total removal of the external female genitalia and/or injury of the female genitalia, including infibulation in some cases.

It is important that the community understands that this mutilation, regardless of its cultural or traditional origins, is not acceptable in the modern world and is a serious offence in New South Wales, which was the first State, back in 1994, to prohibit the practice. Not only is it an offence to perform this operation or mutilation, it is also an offence to remove a resident of this State for the purpose of such an operation. The offence carries a maximum seven-year gaol term. In my speech in 1994, when I led the debate on behalf of the then Opposition, I argued strongly against those who believed that by outlawing this practice we would force it underground.

Unfortunately, but thankfully, through the good work at Auburn hospital, 40 women a year are presenting to be treated for female genital mutilation and follow-up health care. Auburn hospital is considered to be a centre of excellence in the provision of care and support for women who have been affected by this practice. Counselling and education are also provided to the staff, partners and families of these women in a sensitive and non-judgemental manner.

This justifies the stand taken by many female colleagues on both sides of the House in 1994 to insist that this procedure be made illegal and that that step be backed up by an extensive education program. The work of the New South Wales education program, run by the area multicultural health unit based in the grounds of Cumberland Hospital, has made it possible for these women to come forward. The program promotes a holistic approach to working with communities, and facilitates support and access to services for women and girls. It educates, produces information tools, and offers training to professionals. The program works in partnership with community leaders to strengthen the community ownership of the issues, which is important, and takes action to prevent this practice within these communities. It is through these programs that real inroads are being made to assist the women and prevent the occurrence of female genital mutilation in New South Wales.

Mrs JILLIAN SKINNER (North Shore) [2.23 p.m.]: I am happy to respond to this on behalf of the Opposition. The prohibition of the practice of female genital mutilation was a great initiative of the Fahey Government. It occurred just after I was elected in 1994. I remember very well the debates that went on around

that time, which had the support of women, in particular, and also men from all sides of Parliament. I pay particular tribute to my friend and colleague the late Marlene Goldsmith, as this was her personal passion. Without Marlene's drive I do not think we would have taken this issue as far as we have.

It is a great shame that 40 women are presenting to Auburn hospital for treatment as a result of this hideous practice. However, the Minister tells me it is most likely this is occurring overseas. I hope so. We want to catch every single instance of this practice if it is still occurring in New South Wales. It is important that we provide support and follow-up treatment for affected women, but that we remain ever vigilant to make sure that this practice never emerges again in Australia. I join with the Minister in saying this issue is an important matter that needs to be drawn to the attention of the community and kept alive at all times. Again, in memory of Marlene Goldsmith, this is something that none of us should support.

DISTINGUISHED VISITORS

Mr SPEAKER: I welcome to the public gallery His Excellency Mr Kenzo Oshima, Japanese Ambassador; Mr Hiroshi Manabe, Deputy Consul-General; Mr Hisao Nishimaki, Consul; and Ms Mayumi Kobayashi, Protocol Officer from the Embassy of Japan. I welcome also to the gallery today Mr Terry Rumble, former member for Illawarra.

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 Kristina Keneally**.

Aboriginal and Torres Strait Islander Communities Crime Prevention Programs

Petition requesting the extension of crime prevention programs within the Aboriginal and Torres Strait Islander communities, received from **Ms Linda Burney**.

Murrumbidgee College of Agriculture

Petition opposing plans to cut full-time and part-time residential courses offered at the Murrumbidgee College of Agriculture at Yanco, received from **Mr Adrian Piccoli**.

Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **Mr Alan Ashton, Mr Thomas George, Mrs Shelley Hancock, Ms Katrina Hodgkinson, Mrs Judy Hopwood, Mr Malcolm Kerr, Mr Wayne Merton, Mr Adrian Piccoli, Mr Steven Pringle, Ms Peta Seaton, Mr George Souris, Mr Andrew Stoner and Mr John Turner**.

Cudgen Creek Seaway

Petitions requesting that the Cudgen Creek seaway at Kingscliff be cleared of silt, received from **Mr Steve Cansdell 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**.

Water Police Pyrmont Site

Petition opposing development of the current Water Police Pyrmont site, received from **Ms Clover Moore**.

Public Housing

Petition requesting funding for public housing and affordable housing in Sydney, received from **Mr David Barr**.

Coffs Harbour Pacific Highway Bypass

Petition requesting the construction of a Pacific Highway bypass for the coastal plain of Coffs Harbour, received from **Mr Andrew Fraser**.

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**.

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**, **Mr Tony McGrane**, **Mr George Souris**, **Mr Andrew Stoner** and **Mr John Turner**.

Manly JetCat Services

Petition requesting continuation of 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**.

Goulburn Rail Services

Petition opposing the cancellation of CountryLink services from Goulburn to Sydney and Canberra, received from **Ms Katrina Hodgkinson**.

Redfern and Surry Hills Bus Services

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

Public Transport

Petition requesting the development of a transport blueprint for public transport as an alternative to private vehicle use, received from **Ms Clover Moore**.

Bus Service 311

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

Newcastle Rail Services

Petition requesting the retention of Newcastle rail services, received from **Mr John Price**.

Tamworth and Armidale Rail Services

Petition opposing the proposed cut to the CountryLink rail service between Tamworth and Armidale, received from **Mr Richard Torbay**.

Northcott Place Community Development Worker

Petition opposing the removal of the community development worker at Northcott Place, received from **Ms Clover Moore**.

Dunoon Dam

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

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**.

Hook and Line Fishing

Petition opposing recommendations from the NSW Fisheries Scientific Committee to list hook and line fishing as a key threatening process, received from **Mr Adrian Piccoli**.

BUSINESS OF THE HOUSE**Reordering of General Business**

Mr ANDREW STONER (Oxley—Leader of The Nationals) [2.34 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [CountryLink Rail Services] have precedence on Thursday 13 November 2003.

I seek precedence so this House can fully and freely debate how this Government is running an orchestrated campaign to shut down country passenger rail services. The clock is ticking on our country and coastal rail services, with the Government's Parry inquiry due to deliver a final report next month. This Government has the gun cocked at the head of country rail services, and once its kangaroo court has delivered its verdict the trigger will be pulled. Quite clearly, CountryLink is a core government service that should be subsidised. And, quite clearly, the recommendations made by the interim Parry report to scrap CountryLink services will severely disadvantage country and coastal people.

The sentiments of the Liberals and The Nationals—in fact, these exact words—were echoed in a press release issued by Country Labor convenor Gerard Martin. I look forward to the honourable member for Bathurst and his so-called Country Labor colleagues joining with the Liberals and The Nationals in supporting the reordering of this motion. I am calling for the Carr Labor Government to retain CountryLink services. Anyone who cares about country New South Wales will support this motion. Indeed, I invite the Premier to join with us, given his oft-stated concern about population pressures in Sydney. Surely it is paradoxical for him to rip services out of country and coastal New South Wales while at the same time screaming about an overpopulated Sydney. Premier, it is simple: if you run down services and infrastructure the population drift will continue.

I call on the Premier and Labor to give an ironclad guarantee that CountryLink rail services will be maintained and improved by government investment in the necessary rolling stock and infrastructure. The substitution of passenger rail services with bus services will clearly add to problems on New South Wales roads. This move will increase road traffic and road maintenance costs and involve busloads of people travelling on roads and bridges, many of which are in a dangerous state of disrepair.

I was concerned to read in Country Labor's press release of 16 October that Labor members of Parliament are calling on Mr Parry to give country people more transport options, and to retain CountryLink services. This is propaganda worthy of a slick dictatorship. It is not Professor Parry who has the power to give country people more transport options or to retain CountryLink services; it is the New South Wales Labor Government. That is the New South Wales Labor Government, of which each and every one of the so-called Country Labor members of Parliament are members. [*Time expired.*]

Mr CARL SCULLY (Smithfield—Minister for Roads, and Minister for Housing) [2.38 p.m.]: The Government supports the motion for the reordering of business.

Motion agreed to.

QUESTIONS WITHOUT NOTICE

GAMING MACHINE TAX

Mr JOHN BROGDEN: I direct my question without notice to the Minister for Science and Medical Research. Does he continue to support Labor's club tax increase when the major fundraising arm of the Westmead medical campus, the Millennium Foundation, will have almost \$10 million ripped out of its research plans over the next three years due to the tax?

Mr FRANK SARTOR: The Leader of the Opposition has gone to great lengths to try to corral representatives from some medical research institutes into his office to perpetuate an untruth about the community development expenditure grant, for which the Government gives a rebate of up to 1.5 per cent. He had a whole lot of them in his office this morning. The Opposition's sources are the clubs, because I have spoken to them. The big clubs have been telling them that as a consequence of the guidelines about the funding, clubs will cut medical research funding to these bodies. The simple fact is that there are two categories, and category 2 has always been available for medical research funding. Either the Leader of the Opposition is lazy or he is not doing his research. If he had read the guidelines he would know that clubs could still fund medical research, if they choose, even within the 1.5 per cent limit.

The guidelines were a clarification of what was always intended: category 1 was meant to be for the smaller local community organisations that might otherwise get no funding. But he is perpetuating the myth. I do not know whether he is lazy, ignorant and did not do his homework, whether he is a wholly owned subsidiary of the clubs of New South Wales, or whether he is a consultant to the clubs of New South Wales. The Leader of the Opposition has no integrity. He is behaving like a consultant to a few large clubs in this State. He does not care about the truth. He does not care that we might cut \$1.6 billion out of health funding, including medical research. He wants to cut taxes and increase spending. There is no responsibility whatsoever. The Government generously funds the Millennium Foundation to the tune of \$2.3 million per annum under the Infrastructure Grants Program, and we are giving the foundation \$8 million a year to establish its first home, but John Howard has reneged on the deal.

Three members on the 18-member Millennium Foundation board—Alan Overton from Parramatta Leagues Club, Keith Queen from Blacktown Workers Club and Trevor Oldfield from Wentworthville Leagues Club—represent the local club industry. The Leader of the Opposition is promoting their cutting the funding to the Millennium Foundation. He has a callous disregard for medical research. He does not care about the impact of what he is saying. He does not care whether punters who spend money on poker machines get some benefits, at least through the health system. He wants to fund lavish foyers, artworks and granite in the foyers of the large clubs.

Mr John Brogden: I've seen the Town Hall.

Mr FRANK SARTOR: Sydney Town Hall has always been very well run. We set new standards after we got rid of your lot.

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

Mr FRANK SARTOR: The Leader of the Opposition, the consultant on the opposite side, is trying to perpetuate an untruth to try to leverage political advantage over a few of the large clubs. The facts speak for themselves.

CENTRAL COAST HEALTH FACILITIES

Mr PAUL CRITTENDEN: I address my question without notice to the Minister for Health. What is the latest information on improvements to health facilities on the Central Coast?

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

Mr MORRIS IEMMA: Lots of good things are happening. I thank the honourable member for Wyong for his efforts in ensuring that the Government delivers first-class health facilities for the people of the

Central Coast. I am pleased to announce that with the extra funds made available through budget surpluses this year we will give the Central Coast a \$10 million boost for the \$208 million redevelopment of Gosford and Wyong hospitals. This boost will bring to almost \$79 million the capital allocation for the Central Coast for this year alone. It will help address the immediate seasonal pressure on Gosford and Wyong hospitals by increasing the capacity at Wyong emergency department with an additional 10 beds two years sooner than otherwise would have been possible.

Extra funds for the Central Coast will ensure completion in 2004 of a range of new facilities, including a new respiratory ward, new outpatient facilities and new education facilities. Extra funds will help to ensure that the Central Coast access plan is completed by 2006. It includes new emergency departments and extra operating theatres at both hospitals as well as a new mental health unit. It is this budget surplus that has formed the basis for the Government's plan to invest \$420 million in a health super growth fund. Following the announcement of this week's interest rate increase, the estimate is that \$92.4 million in interest will be earned in the next four years. That means \$92.4 million extra for health capital works that will enable us to bring forward major projects that would otherwise not have started until further down the track.

In addition to the Central Coast, the Government has identified 14 major projects in rural and regional New South Wales that will benefit from this fund. The projects include the \$220 million redevelopment of Bathurst, Orange and Bloomfield hospitals in the State's midwest; the \$30 million redevelopment of Queanbeyan hospital in the State's south; \$1 million for a primary care centre in Menindee in the State's Far West; the acceleration of six smaller hospitals as multipurpose services in Dunedoo, Portland, Guyra, Walcha, Tottenham and Tullamore across inland New South Wales; and the replacement of two linear accelerators at Wollongong and Liverpool hospitals. The fund will enable us to announce a similar set of projects year after year with money that would otherwise have gone to interest payments on State debt.

This is a clear demonstration of good fiscal management and good fiscal responsibility. The Opposition has demonstrated clearly its ignorance of and disagreement with our plan for the health super growth fund. The statements made yesterday by the Leader of the Opposition show clearly his ignorance of debt, interest payments and our plans for the fund. Put simply, they are an investment in the health infrastructure of this State that is integral to providing quality care and improved health care services for the people of New South Wales.

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

GAMING MACHINE TAX

Mr ANDREW STONER: My question without notice is directed to the Minister for Health. How can he defend his Government's clubs tax grab given that it is responsible for the scrapping of a \$50 million hospital and teaching facility planned by the Tweed Bowls Club—a project that the Premier praised last year as ambitious and sophisticated?

Mr SPEAKER: Order! Members on both the Government and the Opposition benches will come to order.

Mr MORRIS IEMMA: I will support, defend and promote any measure that puts more money into our public hospitals. I will promote, support and defend any revenue measure that improves the quality of health services in this State, including the poker machine tax.

Mr SPEAKER: Order! The Leader of the Opposition will come to order.

Mr MORRIS IEMMA: The Leader of The Nationals can talk all he likes about the Tweed Heads hospital. I do not know if he has been there recently, but it is a brand new spanking hospital built by this Government out of its capital fund allocations.

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

Mr MORRIS IEMMA: He can ask all the questions he likes about the poker machine tax, health funds and the super-growth tax, about what happens to the money and where it comes from, but the one thing he will not ask when it comes to health funding is a question of John Howard about putting more funding into our public hospitals. We have just completed a nationwide process over four or five months involving every Minister for Health and the former Federal Minister for Health in which the central debate was funding for public hospitals. Did the New South Wales Opposition ever ask one question?

Mr Andrew Stoner: Point of order: In relation to Standing Order 138, which pertains to relevance, the question was clearly about a hospital that is now not going to go ahead because of the Government's clubs tax, not the Federal Government's funding. The Minister needs to tell the honourable member for Tweed how to explain this away.

Mr SPEAKER: Order! There is no point of order. The Minister is clearly answering the question. The Leader of The Nationals is not entitled to take a point of order merely because he does not like the answer.

Mr MORRIS IEMMA: It is extraordinary hypocrisy for the Leader of The Nationals to ask that question when he should have been asking questions about the funding formula for public hospitals under the new health care agreement that will last for the next five years. But he was deadly silent about that. He did not ask one single question. He has not asked one single question because, when it comes to doing something about public hospital funding, the one thing that the Opposition will not do is pick up the phone, call John Howard and say, "Our public hospitals deserve more funding, not less."

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

Mr MORRIS IEMMA: For five months, as the debate raged across the country about public hospitals funding, the Opposition was silent. Why will the Leader of The Nationals not get on the phone to John Howard and his Federal leader and ask for more funds for our hospitals? Why does he not get on the phone and tell John Howard to change the formula for funding? When members of the Opposition had the chance, they said nothing and did nothing because at the end of the day they will not do the two things that will improve the funding for public hospitals in New South Wales. They will not tell us where they will actually get the money, and they will not get on the phone to their friends in Canberra and tell them to revisit the formula.

GUN COURT

Mr GRAHAM WEST: My question without notice is addressed to the Attorney General. What is the latest information on gun courts and their application to New South Wales?

Mr BOB DEBUS: The recent drive-by shootings in south-western Sydney of course are a stark reminder that there is no room for complacency in the fight against gun-related crime. All justice agencies are working closely to put in place strategies to tackle gun crime head-on. Under Detective Chief Superintendent Bob Inkster Task Force Gain has seen the deployment of 160 officers to intensively address gun crime in south-western Sydney. A package of legislative reforms is already in place. There have been calls also to complement these reforms with the institution of specialised gun courts.

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

Mr BOB DEBUS: Gun courts are in use in some American States. The Government is open to fresh approaches to fighting crime when the approaches are soundly based on evidence that they succeed in reducing crime and in increasing the safety of the citizens of the State. Today I am pleased to inform the House that the Government has appointed the retired Supreme Court judge, former New South Wales Governor and Chancellor of the University of New South Wales, the Honourable Gordon Samuels, AC, QC, to conduct a review into the operations of our courts system with respect to gun violence, and with specific reference to examine the merits of a gun court. The review will also examine issues concerning sentencing and prosecution practice. Gun courts have been established in several jurisdictions of the United States. Their aim is to reduce court delays, to promote consistency in sentencing and to reduce gun crime. They also serve as a repository for specialist knowledge of gun-related crime.

Mr Andrew Tink: Point of order: This is a ministerial statement. I would like to have the opportunity to thank the Attorney General for adopting our idea.

Mr SPEAKER: Order! There is no point of order. The honourable member for Epping will resume his seat.

Mr BOB DEBUS: There are two quite distinct gun courts formats that have been developed in the United States: One is for adults, and the other is for juveniles. The first adult gun court was established in Providence, Rhode Island, in September 1994. There are similar courts in Seattle, Minneapolis, Detroit and New York, and another is planned for Philadelphia. In the Rhode Island model, all cases involving a gun are

automatically referred to the gun court. Under that legislation, any case that involves a gun must be scheduled for trial within 60 days of completion of discovery. Juvenile gun courts have also been established in Detroit, Indianapolis, New York and Washington DC. They are a form of juvenile diversion based on the principles of early intervention—often even before the court case is concluded.

The gun court applies short-term intensive programs, including education and training, to help to rehabilitate young offenders. That could include firearm diversion programs, parent and youth firearm education courses, and presentations by experts or by people who have been affected by firearm violence. The juvenile gun court also ensures that young offenders and their families are assessed and that they receive all necessary social services. It is easy to see why that model has been so attractive to policy makers, yet great caution must be exercised in applying the American experience in New South Wales courts. In particular, we have to recognise that gun crime—indeed, gun ownership of every kind—has been vastly more widespread in the United States than in New South Wales.

Mr John Brogden: Not recently.

Mr BOB DEBUS: The Leader of the Opposition should listen to the figures, and should perhaps consult on them. In the United States each year, over 10,000 murders are caused by firearms. In Australia in 2001, there were 69 similar occurrences. Homicide rates in the United States per 100,000 of population are three times higher than they are in Australia, and the firearm homicide rate in the United States is 10 times higher than Australia's. Preliminary research has shown that no data is available to indicate that the introduction of adult gun courts in any jurisdiction has had any effect on decreasing gun crime. Although other advantages, such as reducing the delay in finalising cases, may well have occurred we have not seen any evidence that in those American adult courts there has been any effect towards the decrease of gun crime. However, for juveniles the preliminary data tells a very different story.

Early studies showed that gun-related juvenile offences declined by 39 per cent in two years after the establishment of a juvenile court in Alabama. An in-house review of the Birmingham Juvenile Gun Court also revealed that young people who had been through the system experienced an overall recidivism rate of 41 per cent compared with 73 per cent of youths prior to their appearance in the Gun Court. In addition, those tried before the Gun Court were less likely to reoffend specifically on gun charges. Again, a word of caution: In looking at American studies we are talking about an entirely different level of gun-related crime and a saturation level of gun ownership. The firearm homicide rate for children under 15 years is 16 times higher in the United States of America than in 25 other industrialised countries combined.

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

Mr BOB DEBUS: A teenager in the United States of America is more likely to die from a gunshot wound than from all natural causes of death combined. That compares with only 60 juveniles charged with firearm offences in New South Wales during 2002; and, of course, 60 are too many. Of 60 offenders drawn from across the State it is difficult to see that New South Wales has the numbers to make a separate juvenile gun court viable; however, that is a matter on which, of course, I will hold judgment until Mr Samuels makes his findings. It is important also to bear in mind that the New South Wales legal system treats juveniles who have committed serious offences as if they were adults and tries them in the District Court. I would need to hear a convincing case before changing that arrangement and transferring that sort of case to a juvenile gun court.

An attractive feature claimed by the United States of America Gun Courts is the noticeable reduction in court delays. In Rhode Island the average time for dealing with a case dropped from 518 days to 126 days after the introduction of the Gun Court. As most honourable members are aware our courts have already made spectacular strides in addressing the problem of court delays generally. For instance, firearm offences in the New South Wales Local Court are usually completed after 40 to 50 days; that is, in a month and a half. That is still about half the time it takes to complete a gun case in that famous court in Rhode Island. The Government will need to ensure that any changes arising from the Samuels report build upon the existing success of the courts in addressing delay.

Mr SPEAKER: Order! There is too much audible conversation on both Government and Opposition benches.

Mr BOB DEBUS: The other major attraction of gun courts is said to be an increase in the severity of sentences that are handed down. Preliminary studies appear to support that conclusion. As honourable members

would be aware, in New South Wales we have already introduced a standard non-parole period of three years gaol for possession of a firearm, and a new standard minimum sentence to deal with gun-related crime, such as 20 years for murder and 7 years for armed robbery.

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

Mr BOB DEBUS: We have, indeed, achieved much in this area as well.

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

Mr BOB DEBUS: But the Government concedes that there is always more to be done, and that is why we will await with great interest the findings of the review by the Hon. Gordon Samuels on the merits of a gun court in our jurisdiction.

FORMER MACARTHUR HEALTH SERVICE CHIEF EXECUTIVE OFFICER MS JENNIFER COLLINS

Mr BARRY O'FARRELL: My question without notice is directed to the Minister for Infrastructure and Planning. What conversations and meetings, official and personal, did the Minister or his office have with his close friend and disgraced former chief executive officer of the Macarthur Health Service, Jennifer Collins, since allegations were first raised about treatment and the deaths of at least 17 patients at Camden and Campbelltown hospitals?

Mr SPEAKER: Order! The standing orders specifically stipulate that questions without notice should not contain any derogatory or defamatory words. The Deputy Leader of the Opposition used such terms in his question. On this occasion I will allow the question. However, I will take a more critical view of such questions in future.

Mr CRAIG KNOWLES: I am happy to answer it—

Mr Barry O'Farrell: Point of order—

Mr CRAIG KNOWLES: I am happy to answer. The Deputy Leader of the Opposition asked the question. Let me answer it.

Mr SPEAKER: Order! Is the Deputy Leader of the Opposition canvassing my ruling?

Mr Barry O'Farrell: No. The only reference that can possibly have related to your ruling was the description "disgraced".

Mr SPEAKER: Order! That is not a point of order. The Deputy Leader of the Opposition will resume his seat.

[Interruption]

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

[Interruption]

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

Mr CRAIG KNOWLES: For the record, my relationship with Jennifer Collins is a very clear and distinct one. There is some allegation that Jennifer Collins is a member of the Australian Labor Party. For the record, I have absolutely no knowledge of whether she is or is not a member of that party. The only external position to her job as the chief executive officer [CEO] of the Macarthur campuses that I have knowledge of is that I am aware that historically—I cannot precisely identify the year or the date—she was an executive member of the New South Wales Nurses Association. Why do I know that? Because when I went as the official guest and official speaker at Sandra Moait's farewell dinner, Jennifer happened to be there and was one of the acknowledged guests. I make this very clear: I know that people are trying to assert that Jennifer Collins is some mate, some close friend, some Labor Party mate.

Mr Barry O'Farrell: You looked after her.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will come to order.

Mr CRAIG KNOWLES: The Deputy Leader of the Opposition asked the question. He is getting the answer. As far as I am concerned my relationship with Jennifer Collins was the same as that with any other CEO in the New South Wales public hospital system whilst I was the Minister for Health. In the context of all of that, when allegations were made by Campbelltown and Camden nurses about her and other people, as a matter of documented public record I initiated the inquiry.

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

[Interruption]

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

Mr CRAIG KNOWLES: I initiated the inquiry. I am proud to have done that.

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

Mr CRAIG KNOWLES: As the current Minister for Health has said, the inquiry continues.

ROYAL LIFE SAVING SOCIETY NEW SOUTH WALES DROWNINGS RESEARCH

Ms ANGELA D'AMORE: My question without notice is addressed to the Minister for Tourism and Sport and Recreation. What is the Government's response to research by the Royal Life Saving Society New South Wales on drownings?

Ms SANDRA NORI: Just last week the Royal Life Saving Society New South Wales released its latest report on drownings. I am pleased to advise that although the number of drownings has reduced, 80 people drowned in the past 12 months. Obviously, we want to continue that downward trend. It is instructive to hear some of the main findings of that report. Of the 80 people who drowned, 65 were males; 20 drownings were in lakes, rivers and dams; 9 children drowned in the 0-5 years age group, of those 4 were in home swimming pools and 3 were in baths. Unfortunately there was an increase in the number of drownings in the 6-14 years age group, with 5 drownings. Trends show an increase of drownings in the older age group of 55 years plus. The beach, ocean and harbour drownings accounted for almost half of total drownings, at 39; 15 per cent of total drownings were in swimming pools; 10 per cent of total drownings were in baths; and almost half total drownings occurred between noon and 6.00 p.m.; alcohol was indicated as a factor in 27 per cent of total adult drownings.

This Government takes water safety seriously. Its Water Safety Task Force brings together 19 government agencies and peak water safety bodies to research and advise on improvements and new initiatives. It is recognised that New South Wales leads the way nationally, but then so it should. We have a long and magnificent coastline with a highly developed tourism industry and the largest population of all States, so we want people to enjoy their water sports, but we want them to do it safely. The Government's task force has identified a number of high-risk areas. I will refer to a few of those high-risk areas and to the action that this Government has taken in relation to them.

I refer first to rock fishing. Between 1992 and 2000 there were 74 deaths from that activity. Some of the studies found that people from Asia combined to represent 51 per cent of the rock-fishing fatalities. The study identified that flotation devices, even jackets, were not used by any of the deceased. Appropriate footwear was worn by only 19 per cent of the deceased. In fact, some of them had on water boots, which became dead weights once they were in the water and could have been the cause of death in their own right. Tragically, in the majority of fatalities the behaviour of the drowned person was a contributing factor. Eleven per cent of the fatalities occurred during calm conditions, which sends out a warning that calm seas do not necessarily guarantee one's safety. It also establishes that 89 per cent of fatalities occurred when the weather was bad and the sea was rough.

So a lot of people do not appear to have a sense of personal responsibility when they are engaging in this activity. The Government has responded by implementing a rock-fishing education initiative, and 400,000

brochures, which have been distributed extensively throughout New South Wales, include information about protective footwear, appropriate clothing and other steps to minimise risks. The Government has also piloted a rock-fishing seminar in the Chinese community in association with the Australian National Sportfishing Association. Recently I announced the availability of a pilot program of 10 scholarships for people from the Chinese community to become fully trained swim instructors and lifeguards. The Government is giving consideration to publishing that program in other community languages.

The program has been conducted with the assistance of the Royal Life Saving Society of Australia and the Australian Council for the Teaching of Swimming and Water Safety. I thank them for their support. The other area of concern is the bush, not just because of drownings in dams and rivers but because the statistics show that 50 per cent of all people who have had to be pulled out of the surf live 50 kilometres or more from the beach. Adults and especially kids from the bush are not as used to the coastal conditions as are coastal dwellers. The Government, in conjunction with Telstra, is taking the Beach to Bush Program to the bush. We are taking the water safety message right into the bush. Last year there were 7,135 participants in the program—48 towns were visited, 72 schools were visited and 144 lectures were conducted. This year the program will be run in more than 80 schools in the bush.

Water safety is not rocket science; it is about education but it is also about commonsense and taking some personal responsibility. From my observations I have become aware that one simple rule is not being adhered to in the way in which we adhered to it when we were children. I am concerned about the fact that fewer people are electing to swim between the flags on our beaches. I inform all those people that the "Swim between the flags" signs are not a luxury or an optional extra. The signs are not in place for guidance; they are there to be obeyed.

NORTHERN BEACHES TRANSPORT NEEDS

Mr DAVID BARR: My question without notice is directed to the Minister for Infrastructure and Planning, and Minister for Natural Resources. Now that the planning approval process to widen The Spit Bridge is under way, will the Minister commit to reconvening a section 22 committee to examine further ways of meeting the northern beaches' long-term transport needs?

Mr CRAIG KNOWLES: For the uninitiated, the section 22 to which the honourable member referred is section 22 of the Environmental Planning and Assessment Act. That section enables the Minister to establish a committee to inquire into almost anything. Historically, since the Act was established, governments have formed many section 22 committees for a variety of inquiries. If my memory serves me correctly, a section 22 committee was established to inquire into the transport needs for that part of Sydney.

As I understand it, the honourable member's question was couched in the context of the application that is presently before me for the widening of The Spit Bridge—an application that was lodged by the Roads and Traffic Authority. We are in the middle of that process. If my memory serves me correctly, as part of the proper processes, the Roads and Traffic Authority lodged that application with both Manly and Mosman councils. Under section 116D of the Act, Manly and Mosman councils decided not to make a decision but rather to refer the matter to me for consideration. I was then required under the Act to convene a section 22 committee.

[Interruption]

I do not know whether the councils voted for or against it or whether it was a split vote. It does not matter. Under the law they had the option of making a decision—which is what they did—to refer the matter to me for consideration. That then invokes a further process that will involve consultation with those councils as the local authorities. Once that is worked through I will come to a conclusion. I refer now to the point that was made by the honourable member about establishing a section 22 committee.

Do we want a committee of process while we already have an existing committee of process looking at a specific application? It is not a bad suggestion because of the broader issues associated with the transport needs of the northern beaches and the peninsula, but I suspect that it would overlap some of the work that is presently being done. I will give an undertaking to the honourable member—who I believe is being constructive about this, unlike some other representatives of the northern beaches area—that I will have regard to establishing a section 22 committee over the next few months.

HOUSE OF REPRESENTATIVES SELECT COMMITTEE ON THE RECENT AUSTRALIAN BUSHFIRES

Mr STEVE WHAN: My question without notice is directed to the Minister for the Environment. What is the Minister's response to the recent Nairn inquiry into bushfires?

Mr BOB DEBUS: All fair-minded people knew that a political witch-hunt was under way when Peter Webb—and we all remember him jostling the Premier and the Commissioner of the Rural Fire Service on national television during the fires last summer—teamed up with Wilson Tuckey, Alby Schultz, Peter Cochran and Gary Nairn to launch the Federal parliamentary inquiry into bushfires. They were so obviously playing politics that even before the inquiry was formally established and before the fires were out it had become clear that there would be no truck with anything like an objective analysis, let alone the facts. This inquiry was about creating a forum for the Coalition to attack the National Parks and Wildlife Service in various States and volunteer firefighters throughout Australia. The agenda was so obvious that Queensland, Victoria, Tasmania and South Australia joined New South Wales and refused to make submissions to what was so self-evidently a kangaroo court.

The Government, however, is actively participating in the bushfire inquiry established under the auspices of the Council of Australian Governments because that inquiry, which has objective terms of reference, will actually consider some science and some facts. On the other hand, the Nairn inquiry has laboured for seven months and produced nothing more than some prejudice and ignorance, as manifest by the Coalition. I believe the report is an insult to the thousands of volunteers and salaried firefighters who fought so steadfastly the massive fires that burnt for 150 days last season. Some Opposition members have actually been heard to claim that the Nairn inquiry consulted widely among the grassroots and volunteers. However, a reading of the report reveals that the Nairn inquiry heard from 17 volunteers and 10 bush fire brigades.

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

Mr BOB DEBUS: In New South Wales there are 67,000 volunteers and 2,100 bush fire brigades, so the Nairn inquiry did not get very far into the grassroots. Bear in mind that of those 17 volunteers who spoke to the inquiry, two were Peter Webb and his brother.

Mr John Brogden: They fought the fire.

Mr BOB DEBUS: So did a great many other people.

Mr SPEAKER: Order! There are too many interjections from the Opposition benches.

Mr BOB DEBUS: The central recommendation of this politically driven report is that we should water down our carefully thought-out health and safety rules for firefighting. That is its core recommendation. In effect, the report proposes that we throw firefighters into firestorms even when the country's most experienced and expert firefighters know that weather conditions would result in numerous deaths and serious injuries. That would be the result. The irresponsibility of the Coalition is summed up by the astonishing statement of the Liberal Federal Member for Hume, Alby Schultz, late of this House, during the parliamentary debate on the Nairn report. One can hardly believe what he said. Commenting on the funds that the Carr Government has injected into the Rural Fire Service in the past eight years, he said:

... all those contributions made using taxpayers' resources have been less efficient than when we used wet hessian sacks and primitive ... mobile fire tankers.

Alby did not add that in the good old days when we used wet hessian sacks and World War II blitz wagons, many people died or suffered injuries fighting fires. Given the nature of the Australian bush, we will never eliminate such tragedies entirely. However, to claim that the old ways of fighting fires were more efficient and somehow better than today's modern techniques involving safer equipment, technology and training is at best ludicrously ignorant. The Nairn report has been crafted by a bunch of Luddite Coalition politicians who endorse the kinds of propositions that Alby Schultz made. The recommendations of the Nairn report fall into two categories.

Ms Katrina Hodgkinson: Point of order: The Minister for the Environment is misleading the House deliberately by not addressing hazard reduction in any shape or form—

Mr SPEAKER: Order! There is no point of order. The honourable member for Burrinjuck will resume her seat.

[Interruption]

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

[Interruption]

Mr SPEAKER: Order! The honourable member for Burrinjuck will resume her seat.

[Interruption]

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

Mr BOB DEBUS: The Nairn report contains two categories of recommendations. The first sort—the best sort—are old recommendations that have already been implemented and put in place as a consequence of the 16 or so coronial and parliamentary inquiries into firefighting that have been conducted in this State in the past 10 or 15 years. The second category of recommendations fits into the silly and dangerous class. Two-thirds of the recommendations that are relevant to New South Wales have already been implemented. Apparently the Nairn inquiry simply did not understand that. In response to the inquiries that have been conducted—especially the inquiries that followed the 1994 fires and some of the parliamentary inquiries that have taken place since then—the Government has allocated record funding and made legislative changes in order to build in this State what the Coalition is so reluctant to recognise is the best-equipped, best-trained and best-resourced firefighting force probably in the world. The Nairn inquiry simply ignores those achievements.

The Nairn inquiry focused instead on the absolutely bizarre claim that New South Wales health and safety laws hindered the efforts of firefighters to attack aggressively the so-called McIntyre's Hut fire in the Brindabella Range, which started on 8 January. Let me make this point crystal clear—and I speak on behalf of all those Ministers responsible for firefighting activities of any sort. We unequivocally reject that conclusion and the irresponsible recommendation that we should water down our world-class safety requirements to allow what the Nairn inquiry calls "aggressive" action during extremely dangerous fires.

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

Mr BOB DEBUS: We reject that conclusion absolutely. We will never return to what Alby Schultz and apparently others opposite conceive of as being a golden era, when our firefighters were badly equipped and poorly trained and sacrificed their lives in significant numbers. They will never again suffer in that way.

FORMER MACARTHUR HEALTH SERVICE CHIEF EXECUTIVE OFFICER MS JENNIFER COLLINS

Ms PETA SEATON: My question is directed to the Minister for Health. How much is discredited health bureaucrat Jennifer Collins being paid in her new position, and is it more than she was paid when she was chief executive officer of Macarthur Health Service?

Mr MORRIS IEMMA: I do not have the details of Collins's salary or package or those of any other health service employee. I can tell the honourable member for Southern Highlands that, following—

Mr SPEAKER: Order! The Minister is attempting to answer the question. Government members will cease interjecting.

Mr MORRIS IEMMA: The major recommendation of the clinical review team was that there had to be a change in culture in the South Western Area Health Service. This change in culture started with a new leadership approach and a new leadership team.

Mr John Brogden: How much do you pay her?

Mr MORRIS IEMMA: I have already answered that part of the question. I do not have those details. The important thing is that—

Mr SPEAKER: Order! The time for questions has not yet expired. One question remains to be asked. The constant interjections of both Government and Opposition members are not only prolonging question time but preventing the Minister from answering the question.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Gosford to order for the third time. The Minister will be able to complete his answer far more quickly if there are no further interjections from the Government and Opposition benches.

Mr MORRIS IEMMA: The important thing was to start the process of obtaining a new leadership team with a new approach and a new culture.

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

Mr MORRIS IEMMA: That process is under way without at the same time prejudicing the common law or statutory rights of any individual.

Ms PETA SEATON: I ask a supplementary question. In view of the health Minister's answer, if the Minister is not making ministerial decisions, who decided what would be paid to Jennifer Collins? Will the Minister make those details publicly available?

Mr SPEAKER: Order! That is not a supplementary question.

MISLEADING ADVERTISING

Mr JEFF HUNTER: My question without notice is addressed to the Minister for Fair Trading. What is the Government's response to community concerns about money scams and other health or lifestyle product promotions?

Ms REBA MEAGHER: I inform members of the House that the Office of Fair Trading has begun a campaign aimed at promoters who hawk dubious money scams or lifestyle products. Fair Trading has identified, and continues to identify, promotional claims and statements that guarantee results and promise wealth, weight loss, more hair, more happiness and greater success in life if one uses the advertised products or services.

[Interruption]

I am pleased that the Deputy Leader of the Opposition does not invest in weight loss products.

Mr Barry O'Farrell: Point of order: I bring my bulk to the table to ask the Minister to investigate tomorrow night's Australian Labor Party fundraiser. That's a money scam!

Mr SPEAKER: Order! I place the Deputy Leader of the Opposition on three calls to order for his disgraceful behaviour.

Ms REBA MEAGHER: Examples include weight loss promotions offering to help people quickly lose enormous amounts of weight with no effort or change of diet, and products that provide all the benefits of exercise without the effort of actually exercising. Targeted money scams include those that offer to make consumers huge amounts of money in a short time without any personal risk or without using their own money.

Mr SPEAKER: Order! There is too much audible conversation in the Government benches.

Ms REBA MEAGHER: These traders generally advertise in mainstream media such as newspapers, popular magazines and the Internet to gain a broad penetration into their target markets. In undertaking any advertising, promoters have a responsibility to make truthful and accurate claims. Fair Trading investigators have identified up to eight health and lifestyle promoters and up to eight money promoters that will be asked in the coming weeks to substantiate their claims. To substantiate the health and lifestyle claims, promoters will be required to provide scientific evidence of the benefits of their products. It will not be enough if they provide a few testimonials or alleged success stories. Likewise, the fast money promoters will need to provide evidence that their sums add up and show that they allow for a wide range of changing economic factors.

Honourable members may recall amendments to the Fair Trading Act, which commenced in late August, that make it an offence for traders to make promotional statements they cannot substantiate. If they are unable to substantiate their claims they face penalties of up to \$110,000 and can be subject to public naming under the Fair Trading Act. In addition, Fair Trading may also seek injunctive orders from the Supreme Court to prohibit them making such claims and compensating consumers who have suffered detriment due to those false claims. Fair Trading has had a number of victories in recent years over promoters who have been unable to substantiate outrageous claims. Late last year, Fair Trading obtained a Supreme Court injunction permanently banning Infinity Forms of Yellow Remember Pty Ltd, and its directors from promoting and selling bottled water and other items which it claimed contained healing properties. Infinity promoted a range of products, including bottled water, as a miracle cure for numerous ailments and addictions, at highly inflated prices.

The curative powers of the water could not be proved. Shop America 2001 relied on infomercials to promote memory and weight loss products. It was claimed that the Mega Memory System could give users a photographic memory and aid children with attention deficit disorder. Their weight-loss program, Atkins Answer, was claimed to turn the body into a 24-hour fat-burning machine and eliminate the urge to overeat in 60 seconds, and was used by American Vice-President Al Gore. None of those claims could be substantiated. Fair Trading obtained enforceable undertakings from Shop America prohibiting it from promoting any product until claims made in its advertising could be substantiated to Fair Trading, and advising every New South Wales consumer who had purchased Mega Memory or Atkins Answer of its unconditional money-back guarantee. This current activity is another strike by Fair Trading in the battle against scams, and complements the ongoing campaigns against fax and overseas mail scams.

Questions without notice concluded.

AUSTRALIA-UNITED STATES OF AMERICA FREE TRADE AGREEMENT

Ministerial Statement

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [3.35 p.m.]: Last financial year nearly \$2 billion worth of New South Wales goods were exported to the United States of America, including \$39 million worth of hearing aids, \$60 million worth of aircraft parts and \$117 million worth of iron and steel. Our regional areas benefited from exports of more than \$300 million worth of local wine and beef worth more than \$220 million. In fact, the United States bought a third of our annual beef production last financial year, injecting \$223 million into regional communities. The New South Wales Government strongly supports efforts to negotiate an Australia-United States Free Trade Agreement.

Earlier today I met Australia's chief negotiator on the Free Trade Agreement and reaffirmed the Carr Government's commitment to this proposal. The agreement currently being negotiated is vitally important to the economic future of Australia, and New South Wales. A free trade agreement would significantly improve our access to the largest market in the world. Economic analysis suggests removing tariff barriers could increase Australia's annual gross domestic product by as much as \$4 billion within several years. It will be a great win for Australia, and for New South Wales, if we can remove United States tariff and quota restrictions affecting exports of our products including beef, dairy, sugar and cotton. Many thousands of jobs could be created across regional New South Wales if these negotiations are successful. More effective trade ties can only benefit our two economies and deepen our already long-standing relationship.

Ms KATRINA HODGKINSON (Burrinjuck) [3.37 p.m.]: The Coalition supports the statement made by the Minister for Regional Development and in doing so heartily congratulates the outstanding work of Minister Mark Vaile, the Federal Minister for Trade. His commitment to ensure that Australia has a free trade agreement with the United States of America cannot be underestimated. Our Prime Minister, John Howard, has backed that up most particularly in recent months—

Mr Adrian Piccoli: Unlike Labor!

Ms KATRINA HODGKINSON: Unlike Labor. The Prime Minister has gone to great lengths to strengthen our relationship with the United States and other partnerships around the world. Last week I attended the European-Australian Business Chamber function and the strengthening of those two relationships is growing all the time. That is not thanks to the New South Wales Government, but 100 per cent thanks to the outstanding effort of people such as Mark Vaile, John Howard and John Anderson. Of course, it is very important to remove

tariff barriers. We want fewer tariff restrictions to selling our produce overseas. But this is not something that has happened in the last few weeks; it has been a real commitment of the Federal Coalition Government since it came to office in 1996. We have been persistently and consistently working on this matter. I take this opportunity to sincerely thank the wonderful efforts of our Federal Coalition Government.

CONSIDERATION OF URGENT MOTIONS

Federal Government Rent Assistance Scheme

Mr JOSEPH TRIPODI (Fairfield—Parliamentary Secretary) [3.39 p.m.]: The affordability of housing in New South Wales is firmly on the political agenda at this time. There is an ongoing Productivity Commission inquiry into first home ownership, and it is due to release an exposure draft of its findings in mid-December. The next council of housing Minister's will occur in the coming weeks. What makes this matter even more urgent is that we now know there are more than 25,000 recipients of Commonwealth rent assistance in New South Wales who are in extreme housing stress. The Commonwealth rent assistance scheme is failing to provide affordable housing to the people of New South Wales. This is a good time to send a message to the Federal Government that it must stop abandoning the people of New South Wales and fix this faulty rent assistance scheme. Property prices in Sydney have been going up for the past three years, and the rents will follow. Unless the Federal Government comes to the party and restructures its rent assistance scheme, renters in New South Wales—particularly in Sydney—will suffer massive housing stress and be plunged even deeper into poverty. That is why the matter is urgent.

Mr Andrew Constance: Point of order: I ask you to request the honourable member for Fairfield to address why his motion is urgent, rather than speak to the substance of the motion.

Mr SPEAKER: Order! I understand the point of order. However, the honourable member for Fairfield has completed his address.

Port Kembla Prostitution

Ms PETA SEATON (Southern Highlands) [3.41 p.m.]: It is urgent that the House debate my motion today because Port Kembla businesses have sent out an SOS for help to stop illegal street prostitution in their area. The president of the Port Kembla chamber has said—

Mr Matt Brown: Point of order: The honourable member for Southern Highlands had a number of photographs in her hand while addressing the House. I bring that to your attention, Mr Speaker, because she may use them as props when addressing the House on why her motion is urgent.

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

Ms PETA SEATON: Clearly, the Carr Government has failed to do what is necessary to support businesses and protect exploited women. The president of the Port Kembla chamber has said the Premier's Department has not produced an acceptable solution to this problem. She sent me proof—highly disturbing photographs—

Mr SPEAKER: Order! The honourable member for Southern Highlands will desist from using props in her presentation.

Ms PETA SEATON: —of examples of problems being faced in Port Kembla—problems too big for the few, but hard-working, social workers. These photographs show makeshift tents and cardboard humpies, one with a person inside, who appears to be a young woman, lying on a filthy mattress on the ground.

Mr Matt Brown: Point of order: The honourable member needs to establish why her motion is urgent. Mr Speaker, you have ruled that the honourable member not use props. But the honourable member is discussing what is depicted in photographs, not addressing why her motion is urgent. A description of what is depicted in a photograph is not directed to establishing urgency, and I would ask that the Chair rule accordingly.

Mr SPEAKER: Order! The honourable member for Southern Highlands should be seeking to establish why her motion should have priority. She should not be discussing the substance of her motion or what is depicted in the supporting material.

Ms PETA SEATON: My motion is urgent because it can be seen that these women are at risk. Today's *Illawarra Mercury* reports an arson attack only yesterday on a cardboard squat in Military Lane, where six prostitutes live, and the possible identification of an allegedly murdered woman's body as a missing local prostitute. My motion is urgent because the effect on legitimate businesses is appalling. Businesses are struggling; they cannot get insurance. It is urgent that we discover why the Premier and the Minister for the Illawarra have not solved this problem. Labor takes this area for granted. Where is the Minister for the Illawarra? He is not in the Chamber. What exactly has happened to the \$330,000 of taxpayers' money that the Premier's Department boasts—

Mr Matt Brown: Point of order—

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

Mr Matt Brown: My point of order is the relevance of the statements being made by the honourable member to establish the urgency of her motion. She asked why the Minister is not in the Chamber. That is not the issue.

Mr SPEAKER: Order! There is no point of order. The honourable member for Kiama will resume his seat.

Ms PETA SEATON: My motion is urgent because thousands of dollars have been spent, but nothing has changed. It is urgent that we hear from Government members exactly what the taxpayer-funded Main Street Program has achieved under the management of Mr Gino Mandarino, who, I hear, continues to have his eye on preselection for Throsby. He is being paid \$50,000 to run this program. Where are the accountabilities for taxpayers' funds spent on this project? And why does the Premier and the Minister for the Illawarra refuse to allow a full independent audit of that money spent on the Main Street Program—courtesy of the New South Wales taxpayers—a project administered by a board that then included Mr Neville Hilton and Mr Neville Despotovski, who are now facing charges for alleged offences including under-age prostitution. It is urgent that we discuss this motion today because under-age— [Time expired.]

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

The House divided.

Ayes, 50

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

Noes, 36

Mr Aplin	Mr Humpherson	Mrs Skinner
Mr Armstrong	Mr Kerr	Mr Slack-Smith
Mr Barr	Mr McGrane	Mr Souris
Ms Berejiklian	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 R.W. Turner
Mr Fraser	Mr Piccoli	
Mrs Hancock	Mr Pringle	
Mr Hartcher	Mr Richardson	<i>Tellers,</i>
Ms Hodgkinson	Mr Roberts	Mr George
Mrs Hopwood	Ms Seaton	Mr Maguire

Pairs

Mr Carr
Ms Gadiel

Mr Brogden
Mr Hazzard

Question resolved in the affirmative.

FEDERAL GOVERNMENT RENT ASSISTANCE SCHEME**Urgent Motion**

Mr JOSEPH TRIPODI (Fairfield—Parliamentary Secretary) [3.55 p.m.]: I move:

That this House expresses its concern that the Federal Government's rent assistance scheme is failing to provide affordable housing to low income renters in New South Wales.

Having a roof over one's head is essential to the wellbeing of every Australian. Having access to housing is about more than shelter; it is about building a home. This is especially so for disadvantaged Australians seeking a secure place as they struggle to make ends meet. The Labor Party is concerned that new figures released by the Australian Council of Social Service and National Shelter show that the Federal Government's rent assistance program is failing to provide affordable housing to low-income renters in New South Wales. The research calls into question the adequacy and structure of the Commonwealth's rent assistance program. The recent research shows that more than one-third, or 35 per cent, of rent assistance recipients—around 330,360 people—exceed the Government's measure for housing affordability by spending more than 30 per cent of their income on rent. This is defined as housing stress.

Almost 1 in 10—9 per cent of the recipients or 85,000 people—spend more than 50 per cent of their income on rent. This is defined as extreme housing stress. In New South Wales 25,076 people are in extreme housing stress; 35 per cent of people in extreme housing stress live in this State. When a family is in housing stress they cannot afford all the essentials they need to provide a basic standard of living. Housing stress is a major cause of poverty in New South Wales. It is the Federal Government's faulty rental scheme that is driving many Australians into poverty. A home is especially important to any migrants who come to this country filled with hope, only to find an unfamiliar world in which they feel lost. Many migrants choose to make their homes in Western Sydney and in my electorate of Fairfield.

A large proportion of rent assistance recipients are migrants. It is therefore alarming that in the Western Sydney suburbs of Bankstown to Campbelltown 45 per cent of single people in receipt of Commonwealth rent assistance are in housing stress: they are paying more than 30 per cent of their income in rent. Even more alarming are figures provided by the Department of Family and Community Services that show that in these Western Sydney suburbs 88 per cent of rent assistance recipients who live in shared housing are in housing stress. In fact, the research indicates that rent assistance is less effective in Sydney than in any other region in Australia. In Sydney it makes little difference what type of housing the disadvantaged choose to live in, as even the cheapest options are not cheap enough to keep rent assistance recipients out of rent stress.

One of the major faults of the Federal Government's rent assistance scheme is that it does not take into account the significant disparity between capital city rents paid by low-income people and those paid in regional areas. On average, rents in Sydney are \$68.86 higher per person than those elsewhere in New South Wales. However, the payment levels and rent thresholds are applied uniformly across Australia. Rent assistance does not take into account significant regional variations in rent. For example, the average fortnightly rent per person in Sydney is \$310.11 and the average fortnightly rent assistance entitlement in Sydney is \$76. However, the average fortnightly rent per person in the rest of New South Wales is only \$241.25 and the average fortnightly rent assistance entitlement is \$71.96. Sydneysiders pay \$68.86 more in rent, but receive only \$4.64 more in rental assistance. That does not make much sense.

The Federal Government has not put a great deal of thought into the design of the rental assistance scheme. This badly designed scheme is putting many people in New South Wales into housing stress and poverty. The Federal Government's failure to take into account higher rents in the city regions is also having a damaging effect on the New South Wales economy. A major priority of any housing scheme must be to facilitate the mobility of labour so that people can get to where the jobs are. The jobs are in the city, and that is

where the workers are needed. The problem is that the Federal Government's badly designed rent assistance scheme means that many people cannot afford to live close to where the jobs may be found. The President of the Australian Council Social Service, Andrew McCallum, said:

Affordable housing in areas where there are job opportunities is critical to ending poverty. But our report finds that Rent Assistance is failing to adequately deal with the big differences that are emerging between rents in the job-rich capital cities and those in regional areas.

The research shows that there are higher numbers of rent assistance recipients in areas where there is also higher unemployment. This suggests the rent assistance program is not providing people on low incomes with the necessary mobility to move to where the jobs are. Recent research by the Australian Housing and Urban Research Institute has found that inequalities arising from the labour market and the housing market are tending to reinforce one another. These mutually reinforcing processes of social disadvantage are concentrating disadvantage to particular parts of cities. However, the Federal Government does not seem to care about the thousands of people who are suffering housing stress and who have been driven to poverty by the rent assistance scheme. An indication of how little the Federal Government cares is that there is no Federal Minister for housing. The Whitlam Government had a housing Minister 30 years ago, the Hawke Government had a housing Minister, the Keating Government had a housing Minister and even the Fraser Government had a housing Minister, but not this Federal Government.

Where do we start with a Federal Government that does not even believe in having a housing Minister? In fact, there is not even a Commonwealth housing department. The Federal Government's rent assistance scheme is badly designed. The faults in the scheme are pushing families in New South Wales toward housing stress and poverty and are damaging the New South Wales economy. I urge the Federal Coalition Government to take a break from helping out the big end of town and, for a change, begin to consider people on lower incomes in this city. As I mentioned earlier, property prices have been rising over quite a period. As a consequence, rents will also increase. If the Federal Government is not serious about reforming its program, it will be responsible for ensuring that the disadvantaged people in this city and the less advantaged people in other areas of New South Wales—bearing in mind that property prices have been rising right across this State—will be plunged into further poverty and housing stress. The New South Wales Opposition could make a constructive contribution by lobbying their colleagues in Canberra. They could ask their Federal colleagues to examine this issue and help the people who live in Sydney—

Ms Gladys Berejiklian: What about the \$900 million in stamp duty revenue?

Mr JOSEPH TRIPODI: —including some of the people in the honourable member's electorate, to obtain some rent relief when the increased rent crisis follows increased property prices, such as those that Sydney is experiencing.

Mr DONALD PAGE (Ballina—Deputy Leader of The Nationals) [4.03 p.m.]: Affordable housing is a serious issue for all Australians, particularly for those on low incomes. However, the honourable member for Fairfield contends that a Commonwealth scheme that basically allocates rental assistance on a per capita basis to individuals in need across the country is somehow inadequate because the problems faced by Sydney residents are different from those faced by people in other capital cities, and indeed in other States. The simple proposition I put to the House is that, if there is a greater affordable housing problem in Sydney than there is in Melbourne, Brisbane or some other part of Australia, quite clearly the responsibility for the problem lies not with the Commonwealth Government but with the State Government.

Many factors contribute to the provision of affordable housing, not just rental assistance that is provided by the Commonwealth Government. I will soon deal with what the Commonwealth Government provides. In the meantime, it is important for honourable members to understand that the issues revolving around affordable housing include, for example, the availability of land in the Sydney Basin and in regional areas, and the cost of developing a block of land in Sydney compared to the cost of developing a block of land in Melbourne. The honourable member for Fairfield might be surprised to know that the cost of developing a block of land in Sydney is \$50,000, but the cost of developing a block of land in Melbourne is less than \$10,000. It might also interest the honourable member for Fairfield to know that last year 22,500 new houses for private rental accommodation or for owner-occupiers were built in Melbourne, whereas last year only 10,500 houses were built in Sydney.

I make that point because housing problems in New South Wales are evidence of the inability of the New South Wales Government to make available a ready supply of housing. People are unable to meet the

affordability criteria of 30 per cent of their income, yet in other States that problem is not as great as it is here. In spite of that, the honourable member for Fairfield is telling the Opposition that the Federal Government should adjust its rental assistance scheme, whereas if there is a problem in Sydney it is absolutely the responsibility of the New South Wales Government. It has not managed the issue well, despite having been in government for more than eight years. Another issue the Government should examine very closely is stamp duty. The Carr Labor Government has been in government for eight years and is awash with stamp duty revenue. Last year the Government received \$860 million more than it had budgeted for, and in recent years it has received \$3.5 billion annually in stamp duty revenue. But, even so, it is not prepared to do anything to reduce stamp duty and make housing more affordable. The Government's position should be contrasted with the Coalition's policy of trying to assist people by reducing stamp duty by 10 per cent.

Mr Joseph Tripodi: Victoria's stamp duty is 30 per cent higher than stamp duty in New South Wales.

Mr DONALD PAGE: The honourable member for Fairfield has the gall to blame the Federal Government for a problem that is essentially of his Government's own making. Let us look at the New South Wales Labor Government's policy on public housing. The honourable member for Fairfield wants to talk about affordable housing.

Mr Joseph Tripodi: You axed the Federal program. What are you talking about? What about the housing agreement? You axed it.

Mr DONALD PAGE: The honourable member for Fairfield should be ashamed of what his Government is doing with public housing. Last year his Government built 186 fewer houses in the public housing sector than was the case for the previous year.

Mr Joseph Tripodi: What about the housing agreement?

Mr DONALD PAGE: The honourable member for Fairfield should listen to me. There were 186 fewer houses in the public housing sector last year. The Labor Government cut its public housing budget by \$34.7 million. Government is supposed to care about whether people have a roof over their heads. Moreover, when the Federal Government made an adjustment to pensions with the introduction of the goods and services tax, the New South Wales Government increased the rent for public housing. This Government gradually took up to 25 per cent of the income of all people who live in public housing. Instead of poor pensioners getting a benefit from the Federal Government as a result of a pension increase, the New South Wales Government took the money in extra rent for public housing.

The honourable member for Fairfield should not come into this Chamber and tell the Coalition that somehow or other the Federal Government is responsible for housing problems in New South Wales. I will deal in detail with the rental assistance that is provided by the Commonwealth Government because it is important to place the facts on the record. The Federal Government is committed to addressing affordable housing through both supply and demand subsidies. Commonwealth Government assistance for housing is approximately \$1.85 billion per year for rental assistance as well as an estimated \$4.75 billion over the next five years for public housing.

Mr Joseph Tripodi: What about capital works?

Mr DONALD PAGE: If the honourable member for Fairfield listens, I will tell him what the Federal Government is doing. Obviously, he does not know how the private rent assistance program works. Over the past four years the Commonwealth Government has increased assistance to 940,000 recipients by \$343 million. The Commonwealth Government has also improved the administration and transparency of the rental assistance program. Rental assistance makes a substantial difference to customers. In December 2002 it reduced the proportion of customers paying more than 30 per cent of their income in rent from 65 per cent before rent assistance to 34 per cent after rent assistance. Those paying more than 50 per cent of their income in rent decreased from 27 per cent of the population before rent assistance to a mere 9 per cent of the population after rent assistance.

It is important to note that in June 2000, 42 per cent of rental assistance customers were paying more than 30 per cent of income in rent compared to 34 per cent in December 2002. The Commonwealth Government's rental assistance program works on the basis of money being paid to individuals, not to the States. Knowing that I would have limited time available for my speech, I asked the Commonwealth Government to tell

me how much money has been paid to New South Wales. I advise the honourable member for Fairfield that there has been a fairly substantial increase in the amount of money coming to New South Wales from the Commonwealth rental assistance.

Mr Joseph Tripodi: In real terms? What about capital works?

Mr DONALD PAGE: It is in real terms. The amount that came to New South Wales in 1999 was \$530 million, and last year it was \$627 million. That is an increase in real terms. The honourable member for Upper Hunter is an accountant; he would know that as the inflation rate is 2 per cent or 3 per cent, that is undoubtedly an increase in real terms.

Mr George Souris: It is more than 10 per cent.

Mr DONALD PAGE: Yes. This is the latest example of the New South Wales Government trying to shift responsibility for a problem of its own making onto the Federal Government. I know that the Government does not think much about country areas, but one solution to the problem of affordable housing in Sydney is to encourage people to live in the country. What is the New South Wales Government doing about that? It is doing absolutely nothing. In fact, it is taking away country services. That is one reason people do not want to go from the city to the country. CountryLink is the latest example of a service being taken from the country. The Government moved all the regional branches of the Department of Education and Training. There is also a raft of matters relating to the timber industry that I do not have time to go into.

Basically, the Government has taken many jobs away from rural areas. If the Premier wants migration to be reduced and he wants immigrants to move away from the city, he should put in place a program to encourage them to live outside the metropolitan area. There is a limit to the amount of housing that Sydney can provide. The Government has no integrated housing policy in place; there is no State plan to reduce the demand for public and private rental housing by encouraging people to move out of city areas.

Another matter under the control of the Government that directly impacts on affordability of housing is land tax. Under the Government land tax has undergone an incredible increase. People who pay land tax are paying more than ever before, and people in my electorate are a good example of that. People who were paying \$3,000 in land tax three or four years ago are now paying \$16,000, \$17,000 or \$18,000. Increases of that sort affect not only wealthy people but also mum-and-dad investors who have done two things over the past 10 or 15 years. First, they probably bought some Telstra shares, and, second, if they could they would have invested in a rental property to provide retirement income. They are now paying as much in land tax as they are getting in rent. The point is that people are not motivated to invest in property because they will have to pay huge amounts of land tax. When the value of the land is over \$261,000, land tax has to be paid. Why would anyone put money into property on which they have to pay land tax? They would be better off buying shares. If the Government is serious about affordable housing it should have a damn good look at land tax, stamp duty and the other money-raising measures under its control.

Ms NOREEN HAY (Wollongong) [4.13 p.m.]: The Federal Government's rent assistance scheme is pushing families in New South Wales into housing stress and poverty. The recent report by the Australian Council of Social Service [ACOSS] is a bombshell that seriously damages the Federal Government's credibility on housing policy, because 330,000 recipients of Commonwealth rent assistance are in housing stress, and more than 25,000 recipients of rent assistance in New South Wales are in extreme housing stress. Those families cannot afford the basic necessities; they are battlers living in dire straits, due to the Federal Government's badly designed rent assistance scheme. What does the Federal Government have to say for itself? The Government's response to the revelation that its rent assistance scheme has driven 330,000 Australians into housing stress and poverty was a press release by Amanda Vanstone on 29 September.

The content of that press release only caused the Federal Government more embarrassment, and destroyed any credibility it had left with regard to housing policy. In the press release Ms Vanstone falsely alleged that the in-depth research completed by the reputable social researchers at ACOSS and National Shelter uses old data. However, the Department of Family and Community Services [FACS] was consulted during the research process and it perused and agreed with data prior to the release of the report. FACS made an effort to provide the researchers with its latest data to ensure that its analysis was correct—and it is. In fact, FACS prepared some tables that have been reproduced without amendment in the report and wholly attributed to FACS. So Ms Vanstone contradicted her own department.

Ms Vanstone attempted further mud slinging by falsely alleging that questionable methodology was used. Once again she contradicted her own department, because it was FACS methodology that was used to measure housing stress in the report. Not only that, but the methodology used was conservative in that it presented a more optimistic scenario than other methodologies available. Even when that conservative methodology was used, the result was still damning of the Federal Government's failure to provide affordable housing to renters in New South Wales. This report is obviously of the highest integrity. The research has hit the mark. The Federal Government has been caught napping at the wheel, and now it is trying to squirm its way out with false allegations and glib remarks. Ms Vanstone's biggest air swing in a press release full of air swings caused further embarrassment to the Federal Government. She made the ridiculous statement:

Without Rent Assistance, there would be over 650,000 people paying more than 30% of their income in rent.

Ms Vanstone wants the citizens of New South Wales to be grateful that the Federal Government is doing its job and is providing them with support. The problem is that the Federal Government is not doing its job; it is failing to acknowledge that, even with the rent allowance, 330,000 people are paying more than 30 per cent of their income in rent and 85,000 people are paying above 50 per cent of their income in rent. In New South Wales more than 25,000 people are in extreme housing stress and are paying above 50 per cent of their income in rent. Is Ms Vanstone asking those renters, who are suffering extreme housing stress and poverty due to the inadequate rent assistance scheme, to be grateful to the Federal Government?

Ms Vanstone causes herself and the Government further embarrassment by arguing that rent assistance gives job seekers the flexibility to move to where the jobs are. One of the most important revelations of the in-depth research released by ACOSS and National Shelter is that the rent assistance scheme fails to do that because it is badly designed. Recent research by the Social Policy Research Centre and the Australian Housing and Urban Research Institute found that people with low skill levels can afford to live only in high unemployment regions. Further research by the Australian Housing and Urban Research Institute found that inequalities arising from the labour market and the housing market tend to reinforce one another, and that traps the disadvantaged in particular parts of cities or outside cities.

One problem is that the rent assistance scheme fails to take into account the disparities in rents between job-rich cities and non-city areas. The research shows that the Federal Government's rent assistance scheme is not economically smart. The Federal Government claims to be a good economic manager, yet it maintains a scheme that reduces the mobility of labour and hinders the efficient working of the labour market and the economy. I urge the Federal Government to stop dodging the truth and fix its faulty rent assistance scheme.

Mr IAN SLACK-SMITH (Barwon) [4.18 p.m.]: Before I commence my contribution I should say that members on this side of the House have done a quick time and motion study and respectfully ask the honourable member for Peats, who is in the chair, to appoint four tellers for the Government at the time of the next division. The House is spending most of its time waiting for Dumb and Dumber to count the numbers on the Government side. That is a total waste of the time of the House. If four tellers are appointed for the Government, they might come within cooee of the two tellers on this side of the House.

It was obvious that the honourable member for Fairfield and the honourable member for Wollongong did not write their speeches. The honourable member for Fairfield ought to sack his speech writer, because the contribution of the honourable member for Ballina absolutely destroyed any criticism the honourable member for Fairfield made of the Federal Government responsibility for housing. The honourable member for Fairfield claimed that 85 per cent of people in New South Wales pay 50 per cent of their income in rent. On average, people in Sydney spend \$310 a week on rent and people in the rest of New South Wales spend \$241 a week in rent. It is obvious to me that people in Sydney pay more rent because Sydney is a more expensive place in which to live. People choose to live in Sydney because that is where all the money is. Earlier my colleague the honourable member for Ballina pointed out that all infrastructure is located in Sydney and that services are no longer available in regional New South Wales. It is the responsibility of this Government to correct that anomaly.

New South Wales is the highest taxing State in Australia. We have land tax and stamp duty. Government members continually complain about the cost of housing in Sydney but the Government has not contemplated reducing stamp duty in this State. It is just a money grab and the Government loves every minute of it. The Treasurer spends his time rubbing his hands in glee, as he knows he will receive millions of dollars every year from stamp duty to reduce the budget deficit. The Government cannot have it both ways. It complains to the Federal Government about increased housing costs but it does not repair Housing Commission homes in regional New South Wales. It sells off those houses, takes the money and runs.

The former occupiers of many of those homes are now out on the street as the housing commission decided to sell off rather than repair those homes. That is a common problem in regional New South Wales. It has occurred on a number of occasions in Wee Waa. In Mungindi, which is also located in my electorate, the Government sold through tender about 20 housing commission homes. The houses are repaired and relet to people who were previously paying much less rent. The Government, which is not facing up to its responsibilities in regional New South Wales, is in no position to lay the blame at the feet of the Federal Government.

The Federal Government gave the New South Wales Government responsibility for housing in this State. After the Government wasted taxpayers' money it wanted to give that responsibility back to the Federal Government, which is rather sad. The State Government, which is awash with cash, is doing nothing for those whom it purports to represent. Opposition members are better representatives of the Government's so-called Labor constituents. The Government is more interested in beautifying the Cahill Expressway than in helping battlers in our electorates. It is time that it accepted its responsibilities and gave the battlers in New South Wales a fair go.

Ms KRISTINA KENEALLY (Heffron) [4.23 p.m.]: No Australian can have a decent life without a home. For disadvantaged people in our society a home means a dry place to sleep, a place to prepare meals, a place to seek comfort with their families and a place to take refuge from the world. It concerns me, therefore, that a recent study by the Australian Council of Social Service [ACOSS] and National Shelter shows that the Federal Government's rent assistance scheme is denying battlers in New South Wales an affordable home. The Federal Government's badly designed rent assistance scheme is devastating the most disadvantaged members of our society. Recent reports show that disability support pensioners comprise 16.6 per cent of rent assistance recipients, age pensioners comprise 7 per cent, and single parents comprise 19 per cent. These are the people that the Federal Government is hurting with its inadequate rent assistance scheme.

In the 10 years to 2003-04 the Federal Government's base grant funding to the Commonwealth-State Housing Agreement decreased by 54 per cent to \$1.28 billion. It tried to make up for that abandonment of low-income renters in New South Wales by talking up its rent assistance scheme. The big news is that the in-depth research completed by ACOSS and National Shelter shows that the rent assistance scheme does not work. More than 330,000 recipients of rent assistance are in housing stress. Over 25,000 renters in New South Wales are in extreme housing stress due to the rent assistance scheme. They are paying more than 50 per cent of their income in rent and do not have enough for the necessities of life. Under the Federal Government's rent assistance scheme, renters in New South Wales are the most disadvantaged people in Australia.

Research shows that the rent assistance scheme is less effective in Sydney than anywhere else in Australia. Even renters who choose the cheapest homes that are available are in housing stress when they receive the Federal Government's inadequate rent assistance. In my electorate of Heffron 95 per cent of rent assistance recipients who live in shared housing are classified as being in housing stress. That means that they are paying more than 30 of their total income in rent. It means that they do not have enough income left to buy basic necessities. In addition, research shows that the rent assistance scheme fails to achieve what the Federal Government claims it does: mobility for renters to move where the jobs are. On the contrary, the research shows that the rent assistance scheme is trapping low-income families and the unemployed in areas with poor employment opportunities.

This badly designed rent assistance scheme is reducing the flexibility of the work force in New South Wales and hindering the economy. In addition, the rent assistance scheme fails to provide any assistance to students over 25 years in receipt of Austudy or many other people on low wages. Not only is the scheme causing housing stress to those it purports to help, it is not offering any assistance to those who really need it. It is fairly clear that the Federal Coalition Government does not care about those battlers in my electorate or the rest of New South Wales who are suffering housing stress. It does not put much thought into how it spends funds on housing. It does not have a dedicated housing Minister and it does not have a Commonwealth housing department. There is no national housing strategy and no targeting of rent assistance. No wonder so many people in my electorate and other parts of New South Wales are suffering housing stress. I urge the Federal Government to join with the New South Wales Government in addressing the needs of low-income renters in New South Wales. But the first step it must take is fixing the faulty rent assistance scheme.

Mr JOSEPH TRIPODI (Fairfield—Parliamentary Secretary) [4.27 p.m.], in reply: I thank those Government members who contributed to the debate for enlightening the House on the poverty that has been caused by the Federal Government's rent assistance scheme. I will respond to some of the drivel that was espoused by those Opposition members who tried to defend an indefensible scheme that has failed to change with the times and does not take into account what is happening in Sydney and, indeed, all of New South Wales.

The Federal Government has failed to provide any relief to people living in poverty that is attributable to increases in the cost of living and the cost of housing. I refer also to the claims made by Opposition members that this State Government has not contributed to making land available. No greater falsehood has been espoused in this debate.

When the Government was elected in 1995 it was faced with the legacy of the Greiner and Fahey governments, which released thousands of hectares of land for the building of homes but provided no roads, schools or infrastructure. The Government inherited that problem and had to provide for people who lived in the north-west and south-west sectors of Sydney. It was placed at an enormous disadvantage, but did a great job with its infrastructure program. It caught up on all the infrastructure shortages it inherited from the former Coalition governments. The Federal Government has done nothing to assist in the provision of infrastructure in this State. It claims that it is not responsible for the shortage of infrastructure, but it should be contributing to and providing for those needs. At every opportunity the Federal Government has cut back on infrastructure funding for this city and all of the State. The Federal Government has shifted more funding responsibility to the State Government while cutting State funds. We must continue to collect stamp duty and land tax to meet the Federal funding shortfall and address the infrastructure shortages that we inherited in 1995.

Those opposite were silent about the Commonwealth-State Housing Agreement [CSHA]. We all remember how in 1996 the first thing the newly elected Federal Government did was cut the dental program and slash housing agreement funding. The Commonwealth used to make a capital contribution to housing stock in this State. As soon as that funding was cut, the number of people on the public housing waiting list in New South Wales shot up dramatically. The Commonwealth abrogated its responsibilities with regard to housing and dental services and left the New South Wales State Labor Government to pick up the tab. The CSHA funding totalled \$1.489 billion in 1995-96. Today it totals \$1.387 billion. That funding has decreased not only in real terms but in nominal terms. We heard the erroneous Opposition arguments—those opposite tried to mislead the House—about the Commonwealth's contribution.

Mr ACTING-SPEAKER (Mr John Mills): Order! The honourable member for Ballina and the honourable member for Lismore will cease interjecting. Hansard cannot hear the honourable member for Fairfield.

Mr JOSEPH TRIPODI: Everyone knows that the Commonwealth has cut its funding for the construction of public housing stock in this State and across the entire country. The people have not forgotten that. Waiting lists in this area—and in every other service area—have blown out as a consequence. Opposition members tried to have a shot at the State Government about the rent increases that occurred earlier this year. The Government does not apologise for those rent increases because that money has been reinvested to maintain existing housing stock and to build additional stock. It was a miniscule increase but the money was reinvested in the housing stock to improve the quality of life of those who live in Department of Housing homes. We do not apologise for that policy, which will probably continue into the future. The only defence of Opposition members on the rental assistance issue was that people would be worse off without it. Those opposite are great; that was their only defence. It is a great shame that they lacked the capacity to make a contribution to this debate.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 55

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

Noes, 27

Mr Aplin	Mr Merton	Mr Souris
Ms Berejiklian	Mr O'Farrell	Mr Stoner
Mr Cansdell	Mr Page	Mr Tink
Mr Constance	Mr Piccoli	Mr J. H. Turner
Mr Debnam	Mr Pringle	Mr R. W. Turner
Mr Fraser	Mr Richardson	
Mrs Hancock	Mr Roberts	
Ms Hodgkinson	Ms Seaton	<i>Tellers,</i>
Mrs Hopwood	Mrs Skinner	Mr George
Mr Kerr	Mr Slack-Smith	Mr Maguire

Pairs

Mr Carr	Mr Armstrong
Ms Gadiel	Mr Brogden
Mr Knowles	Mr Hartcher
Mr McBride	Mr Hazzard

Question resolved in the affirmative.

Motion agreed to.

MENTAL HEALTH SERVICES**Matter of Public Importance**

Ms CLOVER MOORE (Bligh) [4.43 p.m.]: Today I speak about the shocking situation for people with mental illness, and call for urgent government action. There have been calls for reform of mental health services as far back as the 1983 Richmond report, followed by the 1988 Barclay report and the 1993 Burdekin report. The 2002 Legislative Council inquiry into mental health services in New South Wales again exposed a grossly unmet need, particularly for supported accommodation; poor co-ordination, with no strategic leadership; and lack of accountability and transparency in funding and services. The Premier has announced a review of the Mental Health Act, but the evidence shows that the problem is not policy but implementation. The 2003 Mental Health Council of Australia report entitled "Out of hospital, out of mind" concluded:

A nationwide review ... documented that current community-based systems fail to provide adequate services. Specifically these services are characterised by: restricted access; variable quality; poor continuity; lack of support for recovery from illness and [lack of] protection against human rights abuses [and] this does not represent a failure of policy. Instead, it is a failure of implementation through: poor administration; lack of accountability; lack of ongoing government commitment to genuine reform; and, failure to support the degree of community development required to achieve high quality mental health care outside institutional settings.

Mental illness affects 860,000 people in New South Wales; 20 per cent of Australians have a mental illness; and 40 per cent will have a mental illness during their life. Mental illness represents 13 per cent of death and disability disease burden, and 30 per cent of non-fatal disease burden in Australia. However, the Mental Health Council shows that Australia allocates only 7 per cent of health spending to mental health, while most developed countries spend 10 to 14 per cent. The national increase in recent years largely covers increased population, rising Pharmaceutical Benefits Scheme drug costs—a 402 per cent increase—and new technologies.

The Premier says that the Government has doubled the mental health budget since 1995. But New South Wales performs poorly in comparison with other States. New South Wales has been the least funded of all States, and the increase over the last National Mental Health Strategy was only 18 per cent, while the Commonwealth funds rose by 73 per cent. New South Wales spent about \$77 per head on mental health, yet Western Australia managed \$96 per capita. The 2002 National Mental Health Report shows that Victoria provides 20 24-hour staffed community beds per 100,000 people, while New South Wales provides only 4.3 beds.

Over the course of the first National Mental Health Strategy, Victoria increased spending on residential psychiatric services to \$14.96 per capita, while New South Wales increased spending to \$3.54 per capita, from a paltry \$3.11. Victoria increased funding to non-government officers from \$2.36 per capita in 1992-93 to \$7.69

in 1999-2000, while New South Wales only increased spending from \$0.87 to \$1.20 per capita. Front-line workers say that clinical services have declined as a result of government requiring new partnerships and ways of working to be developed within existing budgets. While these reforms were necessary, extra funds were also needed.

The Human Rights and Equal Opportunities Commission says that the lack of supported accommodation is the single largest obstacle to recovery and rehabilitation for people with mental illness. Without treatment and ongoing support they are at high risk of becoming homeless. Yet mentally ill people are discharged before they are stable, without support, into crisis refuges, boarding houses, caravan parks or motels, or on the street. Is that what was intended by the Richmond report? Homeless people with a mental illness need medium- to long-term residential rehabilitation, yet many only ever receive treatment when admitted to an acute psychiatric facility.

The Legislative Council inquiry found that homelessness and prison are the mental health services of last resort, and shockingly 30 per cent of people are in prison because of their mental illness. Expensive hospitals, prisons and acute psychiatric facilities cover for the lack of accommodation and community support. The Legislative Council inquiry reported that planned increases in funds and supported accommodation beds were still insufficient to meet need. A long-term solution to homelessness for mentally ill people requires genuine high-level government commitment and massive funding increases, particularly for supported accommodation.

Many people are caught in a vicious cycle: going from crisis accommodation to the streets, prison and hospital. Nearly one quarter of Supported Accommodation Assistance Program refuge clients are caught in this revolving door, and most have an addiction and/or mental illness, and 5 per cent were in institutional care directly before their housing crisis. But refuges and hostels do not have the skills or resources to care for mentally ill clients with complex needs—just ask those at Matthew Talbot hostel, Edward Eager Lodge, Foster House or even Department of Housing tenants in Surry Hills or Redfern. The Government's policy is that people who have recently experienced an acute episode require 24-hour or 8-hour to 16-hour staffed support services with both clinical care and disability support, yet the reality is they are discharged into crisis accommodation services, and often end up on the street.

There is an extremely high level of unmet need for psychiatric treatment among Sydney's homeless population—75 per cent of homeless people have at least one mental illness. Homelessness reduces psychological functioning and general health, and increases the risk of substance abuse, and the need for more intensive treatment. Indigenous people are overrepresented as involuntary and forensic patients in homelessness figures. The Legislative Council inquiry recommended more Aboriginal mental health workers, changes to mainstream services, and partnerships with bodies such as the Redfern Aboriginal Medical Service.

The Mental Health Council says that only 38 per cent of people with mental illness access mental health services; most see general practitioners who have limited expertise in mental illness and lack support from specialist services. The 2002 National Mental Health Report showed that while acute mental health beds have remained static at around 18.1 per 100,000 since 1992-93, non-acute beds have fallen from 26.2 to 11.6 in 1999-2000. In New South Wales the number of 24-hour staffed beds dropped from 283 in 1992-93 to 276 in 1999-2000.

Mental health case managers help clients get the services they need; however, many case managers have 50 or 60 clients on their books and cannot devote the time required. Studies in the United States of America show that case management is most effective with caseloads of less than 10. Yet our case managers have 50 to 60 clients. Mental health crisis teams therefore cannot provide consistent, responsive care when they are overloaded and overstretched. The Legislative Council inquiry recommended an assertive community treatment program based on successful programs in the United States of America, and this innovative approach should be used in New South Wales.

Another issue is that many reports on mental health show that mental health funds are being allocated to cover for other health services, and that there is sleight of hand in reporting on mental health funds. No-one can assess these claims because there is a dearth of information about services and needs, and the extremely limited data published is years out of date. Repeated calls have been made for area health services to report against identified measures. It is really difficult to assess just how bad the situation is. Government mental health services are unable to provide me with information about their services, clients or needs, and non-government organisations are reluctant to criticise the agencies that fund their services. My requests to the Minister for Health to provide information about mental health funding and needs have gone unanswered.

The inadequacies of the mental health system are obvious in the parks and public places of our cities. About half of the rough sleepers in my electorate have a mental illness. In June 2003 there were no vacancies in the inner city for residential rehabilitation or housing programs with visiting support. The Independent Community Living Association informed me that many people wait up to a year for a place with the appropriate level of support. One client waited nearly 10 years. The Richmond Fellowship told me that people often "remain in hospital at high cost" until a place becomes available, and that organisation had more than 40 people on its waiting list for central Sydney. The Bea Miles Women's Housing Scheme had more than 80 people on its waiting list, and the After Care Association's Clovelly House had to rehouse its five tenants when funding ran out.

The significant disadvantaged indigenous populations in Woolloomooloo and Redfern-Darlington require additional resources and specific strategies. As well, for the significant numbers of people with HIV and AIDS, their special mental health needs include support for effective services such as the Bobby Goldsmith Foundation's Floating Care Initiative. Local service providers tell me that they have good rapport with the Darlinghurst Community Mental Health Team, and recognise that the team does a good job in very difficult circumstances, where a crisis response can take hours, and the team has to recommend police attendance because they simply are not able to handle the workload. Urgent action is needed. I am about to run out of time to address this part of my speech. However, I will cover what is needed in my speech in reply. *[Time expired.]*

Miss CHERIE BURTON (Kogarah—Parliamentary Secretary) [4.53 p.m.]: The Government recognises the challenge of mental health in New South Wales. Mental health problems affect one in five Australians. At any given time up to one million people in New South Wales may be suffering mental health problems. It is likely that this epidemic will get worse before it gets better, and it will continue to be exacerbated by other societal pressures, such as family trauma and breakdown, child abuse and neglect, growing drug and alcohol abuse, the psychological impact of violence, unemployment, and the growing gaps in society.

We must recognise that mental health issues touch everyone. Mental health is everybody's business. That is why we have already doubled the mental health budget since we came to government in 1995. We have opened 215 new beds, including 150 in rural and regional areas; approved more than 40 mental health nurse positions in hospital emergency departments; built a work force of more than 50 Aboriginal mental health workers as well as traineeships for Aboriginal people in the mental health; established a task force to deal with the co-occurrence of mental health and drug and alcohol problems; and put in place major initiatives, with more than \$10 million over three years to 2003-04, to build our mental health work force, and resource mental health nurses, psychiatrists and other mental health professionals. The pace of production of new mental health beds has increased. From 1997 to 2001, 86 new mental health beds were opened; in 2002 and 2003, 246 beds have been completed or are due to open; and in 2004 and 2005 nearly 200 more new beds have been approved and are currently being planned or built.

Areas of identified need include new inpatients facilities at Wyong, Liverpool and the Blue Mountains, and new children's units at Westmead, Campbelltown, Sydney Children's Hospital and Newcastle. That is not to mention an extensive capital works program right around the State, like the new 135-bed forensic hospital, a new psychiatric intensive care unit at Macquarie Hospital, a new non-acute mental health unit in south-western Sydney, and the 118 supported accommodation beds in partnership with non-government organisations.

The Premier recently announced stage one of the Government's response to the growing demand for mental health services. It includes the allocation of \$77.5 million over the next five years to areas identified as most in need to expand the range of specialist mental health staff in emergency departments; to expand child and adolescent mental health services; to boost partnerships with non-government organisations for rehabilitation and accommodation services for the chronically ill; to support clinical performance, workplace training, mental health information systems and evaluation; as well as better support and access for our elderly.

The Government will also embark on a review of the legislation in this area—the first major State-based review since 1990. Following consultation with key stakeholders, we will focus on issues relating to families and carers, operational issues and our forensic system. We will make the legislation more inclusive of carers and families. We will ensure the ongoing sharing of information between carers, families and health care providers. We will work with health care professionals to better streamline admissions. And we will also review the provision of medical services to involuntary patients under the Mental Health Act.

Then there is the forensic patient system. It is time to get the balance right between humane care and treatment of this patient population, whilst ensuring community safety at all times. The Government is

addressing mental health care with the diligence and respect it deserves. We are in the midst of finalising our whole-of-government response to the select committee inquiry into mental health services. I would point out that many of the issues raised by the honourable member for Bligh are in the recommendations that currently are being considered by the Government.

In my role as Parliamentary Secretary I have been all over the State speaking to carers, consumers and mental health workers, and I have visited all inpatient supported accommodation facilities and long-term and medium-term facilities. The Government is very much aware of this complex issue. It is a very difficult issue to fix because at the end of the day we are talking about a need that is extremely specialised. It is not like doing 100 knee and hip procedures a day. Each patient needs specialised care. As the incidence of mental health problems continues to increase dramatically, I reiterate the Government's commitment to ensuring that patients get continuity of care through their sickness to getting well and being able to function in the community. We are committed to ensuring mental health workers get the support they need. The Government has taken many steps towards ensuring that everyone is able to access care, and get the resources and support they need. Mental health services will remain a priority of this Government. The Government is currently preparing a response to the Pezzutti inquiry, which will be implemented over the term of this Government.

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [5.00 p.m.]: Regrettably, the priority of the Government is reflected in the inability of the honourable member for Bligh to finish her contribution. She has more than sufficient notes to continue the story of the state of mental health in New South Wales. The Government's response to an issue that the Parliamentary Secretary would have us believe it is giving some priority to went for all of six minutes. I would prefer to have heard the last four minutes from the honourable member for Bligh, who today courageously raised an issue that has too little attention in this place. We go on with a whole range of issues to suit daily media agendas, but we rarely address the fundamental underlying issues in this community.

One need only walk outside this place any night of the week, particularly when we are leaving on a late sitting night, to see the homeless people who congregate between the State Library and Parliament House, and outside the Zegna store opposite. As the honourable member for Bligh said, at least half of them are sleeping rough because of mental illness. As the honourable member for Bligh indicated, we have had report after report. The first report into mental illness in New South Wales dates back to 1846, before this bicameral legislature was established. To some extent we do not need reports, we need action. As the honourable member for Bligh said, the problem was not the Richmond report but the failure to implement all of its recommendations, particularly those that relate to the establishment and provision of community-based services.

The Parliamentary Secretary said in her contribution, "Mental health is everybody's business." The problem with that is that it is no-one's responsibility. Clearly, the six-minute contribution by the Parliamentary Secretary demonstrates a lack of commitment. As a Liberal in this place and a Coalition shadow Minister I am proud that the one person who sought to put this on the agenda at the leadership level during the State election campaign was the Leader of the Opposition when, in March, he committed a future Coalition Government to an additional \$45 million over three years to mental health services, and specifically to boost community-based mental health services across New South Wales. I understand why the honourable member for Kogarah is so concerned: As Parliamentary Secretary she has been in the job for eight months and she tells us she has been around the State and is on top this issue, but she made only a six-minute speech when she had 10 minutes to reply to such an important issue, an issue on which the honourable member for Bligh could speak for hours.

On 3 September the Minister for Health—not the monkey but the organ grinder—told the upper House estimates committee that we would have an imminent response to the Pezzutti inquiry, the Legislative Council inquiry into mental health. The committee sat from December 2001 until December 2002. The inquiry received 300 submissions, 90 per cent of which were from members of the community. It held 12 hearings and one public seminar. Some 91 witnesses came forward and they all told the same story, regardless of what the Parliamentary Secretary says, about the paucity of services, particularly community services, across this State dealing with mental illness. It ill behoves the Parliamentary Secretary to attack anyone on this issue. The reality is that there should be a bipartisan policy to provide necessary services to eradicate from our community the sorts of things that the honourable member for Bligh so eloquently addressed and that she lives with on a daily basis as a parliamentary representative for a precinct that has so many people who sleep rough.

I make no apology for standing in this place as a supporter of the Leader of the Opposition, who is committed to addressing this issue. He has a track record of statements trying to elevate this issue in the public domain. I will continue to support him. Psychiatrists in this State are concerned that one of the consequences of

the lack of adequate and effective services for people with mental illness is the number of suicides. People with mental illnesses are committing suicide, yet the figures are not being released. Psychiatrists have said to me that for some time they have been asking the Department of Health to release those figures so that we can start to measure the failings of government policy, regardless of which side is in office, that is having such a devastating impact upon people in our society that they are taking their own lives. I commend the honourable member for Bligh, for a change, for raising this important issue that deserves a considered response. It is about time the Government got serious with the Pezzutti inquiry.

Ms CLOVER MOORE (Bligh) [5.05 p.m.]: I thank the honourable member for Kogarah and the Deputy Leader of the Opposition for contributing to this very important debate. Over the past 20 years I have called for reform of a system that has failed our mentally ill, particularly in relation to supported accommodation and treatment. Even though mental illness affects 860,000 people in New South Wales, this is the least funded of all the States. People who are mentally ill need somewhere to live, they need treatment and they need support. Yet mentally ill people are discharged into crisis refuges, boarding houses, caravan parks or motels. They end up on the streets or in prison. Some 30 per cent of people are in prison because they have a mental illness.

Hospital, prisons and acute psychiatric facilities cover for the lack of accommodation and community support. Many people are caught in a vicious cycle going from crisis accommodation to the streets to prison and then to hospital. I am not describing Dickensian England but twenty-first century sophisticated, affluent New South Wales. There is an extremely high level of unmet need for psychiatric treatment among Sydney's homeless population. Indigenous people are overrepresented in this group. Only 38 per cent of people with mental illness have access to mental health services. Mental health case managers have 50 or 60 clients on their books, even though they should have only 10. Mental health crisis teams cannot provide an adequate response, so they call upon the police to fill in the gaps. This is a shocking indictment upon us as a society and on the Government.

I note the Parliamentary Secretary said that the Government is currently considering recommendations of the Legislative Council inquiry. I call upon the Government to respond as a matter of urgency to those recommendations, and in doing so to dramatically expand mental health funding to 15 per cent of overall health funding within five years, consistent with other States and other developed countries; expand supported accommodation places for people with a mental illness to provide an average of 12 adult beds per 100,000 people for 24-hour high need supported accommodation; expand staffing in mental health crisis teams so that they can immediately help people with acute mental illnesses; establish a central mental health office with authority to spearhead development of mental health policy and services; recruit Aboriginal mental health workers in each region to address poor service faced by indigenous people; and provide annual public reports on mental health needs and services in all regions.

This is the very least a responsible and compassionate Government can do for the most disadvantaged and shockingly neglected group in our community. I thank Chloe Toundrow, who is in the gallery. She worked for months on this issue in my office trying to discover just how bad the situation was—I have the highest number of mentally ill people in the State in my electorate. I also thank Roy Bishop, my electorate officer, who has also worked very hard on this issue and continues to do so. I hope that the Government will respond. Our record as a community, society and Parliament in this area is absolutely disgraceful. One has only to wander around the streets of my electorate or just walk outside the Parliament to see how neglected our mentally ill are. The fact that they are in prison, in Department of Housing accommodation, on the streets or in boarding houses is an indictment on us. This is not what Richmond intended. He did not intend us to dump our mentally ill in prisons. He did not intend us to dump our mentally ill on the street. He did not intend such a horrific situation to continue. I call upon the Government once and for all to address the issue.

Discussion concluded.

Mr ACTING-SPEAKER (Mr John Mills): Order! It being almost 5.15 p.m., business is interrupted for the taking of private members' statements.

PRIVATE MEMBERS' STATEMENTS

CRONULLA ELECTORATE PUBLIC SAFETY

Mr MALCOLM KERR (Cronulla) [5.09 p.m.]: The first aspect of public safety I wish to discuss concerns the manner in which lifesaving clubs have been hit with insurance costs.

Mr Thomas George: Terrible!

Mr MALCOLM KERR: As the honourable member for Lismore states, it is terrible.

Mr Thomas George: And I say that as a co-patron of a lifesaving club.

Mr MALCOLM KERR: He makes that observation as someone who is closely associated with a lifesaving club. A question was directed to the Minister for Tourism and Sport and Recreation about drownings and she responded by providing statistics that demonstrate that public safety is a huge matter of concern. As all honourable members would be aware, there are four lifesaving clubs in my electorate—the Cronulla Surf Life Saving Club, the North Cronulla Surf Life Saving Club, the Elouera Surf Life Saving Club and the Wanda Surf Life Saving Club.

Mr Thomas George: All good surf clubs.

Mr MALCOLM KERR: They are all top surf clubs. A surf lifesaving club's president has pointed out that there has been a 150 per cent hike in insurance levies and huge taxes on community clubs, which are a great support for all lifesavers. He stated:

The bottom line ... [is that] your ... lifesaver will have to pay more and sacrifice more just so they can stand on the beach for up to six hours at a time watching and caring for a community ...

In light of the answer given by the Minister for Tourism and Sport and Recreation in the House this afternoon, it might be said that the community is showing less regard for surfing between the flags, which increases the dangers associated with beaches. Before the most recent State election I spoke at length about the escalating costs confronting surf lifesaving clubs. During the election campaign the Coalition promised that, if elected, it would provide public liability insurance coverage to the State's surf lifesaving clubs in recognition of their important rescue work. A Coalition government would have given the surf lifesaving clubs public liability insurance coverage through the Treasury Managed Fund, thereby saving them hundreds of thousands of dollars a year. However, the very survival of surf clubs has been under threat, and will continue to be so, because of the rising cost of public liability insurance premiums. Surf lifesaving clubs have been forced to arrange insurance coverage overseas.

In the context of public safety, the same type of problem confronts the Rural Fire Service and other volunteer fire service organisations, one of which is stationed in Kurnell in my electorate. The surf lifesaving movement, the State Emergency Service and the Rural Fire Service would have had access to insurance through the Treasury Managed Fund under a Coalition government, but this Government has refused to provide it. The provision of that coverage would have cost the Government approximately \$300,000 a year—less than the cost of a carriage on a Millennium train. The Government has refused to provide insurance coverage through the Treasury Managed Fund, and this State is now faced with a crisis. The Treasurer, Mr Egan—

Mr Andrew Fraser: You could not call him a Treasurer!

Mr MALCOLM KERR: In deference to the honourable member for Coffs Harbour, who is also concerned about insurance problems confronting surf lifesaving clubs, emergency services and the Rural Fire Service in his electorate, I will simply state that the Government claimed its insurance reforms would take care of the problem. I am sure that all honourable members recall the legislation and the extravagant promises that were made by the Government about a solution being sought. Yet the problem is far worse now that it has ever been, and the problems continue to escalate. Another public safety problem in my electorate concerns the Caringbah railway station. It has a walkway above the platform area that is in a deplorable condition and constitutes a potential danger to all commuters who stand on the platform. I call on the Government to have an engineer examine the walkway; the danger is quite obvious. I invite all honourable members to visit the Caringbah railway station to inspect the walkway above the platform. On behalf of my constituents, I draw those two matters relating to public safety to the attention of the House.

MOUNT DRUITT AND AREA COMMUNITY LEGAL CENTRE

Mr PAUL GIBSON (Blacktown) [5.14 p.m.]: I draw to the attention of the House the Mount Drutt and Area Community Legal Centre, which serves my electorate and that of the honourable member for Mount Drutt. The centre receives the lowest per capita funding of any community legal centre in New South Wales, yet it has the fastest-growing client base. The centre has the second-lowest actual funding in the State. It

receives Federal funding under the *Justice Statement* that is administered by the Legal Aid Commission of New South Wales through a service agreement. Recently the centre's position became so bad that it had to apply to clubs in Blacktown and Penrith under the community development support expenditure [CDSE] scheme to try to obtain extra funding, but so far the centre has had no luck. Most legal centres in New South Wales receive State funding, but the Mount Druitt centre, which is by far the largest, receives no funding from the State Government.

The centre handles more than 1,000 cases every year and is unable to retain the services of solicitors owing to its high workload. The centre does not undertake projects, as do many other legal centres, but instead it actually looks after people. The four main categories of cases handled by the centre are domestic violence, neighbourhood violence, children's care and family law. The Blacktown local government area is the third largest in Australia and includes Mount Druitt—one of the most socially disadvantaged areas in the State—and has the largest Aboriginal population in New South Wales. The Blacktown local government area also has one of the highest instances of domestic violence in the nation. The legal centre was established in 1996 in recognition of problems in the area and the identified need for this service. As I mentioned, the service is funded by the Federal Government and its funds are administered by the State's Legal Aid Commission.

The funding was provided for a generalised legal service to meet the needs of clients drawn from the Blacktown local government area and the east ward of the Penrith local government area. The gaps in the service exist because of constraints on funding for children's care, domestic violence, family law and neighbourhood violence matters. The centre receives the lowest per capita funding levels of all community legal centres in the whole State. Every other centre receives State funding, but not this centre. The award covering the centre's employees is based on a 38-hour week. The centre is staffed by one full-time solicitor, one full-time administrative staff member who works 4.5 days a week and a part-time solicitor. Legal firms in the area provide assistance to the centre, but that assistance is not guaranteed and cannot be relied upon unconditionally. The Mount Druitt and Area Community Legal Centre is a non-profit, incorporated, community-run organisation that currently applies criteria to its potential clients to ensure that its scarce resources are applied for the benefit of lower income earners and residents of the Blacktown local government area or the east ward of the Penrith local government area who are in the most need.

As I mentioned, the centre deals with more than 1,000 cases every year. The centre's solicitors appear in court virtually every day of the week and it is not unusual for them to be handling up to 12 cases at any one time. The centre is grateful for the funding it obtains but seeks equality with centres that are better funded. Most of those centres employ far more staff, have much larger premises, and have many more experienced volunteers. Many of them are associated with universities and receive supplementary assistance. Most of the larger centres do not provide the representation services provided by the Mount Druitt legal centre. The centre is a real legal centre that is doing real legal work for real people. For the most part, the centre's clients are my constituents. The centre endeavours to provide those people with the most effective service possible, simply because the people who live in my electorate deserve it.

Because of the way our legal system operates and the cost of representation, some people in my electorate have pleaded guilty to offences they have not committed because of economic reasons—it is cheaper and easier to do so, and no legal expertise is required. Legal representation is hard to come by not only because of the money involved but also because of the scarcity of help that is available. I thank the Attorney General for his assistance when this matter was brought to his attention today. He will examine the centre's funding and I am hopeful that he will recognise, as I do, the funding needs of the centre and the plight of the centre's staff in endeavouring to provide legal representation for people in the Mount Druitt and Blacktown electorates.

GAMING MACHINE TAX

Mr DONALD PAGE (Ballina—Deputy Leader of The Nationals) [5.19 p.m.]: The North Coast Academy of Sport recently brought to my attention the potentially devastating consequences of the Treasurer's proposed increased taxes on registered clubs. Since the announcement of the proposed tax in June, the North Coast Academy of Sport has distributed numerous sponsorship proposals to clubs and has received six rejections citing the proposed tax as the reason for refusal. The academy received almost \$24,000 from local clubs the previous financial year under the Community Development Support Expenditure Program. That funding was provided through the generosity of a range of North Coast clubs, including the Ballina RSL Club. It should be noted that these funds were provided in addition to sponsorship provided by Clubs NSW. The clubs provide this money to organisations such as the North Coast Academy of Sport because they want to support local communities and local sports.

The academy gives talented junior athletes an opportunity to develop and pursue their chosen sport at a reduced cost to their families. Without academy support many talented athletes would be unable to afford to compete or receive high-quality coaching. With the recent refusals from clubs for sponsorship, the academy is now faced with either not running junior sport development programs or increasing charges to families. Unfortunately, that may force organisations to look to already financially stretched local councils to assist with funding. It should be remembered that clubs provide a range of benefits to our communities through employment, income, entertainment, social activity, sporting facilities, meeting and school event venues, and through support for senior citizens, charities and community organisations.

As the local member and a frequent visitor to clubs in my electorate, I cannot speak highly enough of the benefits they deliver to our community. In addition to those employed directly by the clubs, many more are employed indirectly in businesses supported by the registered clubs and their patrons. It is interesting to assess the impact this tax will have on my local area. In the Ballina electorate there are 18 registered clubs with gaming machines. It is estimated that this proposal will increase taxes on those clubs by at least \$5 million—\$5 million, or more than \$110 for every voting resident of the Ballina electorate, will be taken away from the local region and organisations for delivery to the Treasury in Sydney. I ask the Treasurer: Will the local area ever see those funds again? I think not. Fortunately, the Opposition has taken the initiative to negotiate an agreement with the Federal Government in relation to the taxation of registered clubs in New South Wales and the Inter-Governmental Agreement [IGA] on the Reform of Commonwealth-State Financial Relations, signed as part of the introduction of the GST.

The IGA states "The States and Territories will adjust their gambling tax arrangements to take account of the impact of the GST on gambling operators." The States and Territories were to be compensated for this reduced revenue as part of the calculation of the guaranteed minimum amount that would be paid to the States. In New South Wales, where the first \$200,000 of gaming revenue for clubs attracted no State tax but was liable for GST, the Treasurer, Michael Egan, offered the clubs GST compensation for four years only. That went against the agreement, which clearly has no time limit for compensation for GST changes for gaming. It took the New South Wales Liberal-National Coalition to rectify that issue. The Carr Government has also previously claimed that funds raised from the new tax on clubs were needed to support the State's health system. A recent Opposition request under the freedom of information legislation proved that the claim was incorrect.

At present not one additional cent will go to hospitals as a result of the poker machine tax increases. The Treasurer's understanding of the role clubs play in local communities is skewed and misguided. Clubs contribute substantially to local communities and the communities sincerely appreciate that assistance. I can assure the Treasurer that the community understands that Labor's greedy tax grab is a tax on their kids' sporting clubs; it is a tax on aid for the sick and disadvantaged within the community. I call on the Treasurer to give careful consideration to the impact his tax will have on regional and coastal communities throughout New South Wales. At the very least he should accede to the Opposition's call for a complete review of the new tax and the impact it will have on our local communities.

THE JUNCTION WORKS INC. ANNUAL GENERAL MEETING

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [5.24 p.m.]: Last Friday, 7 November, I attended the annual general meeting [AGM] of The Junction Works Inc., held at Wattle Grove in my electorate. The Junction Works Inc. has been supporting people of all abilities in the Liverpool and Macarthur areas for 16 years. Since becoming the member for Menai I have had the pleasure of attending the last few AGMs of the organisation. I agree with the statement by its chief executive officer, Maree Mullins, last Friday. She told the invited guests that they would probably find The Junction Works AGM to be a unique event. While the AGM formalities are attended to, it is also a joyous celebration of the organisation's clients' goals, abilities and achievements during the previous year. Maree explained that the chosen format is a recognition that the AGM is for the clients, not the staff or guests—just like the day-to-day community services provided by The Junction.

The result of that dedication is that the event is a highlight in my AGM calendar. I find it incredible just how quickly this event seems to come around each year. It would seem that no more than a blink of an eye passes between The Junction's AGMs. Although, this is one time when the apparently quick passage of the year is a good thing. I always smile at the AGMs, from the time I arrive at the hall until I leave. The many and varied performances are not only entertaining but also a source of inspiration to every person present. I will inform the House of the work of The Junction Works Inc. It has 17 diverse projects across six local government areas. The Adult Training, Learning and Support [ATLAS] project, which is funded by the Department of Ageing,

Disability and Home Care, has six disability sites across Liverpool, Fairfield and Campbelltown. Daily the service provides skill development activities for more than 110 clients with a disability. The Junction provides the Holsworthy Before and After School Care project for 60 children on a daily basis. The majority of the children come from defence force families.

The Wattle Grove Neighbourhood Centre, located in my electorate, is funded by the Department of Community Services. The Junction provides a wide range of activities that address the needs of the local community. Its focus is people who are ageing, women and defence force families. For the youth activity service, which is funded by the Department of Family and Community Services, The Junction provides structured activities daily for young people aged between 11 and 16 with destructive behaviours. Two youth support workers, funded by the Department of Community Services and the Department of Gaming and Racing, cover different areas. The family liaison project is funded by the Department of Family and Community Services and provides counselling to young people and their families who are at risk of family breakdown. The domestic violence peer support project, funded by the Western Sydney Area Assistance Scheme, supports young men to have respectful behaviour in their relationships following their being subjected to violence in their families. For the 2168 Spirit of the West Project, funded by the Department of Community Services and the Department of Employment, Education and Training, The Junction provides before and after school activities to disadvantaged children.

For the Youth Drug Court, funded by the Department of Community Services, The Junction provides case management to young people who have entered the legal system and who have associated drug and alcohol issues. I will return to that later. For the Community Development Project, funded by the Department of Community Services, The Junction develops program strategies to address the unmet needs of the community. For the Disability Case Management Project, funded by the Department of Ageing, Disability and Home Care, The Junction provides case management to people with a disability and their families, who are under a great deal of stress. It is important to note that The Junction Works annually conducts an independent evaluation of its services to ensure that it is providing a quality service. All stakeholders of the organisation are consulted about the manner in which the services are provided. I return now to the Youth Drug Court project. A young man stood before the AGM and told us of the very positive impact that that project has had on his life. A youth worker read a letter of appreciation from another young man that stated, in part:

Since I have been on this program I have realised that I have changed a lot in myself. Because when I went back home to my family and friends I had a look back at the past and I was thinking, was this me that done crime, done drugs, hung around thugs and people that sold drugs. It was like I was in a dream until I woke up to reality, my reality, and the reality of a new future for me ...

I am happy, I respect myself and others a lot more ... I have some self control ... I have a lot more confidence in myself ... I have got to make the most of it while I am still young.

The Youth Drug Court project has made incredible lifestyle changes to a number of young people. It has been exceptional. The Junction Works is a little dismayed that it has been asked to tender for that program. I wish it all the best with that tender process because the work it does needs to be continued for the benefit of the whole community.

BEGA ELECTORATE PUBLIC DENTAL HEALTH SERVICES

Mr ANDREW CONSTANCE (Bega) [5.29 p.m.] I draw to the attention of the House the state of public dentistry in the Bega electorate. I have no doubt that the state of public dentistry in the Bega electorate reflects the state of dentistry in all regional areas across this State. This issue was drawn to my attention after representations were made to me in my electorate office about some members of the community who are suffering significant dental ailments and who do not have access to public dental care. The community health centre at Pambula District Hospital is concerned about the fact that no public dentist is available to service the community. People who are suffering from incredibly painful ailments have gone to the community health centre only to be told that they will have to wait more than 12 months before they will be able to access dental care.

In one instance a lady who is a diabetic was told that she would have to wait for 12 months or more before she would be able to have her dentures repaired. I call on the Minister for Health to address this problem. Southern Area Health Service staff were told that a dentist would commence work in the area in October, but nothing has happened. It appears as though the dentist will commence work only in January, which is completely unacceptable. I am also concerned about the fact that I am not able to determine how long people have been waiting for the provision of public dental care in New South Wales. Those figures are not publicly

available; they are swept under the carpet and hidden away by the Carr Labor Government. I would not be surprised if I discovered that 400 to 500 people were waiting for the provision of dental services at Pambula District Hospital.

It will take any public dentist who commences operations in that area some time to clear the waiting list backlog. According to the University of Adelaide, which has done some research on oral health in remote and rural communities, a high percentage of adults from rural locations are edentulous—they have no teeth. Adults from rural locations are more likely to have no teeth than are adults in remote or urban locations. Fifty per cent of persons aged 65 or more have no teeth. In Bega there is a high percentage of elderly people, so there is an increased demand for dental services. There is no attempt by the Carr Government to alleviate that problem. Earlier this week I spoke to a private dentist who said to me that a dentist in the public system is likely to be paid between \$45,000 to \$50,000 a year.

Dentists can make 2½ to three times more in the private system, so there is no incentive for them to relocate to regional and remote communities. That is where the system is falling down. We must provide incentives for private dentists to relocate to public health systems in regional areas. The incomes and fees that they are being paid would have to be revised, but a number of other things could also be done. The Government could consider a weekly rotation of dentists from Westmead Hospital to Pambula District Hospital. Dentists could be rotated and sent to regional areas to see whether they enjoyed that sort of lifestyle. Other options could be looked at, for example, sending interns to regional areas to clear the backlog that has been generated at many community health centres. Private dentists who are practising in coastal and regional areas are refusing to take up these vouchers. They are not prepared to work with the Government to clear the backlog. No financial incentives are being given to them to do so. The Minister for Health should address this problem that is confronting regional areas. I call on him to do so.

DEPARTMENT OF COMMUNITY RELATIONS NATIONAL MULTICULTURAL MARKETING AWARD

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [5.34 p.m.]: I am pleased to be back in this House after a trek in Nepal and a visit to India to raise \$65,000 for Youth off the Streets—a great charity—and an additional \$10,000 for an orphanage in Kathmandu. The trek was successful and I reached 5,700 metres. I was pleased with my achievement but I was even more pleased with the efforts of my community, which wholeheartedly supported the Youth off the Streets appeal and the fundraising effort for the school in Kathmandu. Today I have more good news. This week I visited Bankstown police to congratulate them on winning a magnificent, special and prestigious award—the Department of Community Relations national multicultural marketing award—a culmination of all awards that are given to communities in this great State.

Last week the Premier presented that award to Bankstown police. They were surprised when they received the award as they thought they might only receive one of the lower awards. I believe that they deserved to be presented with the grand award—a recognition of the achievements of the Bankstown Local Area Command working in partnership with the Bankstown community. Bankstown has been tainted as a result of persistent media commentary about flashpoint crimes that have occurred in that area over the past few weeks. Bankstown Local Area Command is dealing with those difficult crimes. This award reflects the overall picture or the true perspective of Bankstown. It is a great area. Members of my local community and I are extremely proud of the well-deserved effort of Bankstown police in winning this prestigious award.

During the past eight years or so Bankstown police have worked very hard to build bridges in the Bankstown multicultural community. My community is probably one of the most diverse multicultural communities in Australia. More than 120 nationalities reside harmoniously in the Bankstown electorate. Like any large family, we have our difficulties, our needs and our crime problems. Different creeds and nationalities and people of different colours live together in harmony and work together towards a common objective—to live at peace and in harmony with one another. The Bankstown Local Area Command has helped to achieve that goal. It worked with and built bridges in a difficult community that has many communication problems. There are cultural and religious differences and people from other countries find it difficult to trust the police. It was not an easy task to build up that trust, but the police have done it successfully over the past few years. That culminated in the presentation of this award.

I pay tribute to the community liaison officers in the Bankstown Local Area Command. Ms Chantha Mau and Mr Abbas Abou Abdallah, who worked in liaison with the Bankstown police to build bridges in the community, deserve special recognition for their fantastic work. I pay tribute also to the former commander of

Bankstown Local Area Command, Peter Parsons. He left the command a few years ago and moved to a northern part of New South Wales, but he built the foundations that led to the outstanding achievements of police in that multicultural community. I thank him for all his work in that area. Mick Plotecki, a great team leader, is the current commander of the largest police command in Australia. I thank all the general duty police who are on the beat every day protecting and meeting the needs of my local community.

As I said earlier, this great achievement by Bankstown Local Area Command deserves recognition. Flashpoint crimes occur in the Bankstown area just as they occur elsewhere. The Bankstown police are dealing with those crimes. With the establishment of Task Force Gain I am confident that arrests will be made. One hundred and sixty officers are dedicated to addressing these problems and an additional 40 officers have been allocated to Strike Force Viking. As I said earlier, Bankstown Local Area Command is the largest police command in Australia. I am proud of its achievements.

Ms DIANE BEAMER (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [5.39 p.m.]: I join the honourable member for Bankstown in congratulating the Bankstown patrol. Policing in any local area command is not easy and it is a reflection of the dedication of the Bankstown Local Area Command that it has been awarded the community relations multicultural marketing award. It is appropriate that Bankstown should show other local area commands the way to deal with a diverse community. The honourable member for Bankstown has enjoyed a positive relationship with the police during his nine years as a member of Parliament and he has worked well with them on issues of concern to all people throughout New South Wales. Bankstown is not an easy area to police, and the local area command is a worthy recipient of this award.

On a personal note, I congratulate the honourable member for Bankstown on his worthy achievement in raising \$65,000 for Youth Off the Streets. I am glad to see that he is looking healthy upon his return from Nepal. Perhaps he could pass on some tips to the Deputy Leader of the Opposition about how to get some new suits. I join all honourable members in congratulating the honourable member for Bankstown on his worthy efforts on behalf of not only Youth Off the Streets but the Nepalese people. Well done, Tony.

WOODLAWN MINeworkERS ENTITLEMENTS

Ms KATRINA HODGKINSON (Burrinjuck) [5.41 p.m.]: I refer the House to a timely issue of great importance to my electorate. Last Saturday morning I learnt of the decision by the Land and Environment Court to uphold an appeal against consent for the Clyde waste transfer facility in Auburn. This will have a significant impact on my electorate of Burrinjuck. The former Woodlawn mine at Tarago requires remediation. The Auburn waste transfer station must be approved if Collex Pty Ltd is to collect waste to take to the former Woodlawn mine, which will be rehabilitated as a landfill and bioreactor. This plan was negotiated over several years with the local community, which accepts it and expects it to proceed. Therefore, we were naturally concerned to hear of the decision last Friday by the Land and Environment Court to uphold the appeal against the approval of the Clyde waste transfer facility.

I will give honourable members some background about the Woodlawn site. In December 1978 the Woodlawn mine officially opened and open-cut mining commenced. In 1987, nine years later, the open-cut deposits were exhausted and underground mining began. In March 1998 mining at Woodlawn ended. The following year Collex Pty Ltd prepared an environmental impact statement for the Woodlawn bioreactor. In November 2000 Collex was granted consent by the then Minister for Urban Affairs and Planning to proceed with the Woodlawn bioreactor. On 29 August 2002 the Clyde waste transfer station was approved but on 24 September 2002 an appeal was lodged in the Land and Environment Court against consent for the facility. As I have said, last Friday that appeal was upheld.

About \$50 million has already been spent in preparing for the Woodlawn project, including the purchase of neighbouring properties and infrastructure work such as road construction and rail improvements. The project will include electricity generation and recycling. I have inspected the site on many occasions. When Woodlawn was an operating mine I visited the site with former Minister Wendy Machin, and I have made regular visits to the site since then. This week I discussed local concerns, especially the miners' entitlements issue, with Collex. I reiterated that we must ensure that former mineworkers receive their entitlements. I have been engaged in long-term correspondence about this matter with the former miners and their families. Those miners did not receive their full entitlements when the mine closed. They have received some of their entitlements but there is still a long way to go.

This project must go ahead in order to address environmental concerns and rehabilitate the mine and tailings dams. However, we must also remember that these miners and their families have been waiting for their

entitlements since 1998. Some of them still live in Goulburn but many have dispersed across our fair country. I have received emails on this issue from miners living in Alice Springs and Wollongong, for example. I am in this place to represent those people and to pass on their concerns to the House. I am pleased that Collex is committed to the Woodlawn project and that it is working hard to end the impasse caused by the court's decision, to continue the rehabilitation of the mine site and, most importantly, to pay the remaining entitlements to the former Woodlawn miners. Those 160 former employees are owed some \$6.5 million in entitlements.

I understand that Collex is looking at approaching Waste Services New South Wales to try to negotiate a means of accessing various waste facilities in Sydney in order to get the Woodlawn project under way. So far it has been thwarted at every turn. The Government must find an urgent solution to this problem. I believe the Government should introduce special legislation into Parliament if that is what it will take to overturn the Land and Environment Court decision to ban the use of the old mine as a waste dump. I would appreciate any consideration by the Government of this important matter. It is essential to my electorate that these entitlements are paid, and the Government must take every possible step to ensure that the project proceeds. [*Time expired.*]

Ms DIANE BEAMER (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [5.46 p.m.]: I join the honourable member for Burrinjuck in expressing my concern at the decision of the Land and Environment Court in the appeal. That concern is borne out of the need to rehabilitate the Woodlawn mine site and to pay the 160 former employees their entitlements, which total some \$6 million. The bioreactor, which will convert waste into methane, is an important infrastructure project for the Goulburn area. At this stage the Government is considering its options regarding the Collex proposal and whether it could appeal against the decision. The honourable member can rest assured that a departmental report will be forwarded not only to me but to the Premier so that we can consider the options available to the Government regarding this extremely important State infrastructure issue.

This project is significant not only for the Goulburn region but for waste services throughout the Sydney metropolitan area. The former Minister for Planning, the Deputy Premier, deemed the project to be of State significance, and in signing off on the consent he was assured that the 138 conditions attached to the proposal meant that the Auburn transfer facility could meet environmental standards. I reiterate that the Government will consider all options available to it to see what action it can take. The ramifications of this decision for all Sydneysiders, particularly those who have waste collection contracts with Collex or who were considering entering into such contracts, will be profound. The effects will be felt not only in Auburn but throughout Western Sydney, where a number of landfills are located. [*Time expired.*]

MEMORIES OF WAR WEB SITE

Mrs KARYN PALUZZANO (Penrith) [5.48 p.m.]: I inform the House of the launch yesterday by RSL Sub-branch President, Clive Connor, of the Memories of War web site following the Remembrance Day service at the Cenotaph in Memory Park. I was fortunate to share the day with many serving and former service men and women, Penrith RSL Women's Auxiliary—in particular, the President, Mrs Paula Bozard—representatives from Legacy, the National Service Association, Blue Orchids and, most importantly, young Justin, who was with his sister and mother and represented Penrith Scouts. The launch of the web site was special because of the people who attended. It showed that the links with the past can be brought into the present for future use. I praise the Penrith City Library, in particular librarians Jan Herivel and Lorraine Stacker, for this addition to the e-history section of the web site. Jan Herivel has undertaken considerable research on those who went to World War I from the Penrith and St Marys districts. The web pages she has created are a recognition of the sacrifice of the men and women of the city of Penrith in times of war.

Alfred Colless, the editor of the *Nepean Times* during that period, published letters from soldiers and nurses serving overseas, as well as obituaries for many of the soldiers. In the early years of the war, the *Nepean Times* regularly included lists of local boys who had enlisted, the wounded and the dead. More than 115 men who were born or were resident in the Penrith district at the time of enlistment were killed during World War I. Fourteen nurses from the Penrith district also served overseas in the various theatres of war, including Rabaul, Egypt, England, the Western Front and Salonika. The web site is full of biographical information, newspaper reports, photographs and letters, as well as details about each district's roll of honour, war memorials and trophies.

I want to refer to two people who are mentioned on the web site. The first is Stanley Colless, DCM, MC, of the 3rd and 55th Battalions 2808, who was born in Penrith and killed in action in Peronne, France on 1

September 1918. What makes Stanley Colless special is that as a sergeant he was mentioned by Captain N. Gibbons, who said:

Sergeant Colless doing good work—my officers also of course. Would like you to say something to this man. He is doing splendid work.

In September 1916 Stanley Colless was awarded the Distinguished Conduct Medal for his bravery during the battle of Fromelles in keeping the teams of two guns working on the enemy's second line, from which he was finally driven out by overwhelming bombing parties of the enemy. He was also awarded the Military Cross after he led a raid which resulted in the destruction of German pill boxes and the capture of German machine guns. Stanley Colless was killed at about 10.00 a.m. on 1 September 1918. On 16 March 1918, an article in the *Nepean Times* stated:

News of the death of these three well-known lads—

In that week two other lads were killed—

each of fine physique and genial personality, coming together being a keen blow to residents. But what of the parents and families of these fallen heroes—the nerve-racking strain that was theirs for so long, the every longing thought of their safe return home, and then—the news of their death. We who have not had this brought home to us cannot realise the feeling of a mother, or a father, sister or brother, who have lost a dear one—sometimes two and three—in battle.

It is worth noting that Alfred Colless was Stanley's uncle. The second of the two people I want to refer to is Adelaide Maud Kellett, who served as a nursing sister in September 1914. She wrote of her experience in Gallipoli:

Our orders arrived to proceed to Anzac Cove, which we reached the same evening ... I feared from the terrible firing, especially about 3 am, there would not be a single soul alive, and was greatly relieved and surprised in the morning, when the barges arrived, to find so few wounded.

Ms Kellett was awarded the Royal Red Cross Medal, which is the equivalent of the Victoria Cross. She was also awarded a Commander of the British Empire medal. [*Time expired.*]

AMBULANCE SERVICE OF NEW SOUTH WALES BILLING OFFICE

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [5.53 p.m.]: I want to raise a serious issue which was brought to my attention by a constituent and relates to the operation of the Ambulance Service of New South Wales. At the outset I want to place on record my admiration for the work undertaken by the State's ambulance officers. I especially acknowledge the work of those operating from the St Ives Ambulance Station. Despite incredible pressures, and in the face of State Government's rostering changes and a paucity of funding for vehicle maintenance and replacement, these men and women do an outstanding job for my community and the other communities across this city and the State.

The issue I raise relates to an accident involving an 11-year-old boy who fell and broke his arm in June. The boy required emergency surgery at the Sydney Adventist Hospital at Wahroonga within my electorate. He was transported to the hospital by ambulance. On 4 August the boy received a letter addressed to him from Receivables Management Limited at a Sydney post office box which stated:

Dear Sir/Madam,

...

We have been instructed by our client AMBULANCE SERVICE OF NSW T/A Ambulance Service of New South Wales to demand payment of the total amount shown. This amount must be paid within seven (7) days to avoid further action.

Precisely seven days later, which is much faster than Sydney trains, a second letter was received by this 11-year-old boy which stated:

Dear Sir/Madam

...

We are instructed that you have not responded to the recent "Final Demand" for your account owing to our client.

Though our client has been reasonable in their attempts to have this matter resolved they must now consider all options available to ensure full payment is received.

Further action can be avoided if payment is made within three (3) days from the date of this letter.

I remind the House that these letters were addressed to, and received by, an 11-year-old child. It should not be beyond the ken of the administrative staff of the New South Wales Ambulance Service to avoid such a situation. The ambulance officers who attended this emergency knew the injured party was a child; they have to provide such details on the forms the Ambulance Service bureaucrats require them to complete. It should have been possible for those bureaucrats to have noted that the person was a minor and to have sought to direct the invoice to a parent or carer. Indeed, given the quality and availability of existing electronic databases such a task should almost be automatic in this day and age.

But the reality is that the failure to match records to ensure that a minor did not get such letters was not the only error made in the handling of this affair. These letters were dated 4 and 11 August. The reality is the health fund of the boy's family had paid the ambulance account in full on 6 August. In other words, the demand letters should never have been sent in the first place. What type of outfit is the New South Wales Ambulance Service's billing office? It cannot differentiate between minors and adults. It cannot differentiate between settled accounts and those that are outstanding. I note that this local episode is not the only case of inappropriate billing by the Ambulance Service that has been brought to the public's attention in recent times.

Earlier this year, a tragic fire claimed the lives of two members of the Waddell family, two boys aged 11 and 8 years. After suffering such a tragic loss, the Waddell family was sent similar letters of demand for ambulance bills they had never before received. That family's distress and grief was interrupted because the Ambulance Service billing office had sent the original bill to the home that had burned down. The same incompetence was at work in the local situation I have described. The public should be able to expect more of the State's Ambulance Service and those bureaucrats who are in the billing department. The public should have a right to expect bills to be addressed to adults, they should have a right for bills to be timely and they should have a right for bills not to be sent when there is no outstanding liability.

As the parents of the boy said, "Why doesn't the Ambulance Service have a more user friendly customer complaints service to handle these issues?" After all, in many instances the Ambulance Service deals with extremely sensitive cases involving extreme trauma and death. We should aim to treat families experiencing such situations better than the evidence suggests they were treated in this case or in the case of the Waddells. The local Ku-ring-gai family is owed an apology. But, more importantly, the Ambulance Service billing office deserves a kick in the pants. It should be overhauled and reformed to make it more efficient and sensitive to the needs of people needing the services of the Ambulance Service of New South Wales. Ambulance officers—or ambos, as they are known—do a great job under difficult conditions for communities across this city and the State. They do so with professionalism, discretion and sensitivity. It is a pity that their bureaucratic colleagues in charge of billing are tarnishing the service's reputation by their bungling in cases like the one I have outlined.

GOSFORD COMMUNITY SAFETY WEEK

Ms MARIE ANDREWS (Peats) [5.58 p.m.]: I draw to the attention of the House an important event which took place in the Peats electorate on Monday 10 November. I refer to the launch of Gosford Community Safety Week at Kariong Fire Station. Community Safety Week is an initiative of Gosford City Council, Central Coast Health and the Brisbane Water Local Area Command. It is strongly supported by New South Wales Fire Brigades and the New South Wales Ambulance Service. The aim of this special week is to broaden public awareness of the issues and approaches to community safety at the local level. The master of ceremonies for the official proceedings was Mr Ian Krimmer of New South Wales Fire Brigades, who welcomed guests and students of Kariong Public School to the launch. The program commenced at 11.00 a.m. with the students of the school giving a beautiful rendition of two verses of the national anthem.

Speakers were Superintendent Alan Clarke of the Brisbane Water Local Area Command; the Deputy Mayor of Gosford City, Councillor Craig Doyle; Les Shaper, Acting Operations Manager (Central Coast) of the New South Wales Ambulance Service; Dr Vasco de Carvalho, Acting Chief Executive Officer of Central Coast Health; and Assistant Commissioner Bob Dobson of New South Wales Fire Brigades. The assistant commissioner presented a cheque for \$20,000, payable to the Central Coast Health Burns Equipment Fund. Employees of New South Wales Fire Brigades on the Central Coast contribute to this fund; their contributions over recent years have amounted to more than \$40,000. Their generosity has enabled a number of items used in the treatment of burns to be purchased by Central Coast Health.

All the speakers directed their remarks on safety to the school children, recognising the importance of having these young girls and boys understand the message that each was delivering. Mr Paul Lemmon—State,

Australian and World Masters Ironman and Surf Lifesaving Champion—also addressed the gathering. He then had the honour of cutting the Community Safety Week cake. Paul is well known on the Central Coast not only for his sporting achievements but as a former teacher at Kariong Public School, now located at Niagara Public School.

The official program concluded with the singing of three memorable songs by the school children. Ambulance Service officers were on hand to show the enthusiastic school students the ambulance rescue vehicle that is stationed at Point Clare Ambulance Station. New South Wales Fire Brigades firefighters proudly took guests and the school students on a guided tour of the relatively new fire station. The school students were delighted to be shown over a number of impressive looking fire tankers on display in the grounds of the fire station. As well, the students participated in a series of emergency service safety talks. Two police officers who are members of the Brisbane Water Local Area Command's police cycle squad spoke to the students on bicycle safety. I might add that the police cycle squad is making a big impact on reducing crime within the local area command, including on the Woy Woy Peninsula.

Congratulations must go to all members of the Gosford Community Safety Week Organising Committee and to all those who participated in the official launch. Superintendent Keith King, Zone Commander of New South Wales Fire Brigades, was also instrumental in putting the whole program together. Keith does a brilliant job in managing the growing number of fire brigades on the Central Coast. The principal of Kariong Public School, Mrs Maureen Gray, has every reason to be proud of her students. Their interest in the remarks of the various speakers and their behaviour overall made them excellent ambassadors for their school. At the conclusion of the official proceedings, guests and school students enjoyed a barbeque lunch prepared by Central Coast employees of the Commonwealth Bank.

Gosford Community Safety Week is proudly sponsored by the Motor Accidents Authority; Lend Lease, Erina Fair; Central Coast Health; Gosford City Council; New South Wales Fire Brigades; the Office of Fair Trading; Central Coast Herald; the *Sun Weekly*; WorkCover New South Wales; and the Brisbane Water Local Area Command. During this week, further community safety initiatives across the areas of crime prevention, injury prevention, emergency services and community development programs will be featured at a number of venues. The theme for Gosford Community Safety Week this year is "Safer Communities make a difference". To all those who were involved in putting together the program of events for the Gosford Community Safety Week, 8 to 16 November, I say "Thank you" for a job well done. I look forward to being in attendance at the 2004 launch of this special week.

COOLATAI GRASS MANAGEMENT

Mr PETER DRAPER (Tamworth) [6.03 p.m.]: I bring to the attention of the House the situation in northern New South Wales, where a grass imported from Africa called Coolatai grass, *Hyparrhenia hirta*, is rapidly invading travelling stock routes [TSRs], private property, Crown land, national parks, nature reserves and State forests. This species appears not to be limited by soil type or climatic conditions, as it can now be found invading both sides of the Great Dividing Range throughout eastern New South Wales. Coolatai grass was first noted in the Tamworth region approximately 15 years ago. Since then vehicles and animals have dispersed it along most of the arterial roadways. For example, Coolatai grass has invaded up to 70 per cent of the rural lands stock routes along the Tamworth to Barraba Road, most of which has endangered ecological communities of grassy white box woodland listed under the Environment Protection and Biodiversity Conservation (EPBC) Act, and the white box, yellow box, Blakelys red gum community listed under the Threatened Species Conservation Act.

The invasion of this weed is having enormous economic and environmental impacts, and will have even more if left unchecked. It forms a dense monoculture, displacing productive native grassland species, and causing local extinction of many of the rarer plants that persist only in travelling stock routes and vacant land. While appreciating that users of the TSRs are aware of Coolatai grass, and indeed look favourably upon it in some circumstances, it seems that most are unaware of the damage it can do if left uncontrolled. Research is presently being conducted at Manilla, near Tamworth, into the environmental and grazing production impacts of the species. A group of local land-holders, in collaboration with the National Parks and Wildlife Service and the research section of Department of Infrastructure Planning and Natural Resources, is conducting the environmental impact research.

The project has found that Coolatai grass invasion results in significant decreases in native plant diversity and biomass. At Manilla 50 per cent of native plant species have been eliminated and native plant

ground cover has been reduced to 20 per cent. Likewise, native invertebrate numbers have been significantly reduced by 30 per cent. These changes at the base of the food chain are likely to have significant impacts on native fauna dependent on native ground cover. Grazing production research has found that Coolatai grass is largely unpalatable and low in nutrient value to livestock, resulting in significant loss of carrying capacity and income to land-holders and, therefore, significant losses to regional economies. Heavy grazing is recommended to keep the plants short, when palatability and nutrient values are maximised. However, such management impacts on native plants, increases erosion and exotic plant species, and decreases the soil's productive capacity. Another expensive option is to repeatedly slash Coolatai grass areas to keep it short. Such management is an option only where vehicle access is possible.

The Government is responsible for dealing with this threat to regional economies and environments. The Premier and Minister Knowles have previously shown much interest in the conservation of the native woodland communities of our region. They should be aware that extensive tracts of high conservation woodland have already succumbed to this invading grass, and many more areas will go in the next couple of years. With favourable conditions, it could be as little as five years before all areas of high-conservation value are invaded and the situation is irreversible.

Nothing is currently being done to control this species or prevent its further spread, as there is no statutory requirement or funding for its control. Due to the present situation, weeds officers can make no attempt to control new occurrences: situations occur where as little as five minutes of their time to spray a couple of plants could prevent an invasion, as is evident at Dungowan, where I live. It is of the utmost urgency that the Government brings together the relevant people with expertise in weed control and management to formulate a plan to address this problem. From discussions with weed control authorities it appears all weed issues are inadequately funded. The present situation cannot go on any longer. All weeds are increasing and new weeds are being ignored. Serious funding is required for on-ground chemical application, and research to find new ways of control.

A strategic Coolatai grass plan is required which will identify areas where control of Coolatai grass is achievable; identify and source the funding need; to control new occurrences within those areas, and make it a statutory requirement for weeds authorities and landholders to treat new areas, and provide sufficient funds to achieve the objective; eradicate Coolatai grass in areas of high conservation value; identify the most effective means to prevent and/or limit the further spread of Coolatai grass; and develop new, cost-effective and efficient control methods. To continue with the current do-nothing approach will lead to significant economic loss to land-holders and regional economies, extinction of threatened plants and communities, and the listing of many new threatened plant species. We have an opportunity to make a difference by acting now. If we do not act, it will be far too late.

Private members' statements noted.

[Mr Acting-Speaker (Mr Paul Lynch) left the chair at 6.08 p.m. The House resumed at 7.30 p.m.]

BUSINESS OF THE HOUSE

Routine of Business: Suspension of Standing and Sessional Orders

Mr CARL SCULLY (Smithfield—Minister for Roads, and Minister for Housing) [7.30 p.m.]: I move:

That standing and sessional orders be suspended:

- (1) to allow Government business to have precedence of general business on Thursday 13 November 2003.
- (2) to provide at that sitting for the following bills to progress through all stages:

Motor Accidents Legislation Amendment Bill
Superannuation Legislation Amendment (Family Law) Bill
Evidence (Audio and Audio Visual Links) Amendment Bill
Workers Compensation Amendment (Insurance Reform) Bill

- (3) to allow the introduction up to and including the Minister's second reading speech of the following cognate bills, notice of which was given this day for tomorrow:

Natural Resources Commission Bill
Native Vegetation Bill
Catchment Management Authorities Bill

It is with some regret and almost a heavy heart that I move suspension of standing and sessional orders to abolish private members' day. As I have indicated to the Opposition both publicly and privately, private members' day is an important forum in our democratic process in which the Opposition is entitled to, and takes the opportunity to put its case to call the Government to account. It is with great reluctance that I suspend, defer or cancel—whichever word one wishes to use—private members' day, but I have no choice. The Opposition in the upper House supported a motion that provided we had to have all of our legislation to the upper House by 18 November. That means that I have to manage the program in such a way that requires debate tomorrow on these bills.

Had the Opposition not supported the crossbench motion to trample the rights of the Legislative Assembly, we would not need to do what we will do tomorrow. We will hear from the honourable member for Epping about what a shocking trampling of the rights of the Opposition this is. If they want to know who has really been responsible for the demise of private members' day tomorrow, Opposition members should go home tonight and look at themselves in the mirror because that is where they will see who is responsible for it.

Mr ANDREW TINK (Epping) [7.33 p.m.]: The running of this House is a shambles. At 2.15 this afternoon the Leader of The Nationals sought to have priority given tomorrow morning to an important motion about CountryLink rail services. At 2.20 this afternoon the Leader of the House, in concurrence with and after having consulted the Premier, indicated that he was happy for the motion to be debated tomorrow. In other words, at 2.20 this afternoon the Government was of a mind to have private members' day tomorrow, because it recognised the great importance of the motion foreshadowed by the Leader of The Nationals. Some time between 2.20 this afternoon and 7.20 this evening it finally dawned on someone senior in the Government that the legislative program is such a shambolic mess that private members' day will have to be cancelled in this House tomorrow. Let us not be kidded by the nonsense we have just heard about time limits set by the upper House.

At 2.20 this afternoon there was not a problem. The Leader of the House, who has just spoken, indicated that the motion about rail lines would have priority tomorrow. Something has gone wrong in the past five hours. Someone in Cabinet Office or the office of the Leader of the House has finally woken up to the fact that the Government has been sitting on legislation that should have been in this House well before now. We have heard enough garbage from the Leader of the House. It is very clear, when one compares what happened just after question time with what is happening now, that he cannot competently run this Chamber. We have had sitting day after sitting day—all the Friday sitting days are counted—when we come in here at 10 o'clock, muck around for an hour and a half with a couple of second reading speeches and some private members' statements, then everyone disappears before lunch because the Government has no other business to put before the House.

If the Leader of the House could get his act together, if the Cabinet could get its act together and if the Premier could get his head out of a German book for long enough to sit down and apply himself to pressuring his Ministers to deal with legislation in a timely fashion, we would have meaningful Friday sitting days rather than the guillotine coming down six or eight weeks before Christmas. Everyone else in meaningful employment understands what it means to work up until Christmas Eve. There is no reason we should not work right up until Christmas, the same as the rest of the community. If this House were run properly that is what we would be able to do. The only reason the upper House has placed time limits on receiving legislation is that it understands the tricks this Government gets up to when it guillotines things and rams them through this House.

It is only because the upper House instituted time limits that these important bills will be dealt with. This House has a great deal of controversial legislation to debate, but the Government does not want to debate it. The Leader of the Opposition's bill to cut stamp duty and save home buyers thousands of dollars was due for debate tomorrow, but the Government does not want to hear about that just before Christmas. There is a bill to prevent people who are found not guilty of murder due to temporary insanity from being awarded \$300,000 in damages, but the Government does not want to know about it because it would be embarrassed by the Kevin Presland matter. If it is not dealt with by legislation before it is dealt with by the Court of Appeal—assuming the Court of Appeal upholds Presland—the Government knows that it will not be dealt with at all.

The shadow Minister for the Environment's Quarantine Preservation Trust Bill is due to be debated in this House tomorrow. It has had the unanimous support of the crossbenchers. The bill is extremely damaging to the Government in the Manly area and, again, it is a bill that the Government does not want debated. A matter that is of supreme concern to the Government that might be dealt with between now and Christmas is the shadow police Minister's police amendment crime reduction and reporting legislation, which would include the reporting of all crimes and incidents of public disorder, and put performance requirements on the Commissioner

of Police. As we approach the busy crime season over summer the Government does not want that bill in this House. It is a typical pre-Christmas present in the totalitarian spirit of the Leader of the House to cancel private members' day and ram things through this House. Because of his incompetence, it is the only way that he can run anything.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 46

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

Noes, 31

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

Pairs

Mr Carr	Mr Armstrong
Ms Gadiel	Mr Brogden
Mr Iemma	Mr Hazzard

Question resolved in the affirmative.

Motion agreed to.

DISTRICT COURT ACT 1973: DISALLOWANCE OF DISTRICT COURT AMENDMENT (COURT FEES) REGULATION 2003

Mr ANDREW TINK (Epping) [7.48 p.m.]: I move:

That this House disallows item 18 in clause 13 of the District Court Amendment (Court Fees) Regulation 2003 made under the District Court Act 1973, which was published in *Government Gazette No. 154* on 26 September 2003 at page 9531 and tabled in this House on 14 October 2003.

The purpose of the gazetted regulation is to introduce a hearing fee for the sixth and each subsequent day of a hearing of \$235 per half day in the case of a corporation or \$117.50 per half day in any other case. My understanding is that this is a new fee for the District Court and is unprecedented. Effectively it provides for a daily penalty for running a case for six days or more. Although it is not necessarily an everyday occurrence for a case to run six days or more in the District Court, I have to conclude that it is a sufficiently frequent occurrence to make this regulation necessary, as the Government sees it. I find it particularly obnoxious that this regulation, apart from creating a very significant impost on people conducting litigation who are not able to afford it, sets a fee that is not charged to the Crown. That is made very plain in the schedule to the regulation. The regulation states:

No hearing fee is chargeable to any of the following parties to proceedings or to agents acting on their behalf in those proceedings:

- (a) the Government of New South Wales
- (b) any New South Wales Government Department
- (c) any statutory body whose expenditure is paid out of the Consolidated Fund.

I am very confident in stating that the biggest single litigant in the State of New South Wales is the State of New South Wales through its instrumentalities. The parties that appear more frequently in litigation in New South Wales than any other party are the various bodies that make up the New South Wales Government. It is outrageous that those bodies are exempt when people who may be suing them will be charged these fees. I cite the example of the little old lady who is hurt on a State Transit Authority bus and sues the State Transit Authority. When, for reasons totally beyond her control, an issue arises that takes some time to litigate, it is disgraceful that on and from the sixth day the little old lady, as the plaintiff, is charged an amount that is just shy of \$300 per day but that the State Transit Authority, as the defendant, is exempted from the fee.

The State of New South Wales, in the form of the Government, has gazetted a regulation—which the Opposition seeks to disallow—that effectively imposes a fine on individual litigants for the sixth and subsequent days of a complicated hearing in which the defendant is one of the statutory bodies that draws from the Consolidated Fund. Many people think of corporations as big entities, but small family companies and small businesses can also be incorporated. Imagine a small family business that is run along a very simple company structure, such as a carpet laying business which supplies and installs carpet. That business may have a contract to supply and install carpet at a school, say in south-western Sydney. The company undertakes to do that work for the Department of Education and Training. For some reason the department decides that there is a problem with the workmanship or the carpet. A complication arises as to who is responsible, and other parties become involved.

That small family company, which may be a husband and wife business—two directors—is suddenly charged a penalty, or fine, for the sixth and subsequent days of the hearing. The cost would come close to \$500 a day. The Department of Education and Training, a multi-billion dollar department, and the single biggest body in this State to draw on the Consolidated Fund, appears in court as the defendant and possibly strings out the case—a practice not unknown to the Government—in the full knowledge that the plaintiff cannot afford almost \$500 a day to run the case beyond the sixth day.

The Government has set up, by way of regulation—it is not something it has brought to Parliament—a punitive fine system, in effect, which penalises those who bring complicated cases against it. I have never seen anything like this in my life; it is an absolute disgrace. I sincerely hope that when this matter is debated in the upper House this nonsense is disallowed, or knocked out. The Law Society of New South Wales, in its submission to the Attorney General on 20 October, expressed concern about a whole range of fees and charges that are included in this regulation. The President of the Law Society, Robert Benjamin, quoted comments of former Chief Justice Sir Anthony Mason, to which I will refer. The letter from Robert Benjamin states:

As far back as 1989, Sir Anthony Mason CJ, as he then was, at the 26th Australian Legal Convention, deplored the tactics of governments in using the courts as a means of generating revenue. He said:

We seem to be moving towards setting fees on a costs recovery basis ... There is a growing apprehension that the level of legal costs inhibit access on the part of the citizen to the courts unless he is well to do or is fortunate enough to secure a grant of legal aid and this as a time when governments are effectively reducing the amounts expended on legal aid ...

Fixing court fees on a costs recovery basis represents a departure from the traditional philosophy that has guided us in the past. The fundamental principle—one in which we took great pride—was that the Queen's courts were open to all. A central plank in that principle was that court fees were fixed on a nominal basis rather than on a costs recovery basis. Government provided the

courts, both as a facility for the resolution of disputes between citizens and the citizen and the State, and as a forum for the vindication of rights. Ready availability of access to the courts was, and still is, vital to a democracy which takes pride in its system of justice and in the ordered settlement of disputes ...

By compelling commercial litigants to pay substantial fees for the use of court facilities, we may force them to resort to commercial arbitration. If we do then we will be contributing to the creation of two systems of justice—a public system and a private system.

I believe Sir Anthony would be absolutely astonished to see the State impose a fine against individual litigants. Such a fine will have a very significant impact on those who attempt to sue the State or State instrumentalities. This is not simply an impost or an added tax: it is a fine, a disincentive, a hurdle, a handicap—it is all those things directed in a totally partisan way against litigants who sue the State in any capacity. The State, as litigant, will benefit against individuals who are members of this State. I sincerely trust that this truly appalling precedent will be emphatically and categorically rejected in the upper House.

If it is not rejected, we will see it expand. I foreshadow that if the fee is currently almost \$500 a day for a small mum and dad company, it will not be too long before it is \$1,000 a day. If the fee for a little old lady suing the State Transit Authority for an accident on a bus is currently close to \$300, it will not be too long before the Government makes it \$600. Once the principle is established the fine will rise inexorably. It is sad, but the Government needs to be reminded of the impact of this fee on its traditional constituents. In a letter to me dated 28 October, the senior partner of Marsdens wrote:

These persons in Western Sydney cannot afford to pay these types of fees.

The imposition of a Daily Hearing Fee simply means that they will not have equal access to the Courts.

That is a solicitor from Western Sydney speaking on behalf of people from Western Sydney. Will the representatives of the Government from Western Sydney please take heed of his warning!

Mr WAYNE MERTON (Baulkham Hills) [7.58 p.m.]: The House is about to vote on an important issue that has the potential to undermine, change and overwhelm the system of justice that has been in place in Australia since this colony was first established. This disallowance motion seeks to redress a move by the Government to make the user pay. If, for some reason, a court case lasts for more than six days, the person who instituted proceedings will have to pay on a daily basis for the use of the court. Most reasonable people believe that they are already paying enough taxes in the form of traffic fines, council rates, stamp duty, licensing fees and motor vehicle registration. This Government has an obligation to provide basic core services, such as a decent court system.

If someone happens to be involved in litigation that lasts for more than six days, every day after that six-day period has to be paid for in half-day slabs. It will cost a company \$235 to use a courtroom from 10.00 a.m. until 1.00 p.m. and another \$235 from 2.00 p.m. until 4.00 p.m. Individuals will have to pay \$117.50, which is a large sum of money for many people to pay. People who are involved in litigation will quite often find that their cases extend beyond the six-day period that is allowed by this regulation. Cases are often prolonged, through no fault of the litigants, and they will soon realise that they cannot afford to maintain such litigation. At the end of the fifth or sixth day, when litigants are up for more legal fees, they will be coerced into settling because they have simply run out of money.

This regulation will compound that situation and make it more difficult for them to continue in their search for justice through the court system. Many people will be forced into settlements because of this regulation. The honourable member for Epping said earlier that the Government would be exempt from paying these fees. The plaintiff might be a government agency that is suing a small company. Honourable members should not be deceived into believing that more than one shareholder is required these days to form a company; a company can be established by a single person. If the Government is suing a small company it does not have to pay any fees, even though it has unlimited resources. However, if a small company is suing the Government it is a different story.

The same rule would apply to a small company that was suing a multinational corporation. Those people that members of the Labor Party get great satisfaction from describing as ordinary Australians will now have to pay if they want to continue with their litigation. Quite simply, they will run out of money. Multinational companies or government agencies will force those vulnerable people into settling their cases. It could be argued that these fees are not large compared to other costs that are involved in maintaining litigation, but it could be the straw that breaks the camel's back or forces someone to surrender. Anyone involved in litigation such as this would realise that, after six days, he or she would have to pay those fees. Anyone who embarks on litigation will be confronted with that problem.

This regulation is unfair as it incorporates two sets of rules—one rule for the Government, which is exempt from these fees, and one rule for the citizens of New South Wales, who will be forced to pay these fees. Where will it end? If the District Court starts imposing fees is that where it will stop? Will we pay fees to local courts and other jurisdictions? Anyone pleading guilty to a traffic offence in the Local Court would not only have to pay normal court fees; he or she would have to pay a hearing fee. Citizens have a fundamental right to seek justice in the courts, but that does not appear to be the view of the Government. This Government believes that litigants who are involved in lengthy or extensive court cases should be penalised. In many cases plaintiffs do not unnecessarily extend court hearings; quite often it is the defendant who is represented by a wealthy insurance company with plenty of money.

Insurance companies know that plaintiffs will become vulnerable when they do not have sufficient funds to continue litigation. I am aware, from my experience as a lawyer, what is likely to happen after a case has been running for a week. The plaintiff will come back to court and, after six days, he or she will incur court fees, additional legal fees and the new fee that this Government is seeking to impose. Plaintiffs will say, "We have run out of money. We have had enough. Our search for justice is over. We have been let down by the system." That additional burden is being imposed by a Government that purports to look after the battlers in this country. I endorse the comments made by John Marsden from Marsdens solicitors. Many people in Western Sydney will simply not be able to afford litigation because of these additional fees.

Several years ago I was Minister for Justice. I know that the Parliament has the right to say to the Government that it is wrong and that court fees should not be increased, as that is not the right thing to do. It is not unusual for parliaments to knock back increases in court fees. I was on the other side of the Parliament when that happened. For the sake of the citizens in our community and for the principles of justice that have been held dear for many years, members of this Chamber and the other place should give people a fair go. This Government must provide core services, such as court services, without imposing a fee for those services. This regulation will result in a fee for service, which is contrary to everything for which we stand. It is contrary to everything in which the average Australian believes and it is contrary to the principles for which we have fought and died.

As John Marsden said, the people in Western Sydney simply could not afford to pay a hearing day fee. Sir Anthony Mason said that this is a matter of grave concern to the community. Those comments are even more relevant today as almost every litigation process has a fee attached to it. This new fee has been introduced by a government that will receive \$1 billion more than it bargained for from stamp duty. Every year this Government will receive \$8 billion from GST, but it wants to impose additional fees on and deny justice to ordinary Australians. [*Time expired.*]

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [8.08 p.m.]: This fee was introduced in the District Court on 1 October 2003. It is a fee for the hearing of long civil matters in the District Court, which is payable for each half day of the hearing on or after the sixth day. The fee is charged at a rate of \$117.50 per half day for individual litigants and \$235 per half day for corporations. Corporations generally pay fees at a higher rate than individual litigants in the District Courts. However, corporations with an annual turnover of \$200,000 or less pay fees at the lower individual rate. The fee will be charged to the plaintiff in the proceedings unless the court orders otherwise. The effect of this fee is to require civil litigants whose cases take up significant court time to contribute a small part of the cost of their hearing. It will be obvious to all that \$117.50 or even \$235 does not come close to covering the cost of providing a judge—or possibly a judge and jury—court staff, sheriffs and so on for half a day.

However, the fee implements the Government's policy that court users should generally pay something towards the costs of providing services for them. It will also encourage litigants to resolve any issues—narrow the matters in dispute—as best they can between themselves, thereby minimising the court time needed and freeing valuable resources for other litigants, which will impact positively on court delays. Most importantly, the hearing fee will not apply to all civil litigants in the District Court or even to the average litigant. Rather, the fee targets those civil litigants who use up the most court resources—a fraction of all litigants. Statistics from the District Court indicate that 6,906 civil matters were disposed of in the Sydney Registry of that court in the 2003 calendar year to 7 November. In the same period a total of 34 matters were heard or set down for a hearing of six days or more. If we compare the two figures we can see that only approximately 0.5 per cent of cases run in the District Court this year would have attracted the hearing fee for long civil matters.

This is not an ill-considered grab for revenue aimed at the average litigant. This fee applies only to those who use more court resources than the bulk of other litigants. As I have said, this fee will encourage

litigants to seek early settlement, to consider alternative dispute resolution and to confine their submissions carefully to the court. By discouraging excessively long hearings, the fee will make more resources available for other matters, thereby assisting the court in meeting its time standards and improving service delivery for all court users. Of course the early resolution of disputes will also assist the parties. The hearing fee for long civil matters in the District Court, together with all other court fees charged in New South Wales, is accompanied by a number of very important safeguards that ensures that litigants who have difficulty paying the fees are still able to access the courts. First and foremost, all New South Wales courts and tribunals have a general discretion to postpone, waive or remit any or all of the fees payable in relation to proceedings before them.

This discretion is exercised on a case-by-case basis in favour of litigants who can demonstrate that payment of the fees would cause them financial hardship or deny them access to justice. In the Supreme Court, for example, fees are waived or postponed in approximately 5 per cent of civil proceedings, and this rate has remained stable for the past five years. The second important safeguard that helps to ensure that financially disadvantaged litigants are still able to access the civil justice system is that in most New South Wales courts and tribunals special provisions apply to two categories of litigants. These are people being represented through a pro bono scheme, and people receiving legal assistance through a community legal centre. In a number of courts a third category of litigants is also included—namely, people who are in receipt of a Commonwealth health concession. Litigants who fall into any of these categories are entitled to have any court fees payable by them postponed automatically until their case is over, and the fees are then charged only if the litigant is ultimately successful and receives an award of damages.

A third safeguard is that fees are set individually for each New South Wales court and tribunal, having regard to the nature of the particular jurisdiction and the types of litigants who use it. Accordingly, there are fewer fees in the local courts and other low-cost jurisdictions, and they are set at significantly lower rates than in the higher courts. When we take these three safeguards into account we can see that the Government's approach to court fees is a considered one that requires civil litigants generally to make an appropriate contribution to the cost of resolving their disputes—particularly those that will take up significant court resources—but also ensures that no-one is denied access to justice.

My final comment in this context is that, for the average litigant, court fees generally represent only a very small proportion of the total cost of litigating a civil claim. While the Government has in place a number of measures to control the fees charged by legal practitioners for their services, the cost of obtaining private legal representation still far exceeds any amounts payable by way of court fees. It is important to bear this in mind when considering that legal practitioners are the first to complain when new fees are introduced. There is a growing trend in New South Wales—and I believe across the country—for litigants to represent themselves before the courts, and this has nothing to do with excessive court fees. There is nothing untoward about the new hearing fee for long civil matters in the District Court, and the Opposition's motion should be opposed.

Mr ANDREW TINK (Epping) [8.15 p.m.], in reply: I ask the Parliamentary Secretary to take heed of the largest firm of solicitors practising in his electorate. I have received a letter from Marsdens—the Parliamentary Secretary will know of it—which is a highly regarded legal firm in south-western Sydney and elsewhere. The senior partner of Marsdens has made a representation on behalf of the Parliamentary Secretary's constituents—to whom he obviously does not care to listen. He writes:

This is really going to affect the average person in Western Sydney.

To paraphrase that comment, this fee is really going to affect the constituents of the Parliamentary Secretary. Does he care? No. Has he listened? No. What did he do? He read out some prepared rubbish that totally disregards what the senior partner of the largest firm in the heart of the Parliamentary Secretary's electorate had to say about his constituents. The Parliamentary Secretary should listen up. He should talk to John Marsden and figure out what this regulation will do to his constituents and their access to justice in the District Court in Campbelltown and elsewhere, and then have another look at it. The Parliamentary Secretary should not come into this Chamber and read a prepared brief that pays no regard to the views of practitioners in the heart of the community that he represents. The letter states:

This is really going to affect the average person in Western Sydney. The average person simply could not afford to pay a Hearing Daily Fee when they litigate ...

It is important in a free and democratic society that everyone has equal access to the courts.

Those persons in Western Sydney cannot afford to pay these type of fees.

They are the views of the chairman of partners of the largest firm of solicitors in the electorate of the Parliamentary Secretary. But the Parliamentary Secretary obviously does not want to listen and does not care. None of the Government's justifications address the fundamental problem of equity in relation to the Government as a defendant. If a little old lady from Campbelltown is injured and sues the State Transit Authority or some other State authority that happens to draw from the Consolidated Fund, those authorities can—they have done so in the past and will do so in the future—string out a case to put the plaintiff in financial distress. That is the way the Government saves money. That is the reality of this regulation: The Government introduces a fee that is then used as a tactic by a defendant who is backed by the full resources of the Government to run down a plaintiff in the courts in a long-running case. Defendants will run out a case to run down a plaintiff. They will run a case into the sixth, seventh and eighth day. They will take half-day adjournments and so on until the daily fee meter starts to tick and the litigant is pushed over the line and forced to settle for a lesser amount because he or she cannot afford to continue.

It is disgraceful that the Government has put this fee into the legal system as a binding rule to help our little friend, the Treasurer. He makes an annual cameo appearance in this Chamber—he makes his budget presentation and then disappears. We cannot ask him questions. This fee helps his bottom line, but has no regard for the balance of justice on the part of individual litigants. As the senior partner of Marsdens is often wont to say—I do not hear very much from the honourable member for Campbelltown about this—there is great pride about the way in which the Campbelltown and south-western areas of Sydney are going from strength to strength economically, about the tremendous growth in small businesses, innovation and small companies. The Parliamentary Secretary is prepared to sit by and allow those small companies, which employ his constituents, to be hit. If and when—heaven forbid—they ever get into litigation with the Government, with a daily fine of upwards of \$500 per day if they have the temerity to take on the Government over a commercial matter—

[Interruption.]

Yes, and anybody else. However, it is particularly heinous from the Government's point of view. It has put forward this rule to act as a penalty, a hurdle and a real deterrent to people getting justice. The more complex, difficult and risky the case, the greater the penalty. It should not be that way. Somebody with a hard and long case should not be discouraged or penalised because it is complicated. For example, a constituent of the honourable member for Campbelltown—an individual or a company—may have a complicated case through no fault of their own but because of the way in which the Government dealt with them, mucked them around, in relation to a contract. In fact, the fault may be largely with the defendant. Nevertheless, because of the behaviour of the defendant, the plaintiff may have a complicated, long, costly and difficult case to prove, which takes some days. If the case gets past the magic fifth day and into the sixth day, regardless of how difficult a government defendant may have made it for the plaintiff make out that case, the penalty applies.

I have never heard of anything quite like this ongoing daily toxic penalty. There are upfront fees for commencing proceedings and for a whole range of things that are recognised in this regulation, about which we do not seek to do anything. We recognise that fees are payable; we do not suggest otherwise. This new cumulative, nasty fee will penalise people after six days of hearing and beyond. The Government, as the defendant, can sit back and watch a plaintiff financially bleed. The plaintiff may be forced to the table or to withdraw a case, a case that can be drawn out by a government defendant. I have not seen anything like this before. It is appalling. I will finish where I began: the honourable member for Campbelltown, the Parliamentary Secretary, needs to talk to Marsdens. He needs to talk to J. R. Marsden, J. H. Marsden, J. B. Adam, K. J. Searle, A. I. Percival, A. J. Seton, E. M. White, D. R. Beard, G. P. Butterfield, P. J. Crittenden, T. C. Reeve or any of the others.

Mr Graham West: Tell us their first names.

Mr ANDREW TINK: You know their first names. That sort of detail means diddly-squat. Who cares about detail when the honourable member for Campbelltown does not listen to the detail that matters? This is going to affect the average person in Western Sydney. It is about time the honourable member had a chat about what he has just defended on behalf of the Government in relation to Marsdens' clients—that is, his constituents. He should face the reality that he has just made it far more difficult for his constituents to sue the Government, of which he is a member. The honourable member for Campbelltown has placed hurdles before his constituents who want to legitimately take action against the Government about a complex cause. He has just penalised them in a way that is unprecedented in the legal system of this State. Go and have a talk to them!

Question—That the motion be agreed to—put.

The House divided.

Ayes, 34

Mr Aplin
Mr Barr
Ms Berejiklian
Mr Cansdell
Mr Constance
Mr Debnam
Mr Draper
Mr Fraser
Mrs Hancock
Mr Hartcher
Ms Hodgkinson
Mrs Hopwood

Mr Humpherson
Mr Kerr
Mr McGrane
Mr Merton
Ms Moore
Mr Oakeshott
Mr O'Farrell
Mr Page
Mr Piccoli
Mr Pringle
Mr Richardson
Mr Roberts

Ms Seaton
Mrs Skinner
Mr Slack-Smith
Mr Souris
Mr Tink
Mr Torbay
Mr J. H. Turner
Mr R. W. Turner

Tellers,
Mr George
Mr Maguire

Noes, 45

Ms Allan
Mr Amery
Ms Andrews
Mr Bartlett
Ms Beamer
Mr Black
Mr Brown
Miss Burton
Mr Collier
Mr Corrigan
Mr Crittenden
Ms D'Amore
Mr Debus
Mr Gaudry
Mr Gibson
Mr Greene

Ms Hay
Mr Hickey
Mr Hunter
Ms Judge
Ms Keneally
Mr Knowles
Mr Lynch
Mr McLeay
Ms Meagher
Ms Megarrity
Mr Mills
Mr Morris
Mr Newell
Mr Orkopoulos
Mrs Paluzzano
Mr Pearce

Mrs Perry
Mr Price
Dr Refshauge
Ms Saliba
Mr Sartor
Mr Shearan
Mr Stewart
Mr Tripodi
Mr West
Mr Whan
Mr Yeadon

Tellers,
Mr Ashton
Mr Martin

Pairs

Mr Armstrong
Mr Brogden
Mr Hazzard

Mr Carr
Ms Gadiel
Mr Iemma

Question resolved in the negative.

Motion negatived.

BILLS RETURNED

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

Sydney Water Catchment Management Amendment Bill

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

Firearms and Crimes Legislation Amendment (Public Safety) Bill

Consideration of amendment deferred.

APPROPRIATION (HEALTH SUPER-GROWTH FUND) BILL**Second Reading**

Debate resumed from 28 October.

Ms GLADYS BEREJIKLIAN (Willoughby) [8.35 p.m.]: If ever there was a bill that symbolised the Government's tax-and-waste approach to government it is this bill. At the outset I should indicate that as this is a

money bill the Opposition will not stand in its way. However, this is a bill that will cost the people of New South Wales more than \$15 million, all because the Treasurer cannot do his sums. Picture the scene: a few nights before the Labor Party conference the Premier's office realises that it has nothing to announce. And after a few short minutes of flicking through some potential media stories the Health Super-Growth Fund was created.

This is the classic tax-and-waste bill. On tax, this bill is the result of the Government's addiction to stamp duty. It received \$955 million more than it expected last year, and still it will not give any back. On waste, the bill is a \$15 million error designed to secure the Premier 30 seconds in the news. It is another example of a Government that has made waste an art form. Even better, the bill shows that the Government has found a new way to waste money. This is not like the \$117 million blow-out on the Liverpool to Parramatta transit way; it is not like the sale of the Intercontinental Hotel for \$93 million less than it was worth; and it is not like the botched Sydney Water billing system, which cost taxpayers \$61 million.

This Government had \$420 million fall in its lap. It had a choice. Should it put the money at risk on the stock market to earn \$78 million, or should it pay off debt, with no risk, and save \$93 million? Amazingly, the Government chose the risky option, which would make less money, rather than the safe option, which would make more! Amazingly, after the Leader of the Opposition revealed this \$15 million loss, Treasurer Michael Egan said that as a result of last week's interest rate rise the yield from the Health Super-Growth Fund would increase from 4.64 per cent to 5.5 per cent, and that therefore there was no \$15 million loss. Michael Egan is truly an amazing Treasurer. He is amazing, first, because they managed to turn a 0.25 per cent interest rate rise into an almost 1 per cent rise in the Health Super-Growth Fund. He is amazing, second, because he claimed that as a result of the interest rate rise the return from the Health Super-Growth Fund would increase but the bond rate would stay the same! Michael Egan was caught out, and, rather than admit that he was wrong, he has tried to fiddle the numbers.

This bill is the result of the Government's unbudgeted stamp duty windfall. At budget time the Government said it would receive \$830 million more in stamp duty than it had budgeted for. Yet, as with all of the Carr Government's budgets, the Government underestimated by \$125 million how much stamp duty it would receive. On top of that, government business exceeded profit expectations by \$128 million, investment earnings were \$89 million more than expected, and liabilities caused by HIH were \$66 million less than expected. Consequently, the budget result for the 2002-03 financial year was a surplus of \$619 million—\$420 million higher than expected at budget time. That is \$420 million more from taxpayers, and yet the Government will not give one cent back in stamp duty relief. The Government plans to deposit the additional \$420 million surplus in a new Health Super-Growth Fund. The Government says that interested earned—\$78 million over four years, based upon an assumption of a return of 4.64 per cent—will be spent on health capital works.

That is the spin the Government is trying to put on it: a new fund for capital works. Who can argue against more money for health? However, there is a catch. The bill is not as simple as it seems. Like all investments, the funds invested in the Health Super-Growth Fund are at risk. The return may not equal the Government's expectations. All honourable members would remember the Government's experience with investments. The State Superannuation Fund is more than \$2 billion worse off as a result of this Government's investments. The upgrade of health facilities across the State will be at the mercy of the financial markets. If the markets perform well, the people of Queanbeyan, for example, will have their hospital upgraded. If the markets do not perform, bad luck.

What is more concerning is the fact that the Government has failed to ask whether this is the best way to spend taxpayers' money. If the Government had bothered to ask that question it would have found that the answer is a resounding no. When a government gets to the end of the year and discovers that it has a surplus the additional money is usually used to pay off government debt. When a government pays off debt it no longer has to pay the interest costs of servicing the debt, which means it has more money to spend on services such as health. According to the Reserve Bank the latest published yield for New South Wales Treasury Corporation 10-year bonds is 5.55 per cent, compared with the projected return for the Health Super-Growth Fund of 4.64 per cent.

The Government would get a better return—almost 1 per cent better—if it used its money to pay off debt. Over four years the Government would save \$93.2 million from its interest bill if it paid off debt. It is important to realise that the interest rate rise will increase both the return from the Health Super-Growth Fund and the bond rate. It does not change the facts at all. The Government will lose \$15 million as a result of the Health Super-Growth Fund. Not only would the Government save more money by paying off debt, the saving

would be risk free. The Government's savings on interest payments are not dependent on fickle financial markets. Once debt is paid off the Government no longer has to make interest payments on it. There is no risk in that. If it is paid off, it is paid off. In addition to the initial \$420 million, the Government claims that every cent of the increased poker machine tax will be allocated to the Health Super-Growth Fund.

The Minister for Infrastructure and Planning, and Minister for Natural Resources, Craig Knowles, said in his second reading speech that the Government's intention was to formalise its intention to allocate the increased poker machine tax, effected by the 2003-04 budget, to the Health Super-Growth Fund. It is amazing that six months after the budget the Government has only just got around to formalising its intentions. When Opposition staff asked the Treasurer's staff why this part of the legislation was not introduced with the other budget bills the simple answer was, "Because we hadn't made the decision then". Once again, the Carr Government's grubby politics are exposed. The allocation of the clubs tax to health was a political stunt designed to increase pressure on clubs. The bill is a great example of the hallmarks of the Carr Government: tax and waste.

Mr JOHN BARTLETT (Port Stephens) [8.43 p.m.]: The object of the Appropriation (Health Super-Growth Fund) Bill is to appropriate out of the Consolidated Fund the sum of \$420 million for investment, and to apply the income from the investment towards capital works and services for public health purposes. Today the Minister for Health listed a number of hospitals throughout New South Wales that will receive huge benefits from the fund. In the five years I have been a member of this House the Carr Government has returned a surplus every year. We have paid off an enormous amount of debt. The last figure I saw was a saving of \$1.6 billion in interest over the past few years. That money can now be put into capital works for schools, hospitals and transport. I have spoken to almost every budget and appropriation bill and outlined what the Government has done with the surplus.

In previous years we have poured hundreds of millions of dollars into helping people affected by the drought and the serious bushfires. Every year income gathered by the State is spent on problems that arise unexpectedly throughout the year. Anyone who runs a budget, which is only an estimate, would be mad not to assume that income will always be less than expected. That is the way the Carr Government has run each budget for nine years. If you assume that your income is less than expected you will then be in a position to use surplus money in areas of need. Interest on the \$420 million will be allocated specifically to health capital works and maintenance. In the past five years the Government has produced a surplus. We have reduced debt and superannuation liability, and we are \$1.6 billion a year in front, which represents interest formerly paid to overseas banks and lending authorities. I have no qualms at all about appropriating this \$420 million for investment and using the investment income in the health system. We will do that as often as we produce a surplus. I support the bill.

Mr ANDREW CONSTANCE (Bega) [8.46 p.m.]: The Opposition will not oppose this money bill. However, a number of concerns need to be pointed out because the Treasurer, Michael Egan, has made several mistakes in relation to the Health Super-Growth Fund. He has underestimated the budget, courtesy of unexpected revenue generated through stamp duty. He has no understanding of risk yields, returns and bond markets. He has jeopardised New South Wales' credit rating through his lack of knowledge and finance. He is wasting money. This guy is not a financial boffin; he is a financial buffoon. Those opposite are happy to call him their Treasurer, but this is embarrassing. Taxpayers have not voted to have their taxes used as investment vehicles to be put at risk in yield returns when debt could be retired at no risk.

The 2002-03 budget result was a surplus of \$619 million, \$420 million higher than expected. The Government has decided to invest the \$420 million into the Health Super-Growth Fund and spend the interest earned—\$78 million over four years—on health capital works. The Government has budgeted that the fund will earn \$78 million, based on an assumed return of 4.64 per cent per annum. Like all investments, there is a degree of risk. It will be interesting to see what the Government has calculated the risk for the investment to be. Government usually use surpluses to pay off government debt. If the Government had used that money to pay off debt, it would have saved \$93.2 million in interest payments over a four-year period at a bond rate of 5.5 per cent. By establishing the Health Super-Growth Fund, the Labor Government will waste another \$15 million.

The Leader of the Opposition alerted the Treasurer to this error, and suddenly the Treasurer was able to justify the disappearance of that \$15 million on the back of the interest rate increase that occurred last week. He managed to turn a 0.25 per cent interest rate increase into a 1 per cent increase in the Health Super-Growth Fund, which was absolutely amazing. He also claimed that, as a result of the increased interest rate, the return from the Health Super-Growth Fund would increase while the bond rate remained the same. This is another

example of shonky accounting from the Labor Government. The Treasurer underestimated the Government's budget position and clearly demonstrated that he has no understanding of risk, yields, returns and bond markets. He will put this State's credit rating at risk because he is looking like an absolute galah.

There is also the problem of the waste of \$15 million as a result of this investment. That waste has to be added to waste with the Liverpool-Parramatta transitway, the north-west bus transitway, the Millennium train, the salaries paid to public servants without jobs to the tune of \$17.4 million, the \$32 million lost by the Infringement Processing Bureau, the \$78 million blow-out in the cost of the new Hunter and outer suburban rail carriages, the \$43 million spent on transport consultants and legal fees, which even the Minister for Transport Services, Michael Costa, thought was outrageous, and the \$93 million loss on the sale of the Intercontinental Hotel site. I point out to Government members that the Princes Highway traverses the Bega electorate and that people die on that highway every day of the week while their Government does not spend one cent on improving it. The Government is throwing taxpayers' money away. Government members should be ashamed of themselves. On top of everything I have mentioned, Government members are also looking at ways in which to increase the tax rates in New South Wales to an astronomical level by ripping \$1.6 billion from the clubs sector in New South Wales.

Mr Peter Black: Here we go!

Mr ANDREW CONSTANCE: How did the honourable member for Murray-Darling vote on that in Caucus? The facts tell the story. The honourable member for Murray-Darling did not have the guts to vote on the clubs tax in the House. He is a disgrace. The fact is that he has contributed to the waste of taxpayers' funds. The Appropriation (Health Super-Growth Fund) Bill is another example of waste, this time to the tune of \$15 million, simply because the Government wants an investment vehicle instead of retiring State debt and enjoying the benefits of the interest saved. I suggest that the honourable member for Murray-Darling should go to that economic and financial buffoon, the Treasurer, and point out those errors.

I suspect it may be worthwhile for Labor members opposite to start debating in Caucus the level of Government waste of taxpayers' money—bearing in mind that it is not their money, but the taxpayers' money that is being wasted on shonky arrangements throughout the New South Wales public sector. New South Wales taxpayers often want to know where their money is going, but Labor members are not forthcoming. Despite being in their ninth year of government, Labor members take responsibility for absolutely nothing. As I have said, the Opposition will not oppose this money bill but as surely as night follows day, New South Wales taxpayers will see this as yet another example of the Carr Government wasting their taxes.

Mr ANTHONY ROBERTS (Lane Cove) [8.54 p.m.]: If there were a triathlon event for bad judgment, broken promises and fiscal incompetence this Government would break all records. Treasurer Egan would be on a dais and a funereal dirge would be playing while a gold medal for fiscal incompetence is presented to him to bring back to New South Wales. Treasurer Egan is like a sheep on the wrong side of the dingo fence.

Mr DEPUTY-SPEAKER: Order! The honourable member for Murray-Darling will restrain himself.

Mr ANTHONY ROBERTS: The people of New South Wales live in the highest-taxing State of the Commonwealth and the third highest-taxing State in the world, but they get nothing out of it except sheer incompetence. The budget for the 2002-03 financial year showed a surplus of \$619 million, which fell out of the sky thanks to stamp duty revenue but was gained on the backs of mums, dads and elderly people who buy and sell homes. The Government claims that the amount of \$420 million which will be collected from the imposition of the poker machine tax will be allocated to this super-growth fund. I do not believe that, and the people of New South Wales do not believe it. The establishment of this fund will be at the expense of local communities and local clubs, including the local scout group in the electorate of the honourable member for Murray-Darling. Local councils will ultimately bear the brunt of the imposition of this tax. As a former mayor, the honourable member for Murray-Darling would realise the importance of local councils in community life.

Elderly people in the community who rely on groups such as Meals on Wheels and other social support groups to take them on trips and provide community support services will be forced to turn to local government as a result of the imposition of this tax. The people of New South Wales do not trust this Government when it comes to financial and fiscal responsibility. The Government has a budget worth billions of dollars but its health care system is on life support—and I hope it is not administered by a public hospital! Moreover, the court system treats criminals as victims and victims as criminals. What are the people of New South Wales getting for all the money that is being received by this Government? Nothing but incompetence! The New South Wales

Labor Party's proposals are so exorbitant that it has become the party of capital punishment, and it will meet its demise as the party of capital punishment. The Government estimates that the fund will earn \$78 million over four years.

[Interruption]

I take this opportunity to say what a fantastic local member the honourable member for Bega is. He is joined in the Chamber by the tremendous honourable member for Albury. Both honourable members are extremely popular. I have had the pleasure of visiting both electorates, so I am personally aware of their popularity. They will be even more popular because they are against the additional fiscal excess of the Carr-Egan Labor Government. What scares me most is the person who will be in charge of this fund. I do not know what happens in the Treasury, but they must be using 100 monkeys on 100 typewriters to come up with the latest investment figures or plans. There can be no other reason for the ridiculous state that the Treasury is in and the huge amounts that are being lost. The Government refuses to do what the Federal Government, in its wisdom, has done. The Federal Government—led by the Prime Minister, John Howard, and the very capable Treasurer, Peter Costello—having inherited an enormous debt from the Labor Party has paid off huge amounts of that debt. The beneficiaries of this responsible fiscal management by the Federal Government are the men and women of Australia.

The Federal Government is not playing around with any sort of funny Egan fund that no-one believes in. Rather, it is paying off debt and saving money for the taxpayers. At the end of the day it must be said that the Carr Government cannot be trusted with financial management. I would not trust members of the New South Wales Labor Government with \$2 to collect an order from the tuckshop correctly, let alone give them hundreds of millions of dollars. Many people are grateful that their local bank manager is not Treasurer Egan because he does not seem to be able to get his head around interest rates. He has no idea.

We come back, once again, to the Leader of the Opposition bringing the Government to account, and he did that incredibly well on 11 November. The Leader of the Opposition revealed the \$15 million loss—obviously one of the typewriters in Treasury got it wrong. The Leader of the Opposition took this to the people and busted the Government—it was caught out. Goodness, \$15 million, it must have been the monkey's day off! At the end of the day the Opposition will hold the Government accountable, because we do not trust the Government's financial and fiscal abilities. The people of New South Wales do not trust the Government's abilities.

Finally, I use the analogy of the form guide. When the honourable member for Murray-Darling looks at the form guide he may decide that a horse might be scratched or taken down. If he were a horse, he would have been taken down a long time ago, because he does not perform. Let us look at the Government's recent races. The Liverpool to Parramatta transitway race was a \$117 million blow-out; it did not even start to race. Where did that \$102 million blow-out come from in the north-west bus transitways race? The Government does not know, but it wants to shovel more money in. There was a blow-out of \$104 million on the Millennium trains. They did not even start the race; they have not even left the paddock. They may never leave the paddock, but if they do they will probably throw a rider. We do not know how much more will go into that project.

The honourable member for Bega reminds me that \$17 million was spent on public servants who do not work; they do not have jobs. Those jockeys do not even ride their failed horses. The Infringement Processing Bureau lost \$30 million when it could not send out fines within six months. What is going on? This waste is out of control! This reflects on the people's perception that the Government could not manage a corner shop. Further, \$43 million was wasted on transport consultants and legal fees and \$93 million was lost when the Inter-Continental Hotel site was undersold. We all know that the progress of the Appropriation (Health Super-Growth Fund) Bill is a cynical attempt to pull a stocking over the heads of the people of New South Wales.

Whenever I see Michael Egan he looks as though he has a stocking mask over his head, trying to purloin more money out of the people. I recently saw him walking down Macquarie Street with his hands in his pockets. The best thing about that was it was the first time he did not have his hands in everyone else's pockets. This bill is nothing more than a ridiculous political stunt. The sooner Treasurer Egan shows some fiscal management and responsibility and returns these surpluses through debt reduction to the people of New South Wales the better off we will be. In every cash register in the State, in everything we do, Michael Egan's hands are there taking money. Mark my words: the people of New South Wales will not forgive the Government and they will not forget. The results of this bill will be seen at the next election.

Mr GREG APLIN (Albury) [9.04 p.m.]: It is indeed appropriate that the honourable member for Murray-Darling is present in the Chamber, because we are talking about a black comedy indeed. As my colleagues have clearly stated, the theme of waste is central to this debate. The Government is propping up the debt market and, as the honourable member for Bega and the honourable member for Lane Cove said, it plans to effectively waste \$15.2 million over four years. The Government has exposed itself to more risks than it has to instead of retiring debt. Where will this money supposedly go? It will go to health areas generally throughout the State. My question is: Why is something not being done already?

If hospital wards are effectively shut, if equipment is not used but locked up, if areas formerly occupied by the Department of Health are now vacant but the airconditioning and heating still run throughout the year despite the fact that no-one is there, why are we not looking at those areas instead of trying to waste even more money? Honourable members have effectively outlined where some of that money has been wasted. The budget is in surplus with \$420 million more than expected at budget time. And where is that money to be deposited? In a Health Super-Growth Fund. The interest to be earned, \$78 million over four years, is supposedly to be spent on health capital works. I have estimated the costs that have been wasted already and outlined some of those.

In addition to the initial \$420 million that the Government seeks to deposit, it plans to rip out \$1.6 billion from poker machine taxes from the clubs of New South Wales. I have news for the Government: there will not be \$1.6 billion. If the Government taxes the clubs to that extent, some clubs will close and some will amalgamate. Therefore, there will not be that much income. Remember that this is supposedly a tax on income, not on profit. But there will be less income so there will not be \$1.6 billion in taxes. So much for that estimate. The Government has budgeted that the Health Super-Growth Fund will earn \$78 million over four years. The assumption is that the return will be 4.64 per cent per annum.

As the Opposition has pointed out previously, that money is at risk and may not equal the Government's expectations. It is expected that the Government's surpluses should pay off Government debt. That is what we encourage our population to do, that is what credit warnings are all about. According to the Reserve Bank the current yield on New South Wales Treasury Corporation 10-year bonds is 5.55 per cent. If the Government had used the money to pay off debt it would have saved \$93.2 million in interest payments over four years, based on a bond rate of 5.55 per cent. The Treasurer has managed to turn 0.25 per cent interest rate rise into an almost 1 per cent rise in the Health Super-Growth Fund. He also claimed that as a result of the interest rate rise the return from the fund would increase, but we all know that the bond rate will stay the same. It is shonky accounting from the Government. The Treasurer knows better. He is failing us once again and the waste continues.

Mr RUSSELL TURNER (Orange) [9.07 p.m.]: The Appropriation (Health Super-Growth Fund) Bill is a smokescreen: it will not achieve what they Government states it will achieve. The Opposition will not oppose the bill, but it certainly is not enthusiastic about it. The object of the bill is to appropriate out of the Consolidated Fund the sum of \$420 million for investment, and to apply the income from the investment towards capital works and services, and I suspect administration, for public health purposes. The income from the investment is to be paid into a fund, to be called the Health Super-Growth Fund, which is established as a special deposits account. It is the Government's intention to appropriate, in future annual appropriation Acts, to the Minister for Health for recurrent services for public health purposes, amounts which represent the estimated increase in poker machine tax effected by the 2003-04 budget.

What a smokescreen! To the average man on the street that might sound pretty good: they will get more money for health. But where is it to come from? It will come from poker machine taxes, as stated in the bill. However, most poker machine tax has already been put into the community. Some of it has already been put towards health programs. Government members referred earlier to the fact that this investment would earn about \$78 million in interest over four years, which is less than \$20 million a year. That amount of \$20 million is almost equal to the debt that was incurred last year by the Mid Western Area Health Service. Orange Base Hospital has a debt of \$12 million. On the surface, \$420 million might appear to be a reasonable amount of money, but the return on that investment will be less than the debt that has been incurred by the Mid Western Area Health Service. This investment, which is just a smokescreen, should not be given any credibility. The Government said that some of the poker machine taxes from the Orange area are already being used to provide medical services in the community.

To date, the Orange Ex-Services Club has donated a considerable amount of money for the provision of angiogram services at Orange Base Hospital. Those services might cease as a result of the imposition of these taxes. Orange Ex-Services Club has also donated a considerable amount of money to the mobile blood bank.

This Government has refused to allocate money to get that bus up and running and to provide better services. Projects throughout New South Wales will be threatened as a result of the imposition of this tax. Community contributions will be withdrawn because potential profits in the form of extra taxes will go into the Government's coffers.

A news bulletin tonight highlighted the services that will be affected by these taxes. Doctors and professors who appeared on a show on Channel Nine criticised the Government on the lack of medical research. Research funds will dry up and medical research will be cut back because of this monetary drain from clubs. The Government's proposal looks great on the surface but most people will see it for what it is—just a smokescreen. The Government is robbing Peter to pay Paul, and in this case it is robbing the clubs. Its shallow promises have been exposed for what they are. As I said earlier, we are talking about a Government allocation of less than \$20 million a year. Very little of that money will be used to provide capital works. Some of it might go towards the provision of services, but I fear that most of it will go into what already is a bloated administration. There is no guarantee where that money will go. The Government promised it would be spent on urgent capital works and services, but it is my belief that there will be a lot less than the \$20 million that was promised.

Mr DARYL MAGUIRE (Wagga Wagga) [9.14 p.m.]: Opposition members do not make a habit of opposing money bills in this House. However, tonight I will highlight some of the deficiencies in this legislation by putting it under the microscope. When I am considering any legislation in this House I refer to the reports of the Auditor-General that I keep just for moments like this. Opposition members have stated clearly and succinctly their concerns about this bill. This financial year the Government will accumulate \$420 million from the taxes that are levied on the people of New South Wales. The Treasurer said that that amount of money would accrue \$78 million in interest which the Government would use in the provision of health services.

As the Auditor-General and his department have an enormous amount of credibility I believe all honourable members should use his reports as a reference. I wish to refer to some of the scathing remarks that the Auditor-General made about this Government. I randomly picked out two of the Auditor-General's reports from the bookcase in my office and I will refer, first, to the comments that he made in volume 5 of his 2001 report. I am sure that the people in the gallery will be interested in some of these remarks.

Mr John Bartlett: That is last year's report.

Mr DARYL MAGUIRE: It does not matter what year it is; the Auditor-General produced a report that is critical of the Government. This Government has to be accountable for what it does. The Auditor-General's report, which refers to transparency, states:

Corrective Services

Irregularities were identified in employee leave entitlements. The Department is taking action to recover unrecorded leave from employees.

Department of Health

Recommendations made by the Director-General are being approved by less senior officers in the Department, acting under delegation from the Minister. The Audit Office does not believe this process is appropriate ...

Hunter Area Health Service

After nearly 10 years, the timing of a \$7.7 million loan repayment to the Department of Health remains uncertain ...

Roads and Traffic Authority

The Authority has not prepared a formal capitalisation policy for classifying expenditure on roads and bridges.

An estimated \$20 million of GST on accrued expenditure at 30 June was not brought to account.

Freight Rail Corporation

The effectiveness of risk management procedures introduced by management for checking movements to consignment notes and invoices, was unable to be determined because of lack of audit trail.

FreightCorp continues to trade with a number of its customers in excess of their credit limits.

Shortcomings in the Corporation's accounts payable system has allowed expenditure to be incurred without prior approval from delegated officers.

Earlier this afternoon Opposition members referred to the enormous blow-outs over which this Government, its Treasurer and its Ministers have presided. Volume 5 of the Auditor-General's 2002 report states:

Department of Education and Training

The \$121 million deficit and \$104 million reduction in cash balances to 2001-02 were due to a major gap between the Department's expenditure and the level of Consolidated Fund support ...

Health

At 30 June 2002, four Area Health Services were not meeting the Health Department's direction that creditors be paid within 45 days of invoice ...

NSW Land and Housing Corporation

The Corporation is in dispute with a major contractor over housing works. Conciliation proceedings are advanced to resolve this dispute.

It is doubtful that \$18.4 million of rental debts will be collected.

This afternoon the House debated an urgent motion relating to the affordability of Department of Housing accommodation. This Government presides over an \$18.4 million rental loss but it does nothing about it. The Auditor-General's report highlights the inefficiencies of this Government. Earlier today the honourable member for Willoughby read a speech prepared by the Leader of the Opposition in which he stated that if that debt was retired it would create an additional \$15 million. This Government does not want to acknowledge that it owes money on its bankcard. Good economists have said that if we paid off our debt the benefits would be far greater because of the savings we would accrue on interest. The report of the Auditor-General also states:

The role and responsibilities of the Auditor-General, and hence the Audit Office, are set out in the *Public Finance and Audit Act*.

Our major responsibility is to conduct financial or 'attest' audits of State public sector agencies' financial reports. We also audit the Total State Sector Accounts—consolidation of all agencies' accounts.

Financial audits are designed to add credibility to financial reports, enhancing their value to end-users. Also, the existence of such audits provides a constant stimulus to agencies to ensure sound financial management.

It continues:

We also conduct performance audits. These examine whether an agency is carrying out its activities effectively and doing so economically and efficiently in compliance with relevant laws. Audits may cover all or part of an agency's operations, or consider particular issues across a number of agencies.

When I served on the Public Bodies Review Committee we inquired into the reporting of public bodies. We tabled our report in the House and it was acclaimed by the Auditor-General, who said it was about time that government instrumentalities reported clearly and transparently. This bill is not about transparency. This bill ignores the fact that interest is accruing on the Government's bankcard. It is putting that money aside and denying the people of New South Wales an extra \$15 million in interest that could be used to benefit the State. The Auditor-General wrote to every member in this place in a letter dated 28 October. He said:

Over recent years I have written to all Members of Parliament seeking their suggestions for future performance audit topics or suggestions relating to waste or lack of probity or financial prudence in the use of public resources. This process has proved very useful—

I have provided evidence of that—

and a number of suggestions received have been included in our performance audit programs.

To ensure that we consider all appropriate issues for inclusion in our 2004 work program, I am now asking you to put forward any suggestions you have. If possible, I would like to receive your response by 28 November.

I propose to send a letter to the Auditor-General in which I will submit that he audit the bill and its effects, conduct a cost benefit analysis and compare it to retiring debt. Let us see what the Auditor-General discovers. Let us see whether he proves the Leader of the Opposition right—and I believe he will. The Leader of the Opposition has done his sums and he is not out to pull the wool over the public's eyes. My letter states:

Dear Auditor-General

I write in response to your letter of 28 October 2003 seeking suggestions of Audit topics. I submit to you for your consideration an auditing cost benefit analysis of the Appropriations Bill and subsequent creation of a fund of approximately \$420M with predicted interest income of some \$78M in comparison with the retiring of Government debt and the cost benefits derived through debt reduction.

I will sign that letter now and make sure that it is sent to the Auditor-General in the morning. We will soon discover whether our assertions are correct. This bill is a denial of reality. This Government has debt but it is ignoring that fact and creating a slush fund. That money should be put towards retiring debt. That would offer greater benefits to the people of New South Wales than some of the smoke-and-mirrors legislation that the Government has proposed.

Mr GEOFF CORRIGAN (Camden) [9.23 p.m.]: I support the Appropriation (Health Super-Growth Fund) Bill. I originally did not intend to speak in this debate but I decided to respond to some of the comments of Opposition members. Members opposite have said that the Opposition will not oppose this measure as it is a money bill—I congratulate them on that decision—but they are taking an awfully long time to register their support. I was interested to hear the comments of the honourable member for Port Stephens, who has been in this place longer than I have. He said that in his five years in Parliament each year there was a budget surplus and each year that surplus was used to retire debt. The principle of intergenerational equity may be foreign to some Opposition members but it is certainly not foreign to Government members.

[*Quorum formed.*]

The intergenerational equity concept is not foreign to Labor members who have been involved in government and who understand that debt is sometimes good—it is not always good but it is not always bad either. It was interesting to hear the honourable member for Wagga Wagga quoting selectively from the Auditor-General's financial audits of a couple of years ago. I note that volume 4 of the Auditor-General's financial audits for 2003 reveals that the State's total equity was \$70.5 billion in 1998 and has risen to \$117.8 billion in 2003—which is a 67 per cent increase in equity. This Government is doing the right thing. I am disappointed that Opposition members have ignored what is in the bill. Clause 7, "Payments into and out of the Fund", states:

There is to be paid into the Fund:

- (a) the income from the investment, under section 5, of the appropriated sum which income may be applied only for or towards public health capital works and services, and
- (b) all other money required or authorised by or under any other Act to be paid into the Fund.

The bill states clearly that the money may be applied only for or put towards public health capital works and services. Why is that so hard to understand? I am sure that the honourable member for Murrumbidgee understands that; it seems quite straightforward to me. The nonsense about achieving \$15 million in interest and putting it towards retiring debt ignores the fact that the economy moves. The honourable member for Willoughby said in her inaugural speech that she was an economist with the Commonwealth Bank. Those of us who have been involved in finance, even at the edges—not like the honourable member for Willoughby, who has been involved in the centre—know that the economy moves up and down.

At the moment it appears that a prudent investment by this Health Super-Growth Fund will not only get a \$78 million income but more than that with the growth in the American economy, which affects the growth in the Australian economy. As always, the Government has taken a cautious budget position. We are in surplus because our wonderful Treasurer was prudent in his calculations of what the budget income and surplus would be. The surplus has been greater than expected and it will go into the new Health Super-Growth Fund. I commend Opposition members for not opposing the bill. I look forward to hearing their comments in support of the Health Super-Growth Fund. When those funds are applied towards regional hospitals in the Hunter, Queanbeyan and Murrumbidgee I hope Opposition members will remember where the money came from.

Mr ADRIAN PICCOLI (Murrumbidgee) [9.31 p.m.]: The Appropriation (Health Super-Growth Fund) Bill is purely and simply a stunt. It is the sort of stunt that would make Evel Knievel look like a kindergarten student. Mal Peters, from the New South Wales Farmers Association, is in the gallery. This proposal is the equivalent of owing \$100,000 on a home loan, paying 7 per cent interest and winning \$100,000 in the lottery. It is like the stamp duty lottery this Government has been winning every year for the past seven or eight years. Instead of paying off the rest of the home loan with the \$100,000, they make what they consider to be a wise investment decision and they put the money into a term deposit to earn 3 per cent interest. They will lose money. As the Leader of the Opposition said, the Government will not just lose \$15 million in lost revenue because it is investing at an interest rate that is lower than the interest rate being paid on the debt. By all accounts, it is incompetent financial management. It will end up costing New South Wales a significant amount of money.

I called this a stunt from the beginning. The Opposition sees no other reason for this \$420 million to be invested in this way. It would have been far simpler and far more effective to pay off debts with this money, unless the Government wants to do something else with it. Those of us who want to be honest about this proposal know that there must be some other reason, because it cannot be done to maximise return as one pays off debt instead of investing in a lesser interest rate. In the lead up to the next election in 2007 this fund—which is outside of Consolidated Revenue—will be available to be drawn from. The money will be accounted for in budget papers and the like, but it is easy to hide little expenditures like this in a \$30 billion budget. As the honourable member for Camden said, it is very much hypothecated to health. Health comprises one-third of the New South Wales budget. In three years time, in the lead up to the 2007 election, it will be easy for the Government to pull money out of that fund—not just the interest that has accrued—to fund all sorts of election promises in relation to health. However, it will cost the New South Wales taxpayers \$15 million.

The Opposition will not oppose this bill because it is a money bill. We are a responsible Opposition. It is incumbent upon us, as a responsible Opposition, to raise these objections. The Government is misappropriating taxpayers' money. The Government reaps a bonanza every year from stamp duty. The Treasurer and the Premier take great delight, in such an arrogant manner, in praising themselves for running a surplus budget every year. They hail themselves as great financial managers. Almost every year since the Australian Labor Party came to office it has overspent its budget by almost \$1 billion, but each time it has been saved by record revenues. The time will come when those record revenues will not arrive. Treasury knows that.

That is why we are seeing a tax on poker machines and all sorts of other tax grabs. For example, another stamp duty bill was introduced in the Parliament today that will cost mining companies a significant amount of money. The New South Wales Farmers Association has made certain comments about this new stamp duty compliance bill. The Government is looking for other measures to overcome the stamp duty revenue it will lose when the property bubble bursts. This Government will experience significant financial pressures in years to come. It is disgraceful that it has lost this opportunity to save New South Wales taxpayers \$15 million.

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [9.36 p.m.], in reply: The budget result for the 2002-03 financial year was a surplus of \$619 million. This resulted in a budget surplus \$420 million higher than expected. The major factors behind the improved budget result were government businesses bettered their profit forecasts, yielding higher dividends and tax payments by \$128 million; a strong property market produced additional stamp duty of \$125 million; investment earnings were better than expected by \$89 million; and the \$600 million liability the Government assumed after the collapse of HIH Insurance has been reduced by \$66 million following a recent actuarial assessment. The additional \$420 million will be deposited in the new Health Super-Growth Fund and the interest earned—some \$78 million over four years—will be spent on urgent health capital works.

The bill also enables the Government to formalise its intention to appropriate the increase from the poker machine tax, effected by the 2003-04 budget, to the Minister for Health for public health recurrent services. Although this is an appropriation bill, it really is a public health bill. It responds to the massive boost in health that people are expecting. As we know, health technology is expanding and increasing in cost. My grandmother told me that when she was expectant with twins they sent her for an X-ray. Nowadays they send a woman for an ultrasound and they can operate on babies on the womb. Magnetic resonance imaging and CT scanners are part of modern medicine. This bill will help cover some of those costs that go up.

What is this bill really about? It will mean that the mum in Wollongong who needs radiotherapy for her cancer can get it. It will mean that the young boy who broke a leg on the farm in Dunedoo can go to the new rural hospital and get treated. It will mean that the teacher in Bathurst who has an operation can get better facilities. It will mean that the grandmother in Menindee who has a fall and needs stitches can be taken care of locally. It will mean that the adolescent in Broken Hill who is diagnosed with schizophrenia gets the best treatment available in Broken Hill. It will mean that the proud new parents in Queanbeyan can get the best treatment for their children in the Queanbeyan District Hospital. This is a public health bill. I urge all honourable members to support it.

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 Mr Mal Peters, President of the New South Farmers Association.

BILLS RETURNED

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

Coptic Orthodox Church (NSW) Property Trust Amendment Bill
Motor Accidents Compensation Amendment (Terrorism) Bill
Podiatrists Bill

WORKERS COMPENSATION AMENDMENT (INSURANCE REFORM) BILL

Bill introduced and read a first time.

Second Reading

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [9.41 p.m.], on behalf of Ms Reba Meagher: I move:

That this bill be now read a second time.

The Workers Compensation Amendment (Insurance Reform) Bill continues the process of reform of the workers compensation system in New South Wales, which the Minister announced in June 2000 and which is aimed at building a system that is fair, affordable and efficient. Honourable members will recall the Minister's statement to the Legislative Council on 8 June 2000 in which he outlined the principles that underpin the Government's strategy for the reform of the New South Wales Workers Compensation Scheme. The key focus of these reform principles was to develop reforms that delivered sustainable scheme costs, and provided appropriate treatment and better return to work outcomes for injured workers. During the past three years some very significant reforms have been implemented and the success of these reforms is demonstrated in the improvement in the performance of the WorkCover scheme.

Disputes have reduced by 75 per cent from 8,000 per quarter to 2,000 per quarter; \$67.5 million in premium discounts have been awarded to safer employers; the average delay in reporting injuries has reduced substantially from a median 21 days in June 2001 to 11 days in the quarter ending September 2003; and there have been savings to the scheme of over \$1.5 billion, largely through reduction of disputes, with the majority of these savings being in legal and investigation costs. At the same time the most recent actuarial report on the scheme states that payments made to injured workers have increased by \$47 million. Clearly, these improvements have not been at the expense of benefits paid to injured workers. While the impact of these reforms has been positive, the Government recognised that the structural and operational arrangements of the scheme required review, and the Minister foreshadowed such a review in his statement to Parliament in June 2000.

In accordance with this commitment, and following a public tender conducted by WorkCover, McKinsey and Company was engaged to conduct an independent review of the scheme. The purpose of the review was to recommend improvements to the operation of the scheme to improve services for injured workers and employers while securing the financial viability of the scheme. The review was overseen by a steering committee with membership drawn from government agencies such as the Independent Pricing and Regulatory Tribunal, the Cabinet Office and New South Wales Treasury, as well as the WorkCover scheme actuary PricewaterhouseCoopers and WorkCover executives. During the course of the review McKinsey and Company undertook discussions and consultation with many of the key players within the workers compensation system, including workers, employers, insurers and other service providers, as well as with other interested parties such as the board of WorkCover and the Workers Compensation and Workplace Occupational Health and Safety Council.

The report of the review, entitled "Partnerships for Recovery: Caring for injured workers and restoring financial stability to workers compensation in New South Wales", was released on 8 September 2003. Copies were provided to a range of interested parties, including honourable members of this House. The report was also available on the WorkCover web site. The report builds on the earlier reforms and focuses on changes to

improve the management of claims that will lead to better outcomes for injured workers while increasing competition and performance transparency in the scheme to assist employers make informed choices. While the report looked at ways to achieve a fully funded scheme it is important to note that it does not recommend any changes to workers' benefits or increases to employer premiums. Instead, it focuses on finding ways to improve the current operation of the scheme through the more effective delivery of services to injured workers and employers and, by doing so, to ultimately restore financial stability to the scheme.

The report also recommends that private underwriting of the scheme should not be considered at least until the scheme is fully funded. In order to improve the operation of the scheme the report recommends changes to the role and functions of scheme participants and WorkCover itself. In particular, the report recommends changes to the existing arrangements whereby licensed insurers perform the majority of functions required within the scheme, such as funds investment, claims management, premium assessment and collection, and related activities. It recommends instead allowing specialist businesses to tender for these specific roles and functions. This approach will introduce greater competition into the scheme by opening up the market to enable businesses other than insurance companies to participate. The report recommends replacing the existing open-ended licensing system with fixed-term contract arrangements to allow the appointment of the most efficient providers, which of course may include the current insurers, and to facilitate greater accountability and contestability.

The report also recommends that WorkCover take a more active role in the management of the scheme and its contracted agents. More active management will enable the setting of strict performance criteria and benchmarks through the contracts with agents and to promote the best performers through outcomes-based remuneration and contract renewals. It will also provide a scheme-wide focus on matters of significance, including performance measurement and reporting. McKinsey anticipate that savings to the scheme from the implementation of these reforms will be in the order of \$2 billion over the next 5 to 10 years. The majority of these savings come from the increased specialisation, particularly in the area of claims management, and the introduction of contract arrangements. Savings of this magnitude also require the adoption of a more active role by WorkCover in the management of the scheme and its agents.

The Government has accepted that the report provides a model that will deliver better services and improved outcomes for both injured workers and employers. However, it was also open to the views of the major scheme stakeholders and instigated a program of consultation with employers, unions, insurers and service providers. WorkCover also conducted a series of briefings for stakeholders. These briefings provided an opportunity for stakeholders to clarify issues relating to either the report or its implementation, and they were also invited to provide written comment on matters of concern. I am pleased to report to the House that there was significant interest in the report and that stakeholders were broadly accepting of the recommendations of the report and the rationale for reform. At this stage it is intended that the new arrangements will be fully implemented in late 2005, although a phased approach will be adopted to ensure continuity of business functions throughout the transitional period.

I turn now to the substance of the bill. The bill provides for new administrative arrangements for the framework of workers compensation insurance to support the implementation of the report's recommended reforms. The bill retains the current insurance arrangements of the scheme but replaces the six current managed fund insurers and their separate trust funds with a single Nominal Insurer, which will hold a single Workers Compensation Insurance Fund and contract with scheme agents to conduct insurance business on its behalf. Like the existing statutory funds, the new insurance fund is a purpose trust. The Nominal Insurer will be a legal entity, which will be able to act as an insurer and hold the funds of the scheme in the Workers Compensation Insurance Fund.

The Nominal Insurer will issue policies of insurance and handle claims under policies as the insurer for the scheme. The Nominal Insurer will not represent the State and its liabilities will be able to be satisfied only from the insurance fund. It will be able to contract with agents, to issue policies of insurance and/or to handle claims on its behalf, and to provide funds management advice and services. By and large, employers will have a choice in selecting the best agents to manage their claims. However, the Nominal Insurer will have a power to assign claims to specific agents to ensure that policies and claims are allocated to appropriate agents, for example, a specialist agent that deals with catastrophic injuries.

The power to assign claims will also assist with the management of the insurance market and the overall stability of the scheme during the transition to the new arrangements. The WorkCover Authority of New South Wales will act for the Nominal Insurer and exercise the powers of the Nominal Insurer. In this way,

WorkCover will be able to oversee the management of the scheme. However, WorkCover will not act as insurer and will not manage individual claims. The new framework will allow for more efficient use of scheme resources by centralising scheme funds into a single fund and allowing their investment to be determined centrally. The bill therefore establishes the Workers Compensation Insurance Fund with the assets of the insurance fund to be held on trust for the purposes set out in the Act for the benefit of workers and employers.

The fund will comprise premiums, investment income and other money related to the scheme, and will be used to meet claims costs and the expenses of the scheme. Employers will be entitled to participate in the distribution of assets of the fund and will be liable to contribute to any deficit in the fund. The fund will not be part of the assets of the Government. Similarly, the assets of the fund cannot be used to pay dividends to the Consolidated Fund. Neither the State, the Nominal Insurer, WorkCover nor any authority of the State will have any interest in the fund and are neither liable to meet any deficit in the fund nor entitled to any surplus in the fund. This is consistent with the longstanding position of Government that the workers compensation funds are the responsibility of the employers of New South Wales.

The bill also amends the Public Finance and Audit Act 1983 to provide that the insurance fund is not part of the total State sector or the general government sector for the purposes of the preparation of the total State sector accounts under the Public Finance and Audit Act. This means that the accounts of the fund will not be included in the total State sector accounts that are prepared by the Treasurer. However, the Auditor-General will be required to inspect and audit the accounts and records of financial transactions relating to the fund at least once every financial year. The Auditor-General is also required to include references to audits in his annual report to Parliament and may make a special report to Parliament following the audit. These measures will ensure transparency in the performance of the fund and its management by WorkCover, acting on behalf of the Nominal Insurer.

The bill provides for the Nominal Insurer to contract with scheme agents. Scheme agents will be able to exercise the powers of the Nominal Insurer on its behalf, subject to the terms of any contract. In practice, scheme agents will collect premiums, issue policies, and manage claims on behalf of the Nominal Insurer. Agents will be appointed under contracts, instead of the existing open-ended licences. Contracts will allow for more flexibility to enable WorkCover to specify services, monitor performance and take appropriate action. Scheme agents will be selected following an open tender process, and their skills and expertise will be closely scrutinised before they are appointed. An agent will also be used to invest the money in the fund on behalf of the Nominal Insurer.

To ensure claims and other records are retained and stored, scheme records will be owned by the Nominal Insurer, which will be able to direct agents about their custody and control. The bill contains detailed provisions dealing with the records of the Nominal Insurer to ensure that its records are adequately protected and maintained. The Nominal Insurer will also be able to give directions to agents about claims procedures, and to ensure continuity of records management. The bill provides for scheme agents to have generally similar rights to the current licensed insurers and to be subject to the same liabilities and regulatory control by WorkCover, to ensure that scheme agents deal efficiently with policies, claims and scheme funds. WorkCover's regulatory functions will include a new power to conduct performance audits of scheme agents and of specialised and self-insurers. This power will enhance WorkCover's existing regulatory controls and can be used to ensure, for example, that agents comply with provisional liability, injury management and return-to-work obligations.

The bill changes the arrangements for workers whose employers are uninsured. Instead of uninsured claims being met by the Workers Compensation Authority Fund, it is proposed that these claims will now be met by the Nominal Insurer, drawing on the insurance fund. The Nominal Insurer will recover the costs of uninsured claims from employers. The intention is to simplify the arrangements governing uninsured liability and place workers whose employers are uninsured on a similar footing to other workers making claims. Workers whose employers are uninsured will have access to benefits and the dispute resolution procedures of the Workers Compensation Commission as soon as their claim is verified. Uninsured employers will continue to have the right to participate in dispute resolution concerning uninsured claims and will be a party to any matters dealt with in the Workers Compensation Commission.

These arrangements will ensure that claims made by injured workers whose employers are uninsured are dealt with in a similar way to other claims, allowing these injured workers to receive benefits more quickly. This bill establishes the structural framework that will enable the new arrangements to be implemented. Questions around the role and functions of individual claims agents, their period of appointment and the like will be addressed through the implementation period. Consultation on all these matters will be detailed and

timely. The bill will set the groundwork for reforms that are designed to provide improved services to injured workers and employers, and restore the financial stability of the workers compensation scheme in New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr Adrian Piccoli.

CITY TATTERSALL'S CLUB AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [9.57 p.m.], on behalf of Mr Grant McBride: I move:

That this bill be now read a second time.

The City Tattersall's Club Amendment Bill provides for amendments to the City Tattersall's Club Act 1912. City Tattersall's Club was established for the purposes of racing and sport. During the introduction of the 1912 bill Parliament heard that the club was a sporting club that already consisted of a large number of members, and in a sure sign of the times the membership was exclusively male. By 1912 the club was already licensed to operate until 11.00 p.m. and was recognised as one of the leading sporting clubs of that era. Since that time the club has operated under its own Act, which was introduced as a private member's bill. The club has developed into an established and profitable entity with a large membership, and is a well-known landmark in the central business district. The 1912 Act places a number of significant restrictions on the operation of the club.

When the 1912 Act was introduced it was explained that the object of the bill was to incorporate the club in order that its funds may be invested and properly protected by the committee without the necessity for calling a general meeting of members who are scattered all over the Commonwealth. Although those restrictions were appropriate for the time, they do not sit easily with the demands of the contemporary commercial environment that now faces the club. Despite these restrictions, City Tattersall's Club must operate as would any other club that was granted a certificate of registration under the Registered Clubs Act. Essentially, the proposed amendments to the Act seek to bring it into line with contemporary practice. The first amendment will dispense with a requirement that a special general meeting be held to approve the borrowing of any money or to dispose of any money, goods or chattels belonging to the club. The existing requirements for approval at a special general meeting applies regardless of how small the amount in question may be. This is clearly inappropriate for carrying out regular commercial transactions.

In the future, a meeting to approve the borrowing or disposal of any money will be required only if the amount or value in question exceeds \$1.5 million. However, the disposal of goods or chattels belonging to the club will not require any such approval. In line with the club's updated financial arrangements, the club will also be subject to a cap of \$5.5 million on interest-bearing liabilities. In addition, the club's Act also limits the amount of money that may be expended by the club's committee to \$1,000. This amount was originally £500 and has not increased since 1912. This means that the club is effectively required to hold a special general meeting for every occasion when expenditure on any form of building work on the club's properties is required, if the amount to be expended exceeds \$1,000.

Given standard costs for any form of building work, it is considered unnecessarily onerous to require the approval of a special general meeting for virtually every specific item of expenditure. Although the club previously has relied on longstanding resolutions to authorise such expenditure, this is not a viable long-term solution. It is proposed that the amount of expenditure requiring approval be increased to \$1.5 million, in line with today's needs in terms of expenditure. This amount simply reflects the level of costs incurred by the club for normal maintenance and improvements to its city premises and the Boonoona Ski Lodge at Perisher Valley. These proposals were put to a special general meeting of the club's members that was held on 14 October 2003. The members voted in support of the proposals.

It is proposed that an automatic sunset provision be inserted into the Act requiring the repeal of the Act on 31 December 2005, by which time the club will have established itself as a company under the Corporations Act 2001. This transition will enable the City Tattersall's Club to exist as a registered club in the same manner as other registered clubs in New South Wales. Two years will allow the club enough time to institute the necessary changes to become a company. The completion of these necessary changes also forms part of the

conditions for the Act to be repealed. Honourable members should note that the provisions of the bill will commence on the date of assent.

The Government considers that none of the measures in the bill raises any issues relevant to the Legislation Review Committee's scrutiny of bills function. The bill will not trespass unduly on personal rights or liberties, which is very important. It will not make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers or upon non-reviewable decisions, and it will not delegate legislative powers. This bill will remove archaic and outdated provisions in the City Tattersall's Act. It will pave the way for the club to operate on an equal footing with other registered clubs in New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr Adrian Piccoli.

SUPERANNUATION LEGISLATION AMENDMENT (FAMILY LAW) BILL

Bill introduced and read a first time.

Second Reading

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [10.04 p.m.], on behalf of Ms Reba Meagher: I move:

That this bill be now read a second time.

The Superannuation Legislation Amendment (Family Law) Bill 2003 proposes to make a number of amendments to legislation governing the New South Wales judicial, parliamentary and public sector employees' superannuation schemes. Most of the proposed amendments stem from Commonwealth reforms that provide for the division of superannuation on marriage breakdown under the Family Law Act 1975. In general terms, the new Commonwealth laws make superannuation part of the marital property and prescribe a range of processes to facilitate superannuation splitting where that is appropriate.

First, the legislation prescribes the information that trustees must give to the parties on request to help them make decisions. Second, it sets down detailed methods for the court to value superannuation interests. In some cases, the Federal Attorney-General is able to approve other methods for valuing entitlements where this is appropriate. Third, the legislation sets out the processes for the couple or the court to either defer the decision about the split by using a payment flag, or to allocate all, or part, of a future benefit entitlement to the member's spouse. Fourth, the legislation provides the rules which will bind the trustee to pay out the spouse's entitlement in certain ways when the member's benefit becomes payable.

The Commonwealth has been able to rely on its constitutional powers to achieve the immediate physical splitting of certain classes of benefits. These are accumulation interests in superannuation funds which are regulated under the Superannuation Industry (Supervision) Act 1993. If an order or agreement provides a member's spouse with an entitlement in a regulated accumulation scheme, that person can request the trustee to create a separate benefit in the plan or move the benefit to a different plan. Even if the member's spouse has not made such a request, the scheme's governing rules may empower the trustee to set up a separate account or transfer the spouse's entitlement elsewhere.

The New South Wales First State Superannuation Act 1992 governs the accumulation scheme covering New South Wales public sector employees. It was amended during the spring sitting of Parliament last year, as honourable members would recall, to replicate the framework set out by the Commonwealth for family law entitlements in accumulation schemes. The bill proposes to enable the creation of separate interests in all the public sector defined benefit schemes, wherever this is appropriate. The amendments proposed will also facilitate compliance with the requirements of family law. The Acts to be amended are the First State Superannuation Act 1992, the Judges' Pensions Act 1953, the Parliamentary Contributory Superannuation Act 1971, the Police Association Employees (Superannuation) Act 1969, the Police Regulation (Superannuation) Act 1906, the State Authorities Non-contributory Superannuation Act 1987, the State Authorities Contributory Superannuation Act 1987, and the Superannuation Act 1916.

As might be expected, the legislative amendments are more substantial for defined benefit schemes. This is largely because the design and structure of each of these schemes is unique and the accrual of interests is more complicated to quantify. The impact of the proposed amendments will be to pay the family law

superannuation entitlement to the spouse or transfer it to another superannuation fund as soon as possible. At the same time as the entitlement is paid from the fund, there will be a corresponding reduction of the member's superannuation entitlements. The amendments include regulation-making powers to deal with matters of detail. These will include making elections, the composition of payments, periods of payment, calculation of entitlements, calculation of the value of superannuation interests, additional circumstances for payment and the reduction of benefits.

Members of the House will be aware that amendments can be made to the Parliamentary Contributory Superannuation Act 1971 only after the Parliamentary Remuneration Tribunal has first certified that the amendments are warranted. I am pleased to advise the House that the Hon. Roger Boland, constituting the Parliamentary Remuneration Tribunal, has issued a certificate approving the proposed amendments in accordance with the requirements of the Parliamentary Remuneration Act 1989. The tribunal's determination was gazetted on Friday 7 November 2003. In summary, the proposed amendments will complement the Commonwealth's family law superannuation splitting framework and implement the creation of separate interests wherever possible in the New South Wales public sector defined benefit schemes.

The bill includes also miscellaneous amendments to deal with three issues of a minor nature. These amendments will enable some superannuation changes previously made to be applied consistently across all New South Wales public sector schemes. The first set of amendments will allow pensions paid under the Transport Employees Retirement Benefits Act 1967 and the New South Wales Retirement Benefits Act 1972 to be adjusted in line with the consumer price index in years when the index is less than 1 per cent but more than 0 per cent. The same changes were made to the State Superannuation Scheme, the State Authorities Superannuation Scheme and the Police Superannuation Scheme in late 2000. The changes will mean that all New South Wales public sector pensions can be adjusted to reflect small increases in the index in the year in which they occur.

The second set of miscellaneous amendments extends the definition of "spouse" in the Local Government and Other Authorities (Superannuation) Act 1927, the Transport Employees Retirement Benefits Act 1967, the New South Wales Retirement Benefits Act 1972 and the Public Authorities Superannuation Act 1985 to include de facto partners and same-sex partners. De facto partners were included in the definition of spouse in most New South Wales superannuation schemes in 1993, while same-sex partners were included in the definition of "spouse" in 2000. The proposed amendments will mean that heterosexual and same-sex de facto partners of pensioners will be eligible for a spouse pension in the same circumstances as married spouses. This will bring the definition of "spouse" in these schemes into line with other New South Wales public sector schemes.

The final issue to be addressed is the provision of spouse benefits in the Transport Employees Retirement Benefits Act 1967. The proposed amendments extend the circumstances under which a spouse benefit is payable. This new benefit can be paid when a relationship commences after the member's retirement and there is, or has been, a dependent child of the relationship. The full benefit is available if the relationship existed for three years prior to the member's death. Benefits are reduced on a pro rata basis when the relationship existed for less than three years. The proposed amendments reflect amendments made to the other New South Wales public sector pension schemes in the spring sitting of Parliament last year. Unfortunately, these were unintentionally omitted from the Transport Employees Retirement Benefits Act 1967. I commend the bill to the House.

I seek leave to lay upon the table a certificate issued by the Parliamentary Remuneration Tribunal, as required by law, to allow the bill to proceed through the Legislative Assembly.

Leave granted.

Certificate tabled.

Debate adjourned on motion by Mr Peter Debnam.

MOTOR ACCIDENTS LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [10.12 p.m.], on behalf of Ms Reba Meagher: I move:

That this bill be now read a second time.

In a ministerial statement in the other place on 5 December last year the Special Minister of State announced that the Government would introduce legislation to remedy an anomaly in workers compensation entitlements that emerged as a consequence of the decision of the New South Wales Supreme Court in *Pender v Powercoal Pty Ltd*. The Pender case involved consideration of the interaction of the workers compensation legislation and the motor accidents legislation. The workers compensation legislation provides that claims against an employer for common law damages arising from the death or injury of an employee arising from a motor vehicle accident are to be determined according to the scheme for common law damages applying under the motor accidents legislation. In Pender the accident occurred while workers in an underground coalmine, in attempting to unwind a reinforced water hose wound around a 750-kilogram metal drum, attached one end of the hose to a purpose-built specialist mining vehicle, known as a PJB, and used a forklift to pull the drum backwards, thus unwinding the hose.

The drum fell off the forklift and hit the plaintiff, who was standing nearby. Both the PJB and the forklift were found to come within the definition of a motor vehicle. This accident did not involve any vehicle required to have compulsory third party insurance, nor did it occur on a public road. The Pender decision has defined a broad scope for the type of motorised equipment, and consequently the accidents that now come within the Motor Accidents Compensation Act, with the consequence that a motor accident can now involve unique pieces of equipment used only in particular workplaces, for example, excavating equipment on a construction site. Although the decision involved an accident in an underground coalmine, Pender has implications for many categories of worker. The Pender decision has led to the importing of the motor accidents scheme's procedures and method of assessing damages into the determination of a common law workers compensation claim when any motorised vehicle is involved.

This means that an employee injured in the workplace due to the use or operation of such equipment will have his or her common law entitlements to compensation determined in accordance with the damages provisions of the Motor Accidents Compensation Act 1999 rather than workers compensation legislation. The differential treatment of workers in the determination of compensation for workplace accidents, arising from the decision in Pender, raises important financial management and industrial issues of concern to the industry that need to be addressed. The judge in Pender acknowledged that it was debatable that the legislature had directed its attention to whether cases involving equipment such as that found in Pender and its manner of use should be determined under the Motor Accidents Compensation Act. The judge further suggested that close consideration should be given to whether certain types of equipment, such as the equipment used in Pender, should come within the operation of the motor accidents legislation.

In view of the issues raised by the Pender decision, the bill has been the subject of consultation with the Workers Compensation and Workplace Occupational Health and Safety Council, comprising worker and employer representatives, medical and legal practitioners, and insurance, injury management and occupational health and safety experts. There has been consultation also with the Construction, Forestry, Mining and Energy Union and the New South Wales Minerals Council. The bill addresses the circumstances where a worker is injured in a workplace accident involving motorised equipment. Schedules 1 and 2 amend the motor accidents legislation. The Motor Accidents Act 1988 and the Motor Accidents Compensation Act 1999 are amended such that their respective provisions relating to claims procedures and the awarding of damages do not apply where a claim relates to a work injury, the accident did not occur on a road or road-related area, and there is no motor accident insurer on risk or entitlement to claim against the nominal defendant. Schedule 3 makes consequential changes to workers compensation legislation.

The ministerial statement also indicated that the proposed amendment would operate retrospectively, from the date of the statement, and the bill has been drafted accordingly. Once the amended legislation comes into operation, a worker injured in a workplace accident involving motorised equipment that occurs off-road and does not involve a compulsory third party insurer will have his or her compensation entitlements determined in accordance with the workers compensation regime. This was the practice prior to the decision in *Pender v Powercoal*. I commend the bill to the House.

Debate adjourned on motion by Mr Steven Pringle.

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 that 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 Thursday 13 November 2003 at 10.00 a.m.

EVIDENCE (AUDIO AND AUDIO VISUAL LINKS) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [10.22 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The Evidence (Audio and Audio Visual Links) Amendment Bill amends the Evidence (Audio and Audio Visual Links) Act 1998. This will clarify the discretion of the court to order that an accused person appear in court by audio visual link in a criminal hearing where serious security concerns have been identified. The bill makes a number of other minor technical amendments to the Act and consequential amendments to the Evidence Legislation Amendment (Accused Child Detainees) Act 2003 to ensure that there is a consistent approach in the Evidence (Audio and Audio Visual Links) Act 1998 as finally amended. The Evidence (Audio and Audio Visual Links) Act 1998 facilitates the use of audio and audio visual technology in the courts, and allows New South Wales to participate in a substantially uniform interstate scheme for the taking or receiving of evidence and the making or receiving of submissions from or in other participating States.

Part 1B of the Act sets out the circumstances in which evidence or submissions can be presented to a New South Wales court by audio visual link [AVL] where an accused person is held in custody in New South Wales. The part creates a presumption in favour of accused detainees using AVL for certain preliminary criminal proceedings and a presumption in favour of physical attendance at court for substantive criminal proceedings. Recently a number of high-profile criminal matters have raised the issue of the court's discretion to order that an accused detainee appear by audio visual link where serious security concerns have been identified. Matters before the courts have involved threats being made to the safety of judicial officers and other court users.

The community has a right to expect that court proceedings will be conducted in an environment that is safe for all court users. The Government takes its obligations in this respect very seriously. A wide range of measures are in place at courthouses throughout the State to deal with potential breaches of security. In cases where a high-security risk has been identified, arrangements are made with the court, the Sheriff's Office, the Department of Corrective Services and New South Wales Police to put in place any additional safeguards necessary to respond to the risk. Furthermore, as part of this Government's ongoing commitment to enhancing court security, in excess of \$7 million in additional funding was allocated to the Sheriff's Office in February this year, allowing that office to implement a range of operational improvements over the next four years, including the appointment of more than 40 new sheriff's officers around the State.

The Government will continue its commitment to improving court security and access to justice for all members of our community. However, it is recognised that in exceptional cases that raise particularly serious security concerns, requiring an accused detainee to appear by AVL may realistically be the only appropriate option available to our courts. The amendments proposed in the bill will put beyond doubt the capacity of the court to make such an order in the unusual and extreme circumstances where it may be necessary. Under section 5BA of the Evidence (Audio and Audio Visual Links) Act 1998 there is already a presumption that the court will use AVL in all preliminary criminal hearings. Physical appearance by the accused is only permitted if appropriate equipment is unavailable, or if an opposing party is able to satisfy the court that using AVL is not in the interests of justice. By contrast, section 5BB of the Act creates a presumption in favour of physical attendance by an accused detainee in more substantive criminal proceedings such as trials, committal hearings, sentencing hearings and appeals.

The presumption in favour of physical appearance will not apply in cases where all parties to the proceedings consent to the use of AVL. However, in all other cases the court may only make a direction overturning the presumption in favour of physical appearance if it is satisfied that it is in the interests of justice that the accused detainee appear by AVL. Advice provided by the Crown Solicitor's Office indicates that any decision by a court as to whether a certain course of action will be in the "interests of justice" will always involve a balancing exercise. In making such a determination the court will weigh issues such as procedural fairness to the accused alongside matters such as the security of the court system and the health and safety of other court users.

The Crown Solicitor's Office is of the view that evidence that court staff or members of the public may be endangered by the presence of the accused in court could be a relevant factor in tipping the interests of justice in favour of requiring AVL to be used. Nevertheless, the outcome in these cases will continue to be uncertain without a clear legislative statement. Accordingly, it is proposed that a number of specific factors be inserted into section 5BB of the Act to guide the court in making such determinations. The factors to consider include, but are not limited to, the risk that the physical security of any particular person or persons will be endangered by the presence of the accused; the risk of the accused person escaping, or attempting to escape, from custody when attending court; the past behaviour of the accused person at court appearances; and the conduct of the accused person while in custody, including the accused person's conduct during previous imprisonment if applicable.

The need to protect the rights of the accused in criminal proceedings where the accused may be in danger of losing his or her liberty is recognised by the retention of the basic presumption in favour of physical appearance in "relevant criminal proceedings", including all first bail appearances, as such physical appearance will continue to be the default option to be applied by the court in the vast majority of cases. The court will not be limited to considering the factors specified in the bill in determining whether an order to appear by AVL is in the interests of the administration of justice.

The court will be directed to consider only such of the factors specified in the bill as are relevant to the particular circumstances of each case in determining whether an order to appear by AVL is in the interests of the administration of justice. It is a well-recognised principle of law that the right of the accused to be physically present at his or her trial must be balanced against the need to protect all participants in the justice system, including judicial officers and members of the public, and to preserve the integrity of the due administration of justice. Accordingly, the proposed amendment will ensure that our courts are able to continue to secure these aims.

I turn to the other amendments that are proposed by the bill, which are largely technical in nature. Items [4], [5] and [7] of schedule 1 to the bill amend the Act to make it clear that the presumptions concerning AVL usage apply to all accused detainees whether or not the proceedings concern the offence for which the detainee is actually in custody. By way of example, where an accused person is serving a custodial sentence for sexual assault and burglary and is subsequently required to appear in court on an unrelated charge of fraud, the policy considerations favouring the use of an AVL are no less pertinent than they would be if the appearance related to those initial charges of sexual assault and burglary. In addition, these amendments will ensure that this State's legislation is consistent with that found in other similar jurisdictions such as Victoria and Western Australia.

Item [1] of schedule 1 to the bill amends the Act to make it clear that an appellant's entitlement, under section 14 of the Criminal Appeal Act 1912, to appear at the hearing of his or her appeal, may be satisfied by that person appearing by AVL in accordance with the provisions of the Evidence (Audio and Audio Visual Links Act) 1998. This amendment reaffirms the discretion of the Court of Criminal Appeal to apply the provisions of the Evidence (Audio and Audio Visual Links Act) 1998 to criminal appeal proceedings. This will extend to the proposed new provisions that facilitate the use of an AVL where proceedings raise serious security concerns.

Items [6] and [8] of schedule 1 to the bill amend the Act to ensure the consistent use of the term "interests of the administration of justice" throughout all parts of the legislation. The concurrent use of references to both the "interests of the administration of justice" and to the "interests of justice" alone, has the potential to create unintended confusion in the interpretation of analogous provisions under the Act. The intention of the legislation is to facilitate the use of an AVL and in doing so to balance questions of security and expedition with the right to a fair trial. Accordingly, it is appropriate that the phrase "interests of the administration of justice" be used consistently throughout the Act as it most accurately conveys the aims of the legislation.

Finally, schedule 2 to the bill provides for corresponding amendments to be made to the Evidence Legislation Amendment (Accused Child Detainees) Act 2003, which also amends the Evidence (Audio and Audio Visual Links) Act) 1998, to ensure consistency of approach in the Act as finally amended. This bill will provide timely guidance to the courts in the exercise of their existing discretion to order that an accused detainee appear in criminal proceedings by way of an audiovisual link. The amendments affirm a court's power to act in exceptional circumstances where serious security concerns make such an order necessary.

At the same time, the bill preserves the right of an accused detainee to make a physical appearance in substantive criminal proceedings by retaining the presumption in favour of physical appearance as the default

position for most cases. The amendments in this bill will ensure that the court is equipped to meet community expectations that court proceedings will be conducted in a secure environment that will ensure the physical safety of all court users. I commend the bill to the House.

Debate adjourned on motion by Mr Thomas George.

TRANSPORT ADMINISTRATION AMENDMENT (RAIL AGENCIES) BILL

Bill introduced and read a first time.

Second Reading

Mr JOSEPH TRIPODI (Fairfield—Parliamentary Secretary) [10.35 p.m.], on behalf of Mr Craig Knowles: I move:

That this bill be now read a second time.

I seek leave to table the metropolitan rail area map referred to in schedule 1 [7] to the bill.

Leave granted.

Map tabled.

Mr JOSEPH TRIPODI: This Government is committed to improving the safety, reliability and cleanliness of our rail system. That will be achieved only if accountabilities and responsibilities are clear to transport operators, the Government and the public. Legislation giving effect to the establishment of an Independent Transport Safety and Reliability Regulator was passed by the Legislative Council last night. Work is under way on the Government's long-term plan to create rail clearways. These will improve reliability through the gradual creation of independent lines on the metropolitan network. This Government is committed to addressing reliability in an overly complex network.

This bill provides the legislative framework for the merger of the State Rail Authority of New South Wales and the metropolitan arm of the Rail Infrastructure Corporation [RIC] on 1 January, 2004. The new entity, to be known as RailCorp NSW, will be a non-dividend paying statutory State-owned corporation, created under the State Owned Corporations Act 1989, or the SOC Act. A statutory State-owned corporation will deliver improved management and the merger will provide single-point accountability for the metropolitan rail network. Experience with vertical separation of agencies both in New South Wales and internationally is that the splitting of functions across separate organisations reduces communication, spreads scarce technical expertise and leads to ambiguities in accountabilities and responsibilities.

That point was also highlighted by Justice McInerney in his report into the Glenbrook accident. RailCorp will have the functions of operating rail passenger services—CityRail and CountryLink—which are currently the responsibility of State Rail. Importantly, the established names and branding of CityRail and CountryLink will be retained, which will minimise costs associated with the restructure. RailCorp will continue to own and manage the stations and related facilities outside the metropolitan area necessary to support the operation of CityRail and CountryLink passenger services.

The new organisation will also carry out the functions of infrastructure ownership, maintenance and operation, including track access provision for other rail operators, for the greater metropolitan region previously undertaken by RIC. By creating a State-owned corporation, greater emphasis is placed on improving management, increasing accountability and lifting the performance of the new joint entity. Under the bill, State Rail and RIC will remain as entities to deal with surplus assets and liabilities, prior to their eventual dissolution. RIC will continue to own and operate country rail infrastructure, pending the conclusion of any discussions with the Commonwealth. RailCorp's key objectives under the legislation are to deliver safe and reliable passenger services in New South Wales in an efficient, effective and financially responsible manner.

The hallmarks of the new entity will be the development of a stronger safety culture and a commitment to excellent customer service. RailCorp's other objectives include maintaining priority of access for railway

passenger services as well as promoting and facilitating access to rail infrastructure facilities vested in RailCorp. RailCorp will mean that one body is accountable for safety and for improving performance, rather than the fragmentation that we have seen in recent years. The bill provides for the establishment of a board with a minimum of three and a maximum of seven directors, including the chief executive of RailCorp and an employee representative. The board is to be appointed by the voting shareholders in consultation with the portfolio Minister. As an early initiative in the merger process, RIC and State Rail have had a common board since 1 October. The budget must be carefully managed to deliver better outcomes for passengers and users of the State's rail network: safer services, better on-time running, more reliable infrastructure and cleaner trains.

In a significant departure from existing State-owned corporations, this bill waives the need for RailCorp to deliver a share dividend. This provision recognises that the primary focus of the new organisation will be to deliver public transport, not a dividend or return to government. The primary instrument guiding the financial and management accountabilities of RailCorp will be the statement of corporate intent [SCI], as required under the SOC Act. The board must consult with the Minister about the statement and amendments to it, in addition to consulting with the voting shareholders. To reflect the fact that the organisation will be non-dividend paying, the statement of corporate intent must include rail performance benchmarks agreed by the board and the portfolio Minister. These may be modified by the board with the agreement of the portfolio Minister, after consultation with the Independent Transport Safety and Reliability Regulator.

The bill also provides for the implementation of funding arrangements for RailCorp designed to make transparent the efficient cost of service delivery through community service obligation contracts between the Ministry for Transport and rail agencies. The bill outlines the powers of the portfolio Minister. The portfolio Minister has powers of direction under the SOC Act. An additional power of direction is provided where the Minister decides that action is warranted on grounds involving urgency or public safety. A precedent for this is section 93A of the Sydney Water Act 1994, which allows the portfolio Minister to give directions on the grounds of urgency, public safety or public health.

As with Sydney Water, it is appropriate that a major public service and infrastructure provider can be directed by the portfolio Minister when matters of public interest, especially those requiring immediate action, are involved. Where the Minister considers compliance with the direction may cause a significant variation in the approved financial outcomes of RailCorp, the Treasurer must be consulted prior to the giving of the direction. As previously announced, current Co-ordinator General of Rail, RIC chief executive officer [CEO] and Acting State Rail head, Vince Graham, will be the CEO of RailCorp. RailCorp will be afforded statutory agency powers over State Rail and RIC. This will enable RailCorp to manage contracts of State Rail and RIC and undertake those agencies' activities where appropriate.

An example is the management of access agreements between RIC and rail operators for the country network. This will avoid unnecessary duplication of resources, and corporate overhead costs, in the three agencies, while matters not transferred to RailCorp are progressively wound up. It will also enable RailCorp to manage contracts of State Rail and RIC before they are formally vested in RailCorp. The bill also creates a second statutory State-owned corporation, the Transport Infrastructure Development Corporation [TIDC]. This body will be established to design and deliver major railway, such as the Epping to Chatswood rail line and other major transport infrastructure and related projects, as approved by the portfolio Minister and voting shareholders.

It could, for example, design and deliver the infrastructure projects associated with the creation of rail clearways under the Government's sectorisation plans, such as the track quadruplications between Kingsgrove and Riverwood and Riverwood and Revesby, and the duplication of the Cronulla line. The TIDC may also hold, manage and establish assets associated with the development of railway or transport systems it develops. It is proposed that the CEOs of RailCorp and the TIDC will be directors on their respective boards. Similarly, the CEO of RailCorp will sit on the TIDC board. The bill makes important provisions in respect of the employment of RIC and State Rail staff.

The bill preserves mobility of entitlements for both RIC and State Rail employees. In addition, it will also provide, by way of a regulation, for the staff of RailCorp to also have mobility of entitlements where these staff might transfer to the public sector. This will facilitate employment opportunities. Superannuation, leave and other entitlements will not be affected by the merge, and will simply move with the employee. RailCorp staff will continue to have the right of appeal in the Transport Administration Board. Both State Rail and RIC enterprise bargaining agreements expire in early 2004. A priority will be the negotiation of a new, single agreement for RailCorp staff. Management has been working with the work force towards the implementation of integration.

Safety validation of the proposed structure for RailCorp is under way. An application for accreditation will be lodged with the Director General, Ministry of Transport, this month to ensure appropriate accreditation of RailCorp on commencement of operations on 1 January. RIC, State Rail and TIDC accreditations will continue to have force. The Government is committed to providing safer public transport. This bill builds on the safety initiatives outlined in the Transport Legislation Amendment (Safety and Reliability) Bill 2003. It also improves the structure and accountability of the metropolitan rail network. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

NATURAL RESOURCES COMMISSION BILL

NATIVE VEGETATION BILL

CATCHMENT MANAGEMENT AUTHORITIES BILL

Bills introduced and read a first time.

Second Reading

Mr CRAIG KNOWLES (Macquarie Fields—Minister for Infrastructure and Planning, and Minister for Natural Resources) [10.47 p.m.]: I move:

That these bills be now read a second time.

On 15 October the Government announced that natural resource management in New South Wales was to undergo a series of historic changes following the recommendations of the Native Vegetation Reform Implementation Group chaired by Ian Sinclair. Today I am proud to introduce three bills that cement these historic reforms in place. These bills, taken as a whole, launch a new era in natural resource management in this State. Many community groups and individuals, some of them traditional adversaries, have worked together to develop the basis for the proposals in these bills. I thank them for their efforts, and today I am rewarding their hard work by introducing three bills that embody their proposals and deliver genuine improvements to natural resource management in New South Wales.

I record here my thanks to Rob Anderson, Jeff Angel, Peter Cosier, Col Gellatly, Glen Klatovsky, Jonathon McKeown, John Pierce, Jennifer Westacott, Roger Wilkins, Mike Young and, whilst not directly a member of the committee, the president of NSW Farmers, Mr Mal Peters. Most particularly I thank the Rt Hon. Ian Sinclair, who chaired the group, for his wisdom and his stewardship in these matters. He is truly one of a kind, but all of these people have worked with commitment and commonsense. They have produced a good result. We can deliver what they have asked for.

These bills create an independent Natural Resources Commission to make recommendations on natural resource management standards and targets, audit the performance of the catchment management authorities [CMAs], report on the achievement of targets and carry out inquiries; they create 13 locally driven catchment management authorities to deliver natural resource management programs at the catchment level; and they introduce the changes to native vegetation management that are at the heart of the Sinclair plan to end broadscale land clearing and give greater certainty to farmers and industry in their various and numerous activities.

The Natural Resources Commission Bill provides the foundations for a move away from the conflict that historically goes with the natural resource debate to a professional, outcomes-based approach to natural resource management. Under this new approach, for the first time we will have clear targets for the condition of our natural resources. This means that we can track our progress and know when we have achieved our goals. To begin this new approach, the bill establishes the commission as a statutory, independent body along the lines of the Independent Pricing and Regulatory Tribunal, and provides that the Natural Resources Commission [NRC] may conduct inquiries and provide advice on specific issues as directed by the Government. The NRC will help the Government to establish targets and standards for natural resource management based on the best available scientific, economic and social information, and to monitor progress towards those targets. The Premier will oversee the NRC but delegate its day-to-day operations to me as Minister for Natural Resources.

The Catchment Management Authorities Bill establishes 13 new regional authorities to replace 72 existing natural resource management committees. This will allow local communities to have a more direct say

in key decisions about how their natural resources are managed. By removing a lot of process and bureaucracy we can better focus on results and performance. These new authorities will be key landscape managers in their local areas, doing day-to-day administration and delivery of natural resource management programs. The catchment management authorities [CMAs] will develop comprehensive catchment action plans that consolidate and build on the existing native vegetation plans and catchment blueprints, and incorporate other issues over time. They will also provide me with an annual implementation program that lists the activities that will be undertaken each year and how much they will cost. The bill provides that CMAs will be governed by a skills-based board and a general manager. They are expected to employ 10 to 15 staff.

The role of CMAs is to set targets for their regions and to ensure that the funds available to them are delivered to projects that achieve those targets. The intention of these new arrangements for catchment management is to ensure the smoother and faster delivery of natural resources funding to regional communities, particularly those funds from the National Action Plan for Salinity and Water Quality and the Natural Heritage Trust; provide CMAs with block funding of the plans they have prepared so that they can get on with delivering those funds to the community; and streamline the current complex committee structure.

The Native Vegetation Bill replaces the Native Vegetation Conservation Act 1997. Its objects reflect the Government's commitment to end broadscale clearing and maintain productive landscapes. It delivers the Sinclair report's standard definitions for native vegetation, regrowth and protected regrowth that will end broadscale clearing; it provides the practicality and flexibility for continuing routine agricultural management activities; and it establishes a new consent process for native vegetation management based on property vegetation plans. The bill provides for agreed definitions for terms that have been a constant source of contention for years, such as remnant native vegetation, regrowth, protected regrowth, and broadscale clearing. The bill provides for a new system to support land-holders to develop voluntarily individual or group property vegetation plans [PVPs]. The primary benefits of the new system include giving farmers the opportunity and flexibility to take the initiative to develop a plan for the whole property; the opportunity to link plans at the property level to the catchment action plans developed by regional communities; and new development consent rules that end broadscale clearing but allow flexibility for farmers to continue routine agricultural management practices.

Together these three bills create a new system based on statewide targets, regional plans to achieve those targets and new rules for the management of native vegetation. This system will move us away from the "argy bargy" style conflict that has historically accompanied the natural resource debate to a professional, outcomes-based approach to natural resource management. This new system seeks to clarify and separate the complementary, but separate, roles of government, its agencies, catchment management authorities, the independent Natural Resources Commission and the non-government stakeholders, who will be represented through a new Natural Resource Advisory Council.

The new model is driven by the recognition that there must be a clear separation of responsibilities and roles. In the past these lines of separation were blurred. In their simplest form, under the new structure, government remains the key source of policy and direction; the NRC advises independently on standards and targets and reports on progress towards targets; the advisory council articulates clearly the positions of key stakeholders to the Government; and CMAs deliver programs and outcomes on the ground either in their own right or potentially in partnership with other local organisation such as local councils and land care groups. By identifying and separating these linked and complementary roles we have created accountability. We will now know what we are trying to achieve, whose job it is to achieve it and whether we are on track to get there.

The Natural Resources Commission Bill is concerned with the establishment of the Natural Resources Commission. One thing is clear about natural resource management: there will always be argument and debate—debate about the size of problems, the cause of problems and solutions to problems. This debate is healthy but we must also take action, otherwise the problems will simply continue to grow and fester. That is why the vital thing about the new commission is its independence. The importance of this cannot be overstated: the commission's capacity as an independent body to make recommendations to government, based on an impartial assessment of all the issues, is absolutely integral to the success of our new model of integrated natural resource management. It is imperative that the commission is recognised and acknowledged for its independence, and that it can be relied upon by all the stakeholders in the natural resources debate to consider the facts and weigh them fairly. The NRC will be able to seek all the advice it requires, it will be able to call on data and information from inside and outside government, and it will be able to integrate this information and then deliver its recommendations to the Government.

Another means of ensuring the independence of the commission is the requirement that its reports will be made public. They will be in the public domain, and it will be incumbent on government to respond to them. A core responsibility of the commission is to recommend to the Government natural resource targets and standards based on the best available scientific, economic and social information. The catchment management authorities will translate these statewide targets into regional targets, and the CMAs and other organisations will design and implement programs to achieve those regional targets. The commission will then audit those programs and report on their effectiveness and on progress towards the statewide targets adopted by the Government. In addition to recommending standards and targets, the bill provides that the NRC may conduct inquiries and provide advice on specific issues as directed by the Government.

Prior to this bill, the Government was advised and assisted on natural resource management issues by a number of committees made up of government and non-government stakeholders. These committees were the Resource and Conservation Assessment Council, the Coastal Council, the Healthy Rivers Commission, the State Catchment Management Co-ordinating Committee, the Native Vegetation Advisory Council, the Water Advisory Council, the State Wetlands Advisory Council, the State Weir Review Committee, the Advisory Council on Fisheries Conservation, and the Fisheries Resource Conservation and Assessment Council. For the most part, these committees focused on a particular aspect of natural resource management and advised the Government on those aspects. Some committees had particular statutory functions under Acts and other instruments. Where necessary and appropriate, these functions will be subsumed by the Natural Resources Commission. Otherwise their functions will be taken over by the Natural Resources Advisory Council, which I will discuss shortly. I would like to take this opportunity to thank the members and chairs of these bodies and the staff who assisted them. All these bodies have assisted the Government for many years, and the Natural Resources Commission will now be able to build on their work.

In addition, the following bodies will be transferred to the NRC: the New South Wales Scientific Committee, the Fisheries Scientific Committee, and the Biological Diversity Advisory Council. They will retain their existing legislative responsibilities pending a review of the Threatened Species Conservation Act 1995. The Coastal Council, made up of government and non-government representatives and chaired by Professor Bruce Thom, is a good example of the work done by these organisations. It has been ably advising the Government on coastal management issues for a number of years. The Natural Resources Commission will not in any way diminish our focus on the coast. Rather, we recognise the fundamental links between coastal issues and the myriad of other natural resource issues.

By taking a more integrated approach to natural resource management we will be able to respond far more effectively to coastal protection and the issues addressed by the other advisory bodies. We recognise that there are particular problems associated with particular issues—in the case of coastal development, problems that arise from the rapidly increasing urbanisation of our coastal regions. These problems will, of course, continue to receive our attention. What the commission can add to coastal management and the other natural resource issues is its distinctive powers, resources and independence. In every instance I see the commission adding focus to each of these issues, not reducing focus. That is the whole purpose of integrated natural resource management—not to diminish the importance of individual elements, but to realise and act on their importance in their interrelated and integrated contexts.

The non-government advisory functions of these committees will now be delivered through a new high-level stakeholder group known as the Natural Resources Advisory Council. I am establishing the Natural Resources Advisory Council to replace many of the disparate advisory bodies that have previously advised government on a wide range of natural resource issues. Bringing these under one high-level advisory council represents another element in our consistent efforts to integrate natural resource management, to focus government on the central issues affecting natural resource management and to be a powerful single source of stakeholder advice to the Government.

The specific functions of the advisory council will be to provide a high-level forum for stakeholders to advise the Government on natural resource management issues and to broker agreements between the representative stakeholder groups on contentious natural resource management issues. The advisory council is to consist of a maximum of 20 representatives of natural resource stakeholders and an independent chairperson. The members will include representatives of the New South Wales Farmers Association, the New South Wales Irrigators Council, the scientific community, the Total Environment Centre, the Nature Conservation Council, the Aboriginal community, catchment management authorities, the Local Government Association and the Shires Association, the Labor Council of New South Wales, fisheries resource management expertise, the New South Wales Minerals Council, the Forest Products Association, the Landcare community, the rural lands protection boards and any other stakeholders appointed by the Minister. The chief executive officers of the Natural Resources agencies will be ex-officio members of the advisory council.

The Natural Resource Advisory Council is a big step forward in stakeholder relations with government. There will be a single stakeholder advisory council with the responsibility of delivering to government the views of stakeholders within the realm of natural resource management. It is an onerous responsibility, but it is critical to deliver the integration and co-ordination that is vital to good natural resource management. The new Department of Infrastructure, Planning and Natural Resources, along with the newly created Department of Environment and Conservation, will continue to provide integrated policy and technical expertise in natural resources management. They will work closely with other land management and natural resource management agencies to be a primary source of data and information, as well as initiating and implementing the policies of government in natural resource management.

I turn now to the bill that establishes the commission as a statutory, independent body, along the lines of the Independent Pricing and Regulatory Tribunal. The bill provides that the Natural Resources Commission [NRC] will report to and receive directions from the Minister. It is intended that the Minister with responsibility for administration of the Act will be the Premier. The bill provides that the Premier may delegate any of his functions under the bill to another Minister. This will allow the Premier to oversee the NRC but will allow him to delegate its day-to-day operations to me as Minister for Natural Resources.

The bill also outlines a range of administrative matters relating to the appointment of commissioners and the organisations to be replaced by the NRC. The bill is divided into three parts, which I shall outline to the House. The first part is the preliminary section, which among other things provides for the application of the bill to matters related to the management of natural resources including water, native vegetation, salinity, soil, biodiversity and coastal protection and other matters concerning natural resources prescribed by the regulations, such as forestry. It is important to point out that these issues are to be considered in both rural and urban contexts. In particular, it is impossible for coastal protection to be achieved without consideration of the urban pressures along our coastal shores. However, it is not intended that the responsibilities of the commission will extend to the more local details of urban development, such as the height or arrangement of buildings, or deal with sustainability issues like waste management or energy efficient building design.

Part 2 of the bill deals with the establishment of the Natural Resources Commission. The commission will be made up of a full-time or part-time commissioner, who may be assisted by assistant commissioners, full time or part time, or on a temporary basis as required. For example, if the Government instructs the commission to undertake an inquiry into a particular matter, the commissioner may appoint an assistant commissioner to either assist, or deputise for, him or her in that inquiry. Schedule 1 to the bill details provisions relating to the commissioner and assistant commissioners.

Part 3 of the bill deals with the functions of the Natural Resources Commission. The general function of the commission is to provide the Government with independent advice on natural resource management. Its specific functions are to make recommendations to the Government on statewide standards and targets. Standards and targets for individual catchments will be developed by the catchment management authorities themselves, taking into account specific regional conditions as well as the statewide standards and targets adopted by the Government. In developing its recommendations, the commission will need to take into account the best available scientific, social and economic information. The standards and targets will need to be fair and practicable as there is no point in setting unachievable goals.

In recommending standards and targets the commission will consider factors such as regional variation, the impact on communities directly affected, indigenous knowledge, the impact on future generations and consistency with other government decisions relevant to natural resource management. Standards developed by the commission will be used to underpin absolute requirements across the State, such as the prohibition of clearing native vegetation on steep slopes. Targets, such as reducing surface water salinity levels by a certain amount by a certain time, will be used to direct investment in natural resource management to projects that contribute to the adopted targets.

The second core responsibility of the commission is to recommend to government the approval of catchment action plans developed by the catchment management authorities. The catchment action plans will set regional targets and standards, and the NRC will advise me as to whether these regional targets and standards are consistent with the statewide standards and targets adopted by the Government. Where the commission is concerned about particular aspects of a draft catchment action plan the Catchment Management Authorities Bill provides for me to request that further explanation or analysis be undertaken by an authority before its draft plan is approved.

The commission will also be asked to undertake audits of catchment action plans. These audits will occur on a regular basis and will show how our reforms are working on the ground and in the community, where it counts. They will show whether the catchment action plans need adjustment or refinement, where they are successful and how they might be improved. In addition to these core tasks the commission may also take on a range of other tasks as directed. It may undertake inquiries or help resolve particularly complex natural resource issues. To assist it in these tasks, the commission may involve stakeholders. It may also hold public hearings if it considers them necessary to obtain the right information and spread of community views.

The bill provides that the commission will report to government on all of its findings through the preparation of an annual report. Most importantly, the annual report will record our progress towards achieving the statewide standards and targets we adopt. The annual reports will also contain the findings of audits and inquiries undertaken by the commission during the reporting period. The commission will also provide an assessment of the success of catchment action plans in complying with statewide standards and achieving the statewide targets adopted by the Government.

Essential to the effective functioning of the commission is that it have at its disposal the best resources and information available. Part 3, therefore, provides for the commission to engage government agencies and consultants to provide assistance. In addition, the commission is empowered to seek information or data that agencies may hold and it is expected that agencies will comply with such requests. Of course, if any dispute about the provision of such information arises, then the commission may refer it to the Premier for resolution. Part 4 of the bill deals with miscellaneous matters including the amendments of other Acts and instruments as set out in the schedules. Part 4 also provides for a review of the proposed Act as soon as possible after the period of five years from the assent date of the Act.

Schedule 1 deals with provisions relating to the commissioner and assistant commissioners and details their appointments, whether they be appointed on a full-time or part-time basis, and the terms of their office. In general, the terms of appointment are for a period not exceeding five years, but commissioners and assistant commissioners are eligible for re-appointment. However, the schedule provides sufficient flexibility to allow assistant commissioners with specific expertise to be appointed on a short-term basis to undertake inquiries relevant to their specific expertise.

This schedule also deals with remuneration of the commissioner and assistant commissioners and contains provisions for vacancies and the filling of vacancies. Schedule 2 deals with the consequential amendment of Acts and instruments necessary for the NRC to perform the functions of the many bodies it is replacing. The Coastal Protection Act 1979 is amended to omit the Coastal Council, with provision in the Natural Resources Council Bill for incorporation of the various functions and responsibilities of the Coastal Council.

The Forestry and National Park Estate Act 1998 is amended to give the NRC responsibility for undertaking a forest assessment, prior to a Forest Agreement being made. The Public Finance and Audit Regulation 2000 is amended to omit the Coastal Council as an authority under that Act. State Environmental Planning Policy 71—Coastal Protection—is amended to give the NRC a consultation role with regard to draft master plans. The Statutory and Other Offices Remuneration Act 1975 is amended to insert the NRC. The Water Management Act 2000 is also amended to omit the Water Advisory Council from that Act.

Schedule 3 deals with the savings and transitional provisions relating to regulations and the replacement of existing advisory bodies. In particular, it provides for the NRC to subsume the following bodies: the Resource and Conservation Assessment Council, the Healthy Rivers Commission, the Coastal Council, the Native Vegetation Advisory Council, the Water Advisory Council, the State Catchment Management Co-ordinating Committee, the State Wetlands Advisory Committee, the State Weir Review Committee, the Fisheries Resource Conservation and Assessment Council and the Advisory Council on Fisheries Conservation. I affirm that the Government wishes to press ahead with its important new reforms. As previously announced, I have appointed Dr Tom Parry as Interim Commissioner of the Natural Resources Commission to assist with the early establishment of the commission and to proceed with its first urgent tasks to set the standards and targets for four priority regions in New South Wales—namely, North Coast, Gwydir/Border, Central West and Murray-Murrumbidgee. It will be a challenging role and I am grateful to Dr Parry for taking it on.

I now turn to the Catchment Management Authorities Bill. Part 1 of the bill sets out the objects of the Act and part 2 establishes the 13 new catchment management authorities. These 13 new bodies will replace 72 existing regional committees. The Catchment Management Authorities [CMAs] established by the bill are

Border Rivers-Gwydir, Central West, Hawkesbury-Nepean, Hunter-Central Rivers, Lachlan, lower Murray-Darling, Murrumbidgee, Murray, Namoi, Northern Rivers, Southern Rivers, Sydney Metropolitan and Western. The bill provides that these CMAs will be formally constituted as statutory authorities with a responsible and accountable board. Appointments to the boards will be based on certain skills and knowledge. The skills I will require on the board include primary production—for example, expertise in landcare or sustainable farming; environmental, social and economic analysis—for example, understanding the likely impacts of plans on the local community or local biodiversity; facilitation and negotiation skills; business management; understanding of state and local government; and community leadership.

Let me be clear about the board's membership. These are the skills I want the board to have collectively. This is not a list where each member is ticked off against a single category. These boards will comprise people of standing in the catchment. When either a farmer or an environmentalist reads the names in the local paper announcing the CMA I hope they will think to themselves, "I may not agree with everything the person says, but I respect their knowledge and expertise." In the process of selecting board members it will be important to ensure that collectively each board has the capacity to access the knowledge and understand the concerns of all sectors of the community. I also intend, as far as is possible, to appoint people that live in the area of operations of the authority. The CMA boards will report directly to me, as the Minister for Natural Resources. The CMAs will have a chair, a general manager, and the power to employ staff. It is expected that the CMAs will initially have a team of about 10 to 15 staff.

Part 3 of the bill sets out the functions of the CMAs. The role of the CMAs is to work with local communities to deliver real natural resource improvements. To do this they need a clear expression of where they are going, a catchment action plan and how they are going to get there, and an annual implementation program. The catchment action plan will consolidate and build on the existing native vegetation plans, catchment blueprints and other existing natural resource plans as well as provide the long-term direction for investment in natural resources. The annual implementation program will set out how the funds will be spent on the ground. Of course, the catchment action plan will be developed in consultation with the regions communities. In addition to preparing catchment action plans and implementation programs, the other functions of CMAs will include consultation with local government and catchment communities, recommending and managing incentive programs to implement catchment action plans and achieve environmental improvements, issuing consents under the Native Vegetation Management Bill, and providing education and training on natural resource management, especially native vegetation management.

Part 3 also requires CMAs to prepare annual reports. These reports are an important part of our new system. They will tell us what the CMAs have achieved each year and allow us to judge whether they have made progress towards their regional targets, complied with statewide standards and overall whether we are making progress towards our State targets. Part 3 of the bill describes the role of catchment action plans and the process for preparing and approving them. It is intended that catchment action plans fulfil the crucial role set out for them in the Native Vegetation Reform Implementation Group report. They will contain regional standards and measurable and achievable short-term and long-term regional targets, priorities for investment in practical on-ground action to achieve these regional targets, identify areas of protected regrowth, practical guidance for preparing property vegetation plans so they are consistent with regional standards and targets, and monitoring and reporting arrangements.

The bill provides that CMAs must consult widely in the process of preparing draft catchment action plans, including with any bodies that are to carry out an activity under the plan. I will expect CMAs to demonstrate that they have used best practice consultation techniques and, in particular, to demonstrate that they have engaged communities and other relevant stakeholders in their planning process. Final approval of draft plans will rest with the Minister, but prior to approval the Minister must seek the advice of the Natural Resources Commission. This is the key to our new system. It is this step that will ensure a good marriage between the local skills and knowledge of the CMAs and the statewide independent overview of the NRC. The NRC will tell me whether each draft Catchment Action Plan is adequately addressing the relevant statewide targets and standards. The bill provides that the Minister may not approve a draft catchment action plan unless the Minister is satisfied that the plan complies with relevant statewide standards and promotes the achievement of the relevant statewide targets.

Once they are approved the effectiveness of the catchment action plans will be reviewed regularly. The Natural Resources Commission will review the plans to see if the CMAs are implementing their actions, achieving their regional targets, contributing to statewide targets and complying with statewide standards. We have included this in the bill because we want to know whether we are getting value for money. If these plans

are making our State better, we want to know so we can support and encourage the CMAs that are working well. If a plan is not working we want to identify the problems early and fix them. Part 5 of the bill requires CMAs to prepare annual implementation programs that set out their proposed activities for the coming year and how much they will cost. This program needs to be approved by the Minister before it is undertaken by the CMA.

Part 6 of the bill deals with the financial arrangements of the CMAs. It enables them to enter into contracts, distribute funds and charge fees for services. In addition, the existing powers of catchment management trusts are transferred. These financial arrangements for catchment management will result in smoother and faster delivery of funds to communities from the National Action Plan for Salinity and Water Quality, and the Natural Heritage Trust; block funding of the plans prepared by CMAs rather than project-by-project assessment of funding applications; transfer of the consent functions for native vegetation clearing to CMAs; and CMAs entering into contracts with landholders wishing to conserve high conservation value native vegetation. Part 7 contains necessary amendments to other Acts, including the repeal of the Catchment Management Act 1989, the Catchment Management Regulation 1999 and the Hunter Catchment Management Trust Regulation 1997.

I now turn to the Native Vegetation Bill. The purpose of this bill is to fulfil the Government's commitment to end broadscale clearing by reforming native vegetation management in New South Wales. The Native Vegetation Bill is about managing vegetation in a new way. We recognise that native vegetation is an important part of agricultural and forestry systems and it needs to be managed. We want to work with farmers and foresters to manage this resource sustainably and this bill gives us the tools to do that. Through this bill the Government is implementing our response to the Native Vegetation Reform Implementation Group's recommendations. The bill will include objects that reflect the Government's commitment to end broadscale clearing and maintain productive landscapes; deliver the Sinclair report's standard definitions for native vegetation, regrowth and protected regrowth that will end broadscale clearing; provide the practicality and flexibility for continuation of routine agricultural management activities; and establish a new consent process for native vegetation management based on property vegetation plans.

Part 1 of the bill establishes objects of the bill that reflect the Government's intent to end the broadscale clearing of native vegetation and to maintain productive landscapes. The objects are to provide for, encourage and promote the management and conservation of native vegetation on a regional basis in the social, economic and environmental interests of the State; to prevent the clearing of remnant native vegetation and protected regrowth unless it leads to better environmental outcomes; to protect native vegetation of high conservation value having regard to its contribution to such matters as water quality, biodiversity, or the prevention of salinity or land degradation; to improve the condition of existing native vegetation, particularly where it has high conservation value; and to encourage the revegetation of land, and the rehabilitation of land, with appropriate native vegetation.

Part 2 of the bill establishes definitions for the key concepts on which our new system of native vegetation management is based. Remnant native vegetation is defined as "all native vegetation except regrowth". The definition of "regrowth" is a very important concept in this bill. The principle embodied in the Sinclair report is that farmers should be free to carry on their existing activities and, where regrowth arises, clearing it should not require consent. Regrowth is defined as "native vegetation that has grown after 1 January 1983 in the case of the Western Division and 1 January 1990 in the case of other land". However, a property vegetation plan [PVP] may also provide for an earlier date for regrowth where it can be demonstrated by the landowner.

This is not an open door to simply allow any area of remnant vegetation to be declared regrowth and so be cleared. It is intended to cover those situations where regrowth has arisen as part of a planned and legitimate cropping or grazing rotation that commenced before the standard cut-off date for defining regrowth. I would expect that a high standard of evidence will be required to establish that such a long-term rotation had been planned at the time it was initiated. This will be further defined in the regulations. These rules will cover the vast majority of applications, but there will be cases where one size does not fit all.

For example, in the case of the Central Division the Government will regulate to allow thinning of native vegetation that has grown between 1983 and 1990 and the land-holder provides evidence of such regrowth and the Catchment Management Authority, firstly, undertakes a site inspection to ascertain the evidence of the regrowth; secondly, will accept the application if the evidence relating to regrowth age is substantiated; and, thirdly, has the ability to place conditions on the approved property vegetation plan to ensure that it is consistent with the catchment plan. This process will involve the Catchment Management Authority

and the land-holder considering the economic and social impacts, and may agree on reasonable conditions with the land-holder to implement the environmental outcomes, including the public good conservation outcomes, sought by the catchment plan.

Protected regrowth is defined as "regrowth identified as worthy of protection in a property vegetation plan, environmental planning instrument or natural resource management plan such as a catchment action plan". Broadscale clearing is clearing of remnant native vegetation or protected regrowth other than for routine agricultural management practices. I emphasise that this term does not refer to the size or area of a clearing activity, merely the nature of the vegetation cleared, that is, remnant native vegetation or protected regrowth. Routine agricultural management activities are also defined in this part.

Practices included in the definition are sustainable grazing of groundcover that is not likely to result in long-term decline in the structure or composition of native vegetation; the construction, operation and maintenance of rural infrastructure, such as dams, stockyards and fences; the harvesting or other clearing of native vegetation planted for commercial purposes; lopping of native vegetation for stock fodder, including uprooting mulga in times of declared drought; traditional Aboriginal cultural activities; maintenance of public utilities, such as those associated with the transmission of electricity, the supply of water, the supply of gas and electronic communication; and any other activity prescribed by the regulations.

There has been some concern that the reference in this list to sustainable grazing of groundcover is narrower than the rotational use of groundcover referred to in the Sinclair report. This is because other provisions of the bill cover the rotational use of groundcover for practices other than grazing. If it is regrowth younger than the specified date, then it does not require consent at all. If it is older than the specified dates, then a land-holder could establish, through a PVP accredited by a CMA, that it was part of a legitimate rotation. I have already mentioned that this process will be carefully managed to avoid any misuse of this system.

Part 3 of the bill contains the new development consent process for native vegetation management. Under the new system, approval to clear remnant vegetation and protected regrowth will not be granted unless I am convinced that the clearing concerned will improve or maintain environmental outcomes. For example, in the Western Division of the State some native shrubs, such as narrowleaf hopbush, grow so thickly that they overwhelm other native species. At times land-holders wish to control these species to encourage native groundcover, and this provision will allow a PVP that included such a control program and clearing to be undertaken. This part also creates flexibility for farmers and other land managers by allowing clearing for routine agricultural management activities or activities authorised under other legislation, such as the Rural Fires Act, to be undertaken without consent.

By making very clear the classes of clearing that do not require consent, I believe that this is a vast improvement on the uncertain situation under the Native Vegetation Conservation Act 1997. The bill indicates that groundcover that comprises less than 50 per cent of indigenous species of vegetation can be cleared without permit. This is intended to allow farmers the freedom to use areas of their farm that are mainly non-native groundcover—primarily improved pastures—unfettered. Regulations will be made to further clarify how this percentage is to be calculated, as this is a matter of detail that is inappropriate within the legislation.

The consent procedures created under part 3 of the bill will not apply to urban areas, as stringent consent procedures administered by local councils already apply to those areas. As honourable members are aware, I am no fan of red tape and I do not intend to oversee any duplication of consent processes. Part 3 of the bill will apply to rural residential areas. This means that rural residential development involving clearing of remnant vegetation or protected regrowth will require consent under this bill.

In line with my commitment to cut red tape, the new consent system creates specific and targeted matters to be considered when issuing a consent. Some of the matters currently listed in section 79C of the Environmental Planning and Assessment Act 1979 may not be relevant to clearing. The intention of part 3 of the bill is to ensure that only those matters relevant to native vegetation clearing and its potential effects are considered during the consent process. Consistent with the previous Act, there is no provision for third parties to challenge the merits of a decision to grant a consent. However, third parties may challenge the legality of a consent decision on procedural grounds, that is, if there is a concern that the proper procedures have not been followed.

The bill does not repeal the Threatened Species Conservation Act 1995. The eight-part test to assess whether there are likely to be impacts on threatened species will still be undertaken as part of the new consent

process. My colleague the Minister for the Environment is initiating a review of the Threatened Species Conservation Act to examine whether any changes are necessary in light of the extensive changes to natural resource management arrangements embodied in these bills and the Sinclair report. Part 4 of the bill deals with property vegetation plans. It details the contents of PVPs and processes for submission and approval of PVPs.

The bill provides for the three categories of PVPs outlined in the Sinclair report. PVPs can be used to accredit existing native vegetation management practices in accordance with current laws; provide access to incentives for on-farm conservation of native vegetation; or give approval for land-holders seeking to change their land management in a way that involves clearing remnant vegetation or protected regrowth, if the proposed change will maintain or improve environmental outcomes. A PVP can have effect for any period specified in the plan. However, the maximum period for the provisions that allow clearing is 15 years.

Some concern has been expressed that the private native forestry will no longer be exempt, as it was under the Native Vegetation Conservation Act 1997. A sustainable forestry operation should, by definition, maintain or improve the long-term condition of the forest through sound silvicultural practices. Under this bill, private native forestry will require a property vegetation plan. In most cases this will be undertaken through an existing use PVP. A land use change PVP may be required for significant operations. This is in line with the recommendations of the Private Native Forestry Reference Group that advised the previous Minister. The group recommended that both a forest management and harvest management plan be developed for private native forestry operations.

Consultancies to develop more detailed guidelines for private native forestry were also undertaken, based on the recommendation of the reference group. It is anticipated that these will be used as the basis for a specific regulation to clarify the provisions for private native forestry that maintains or improves environmental outcomes. PVPs that were consistent with these guidelines would be processed very quickly and would lead to security for the land-holder in the form of a 15-year PVP. Part 4 of the bill includes provisions that require approved PVPs to be registered on the title of the relevant land. This means that successors to the title will be parties to the provisions of a PVP applying to their land. Part 5 of the bill covers enforcement provisions, such as appointment of authorised officers, powers of entry, stop work and remedial work orders, powers to obtain information and penalty provisions. These provisions tighten up our enforcement procedures.

Part 6 of the bill contains provisions to cover issues such as the making of regulations, servicing of notices and delegation of functions. It is through the provisions related to delegations that catchment management authorities will be empowered to undertake the certification of property vegetation plans and other activities as identified by the Minister. It is through the provisions for making regulations that we will continue to refine and develop the system as we learn from experience. For example, regulations may be made to further define routine agricultural management practices. Regulations such as these can be disallowed in the Parliament. This means there is a high level of accountability to ensure any regulations adopted are fair and in the public interest.

In addition to this bill the Government will also implement the Native Vegetation Reform Implementation Group's recommendation to strengthen the compliance framework. The vast majority of farmers are doing the right thing by managing native vegetation on their properties legally and sensibly. They understand the environmental problems caused by land clearing, such as salinity and erosion, and that they can make their land more productive through sustainable management of native vegetation. However, there are still those few who will continue to clear illegally. These are the cowboys who get their D9s out, put the chains on and flatten trees indiscriminately. Fortunately, they are a minority. This is unfair to the rest of the farming community. They give farmers who do the right thing a bad name, and this Government will not tolerate their behaviour. On this we have the support of the New South Wales Farmers Association and the broader farming community.

The Government has made a commitment to the New South Wales community to police breaches of the law strongly and swiftly. We intend to fulfil that commitment through an enhanced compliance effort. The new approach is based on: a risk management approach to prioritising investigation of alleged breaches; encouraging voluntary compliance through education and incentive programs; providing adequate resources to ensure effective compliance and enforcement; and systematic monitoring of changes in native vegetation cover rather than ad hoc investigations.

New South Wales covers a big area and finding out where illegal broadscale clearing is taking place is not easy. The current situation relies on reports from the community or departmental officers detecting cases of

illegal clearing. This is neither an effective nor an efficient means of ensuring compliance with the law. However, as a result of satellite mapping technology we can now better detect illegal clearing across New South Wales. The use of satellite technology is strategic and cost-effective compared to other monitoring options and can be integrated with other government programs that generate information on native vegetation, salinity, soils and water assessment.

I will be monitoring the implementation of this new legislation very closely, not just in terms of its enforcement. I will want to be sure that it is delivering the objectives that the Government and catchment management authorities have set out. It must be workable and effective for landholders on whose land the native vegetation occurs. It must be effective for the community who get the benefit of good native vegetation management, or who would be disadvantaged by salinity and poor water quality if native vegetation was poorly managed. If I find that it is not achieving the objectives set out, I will be using the flexibility provided by the Act's regulation-making powers to make sure that it is effective. This issue is too important to all concerned to allow it to drift off course.

Both farming and environmental interests have played a key role in developing all three of the bills I have introduced today. The Government is committed to continue working with all stakeholders to ensure each of the bills and the new approach they embody is successfully implemented. I am delighted at what has been accomplished to resolve these complex issues and get these bills before the House today. However, I am soberly aware that a lot remains to be achieved. But to get to this point is a great step forward and a great tribute to the goodwill of the stakeholders involved. With that behind us I am confident that we can go on to fulfil the great promise of these bills and deliver what the community wants: real environmental improvements that are recognisable and measurable, and above all acknowledged by the communities that did the work to make them happen; and greater involvement of the people of regional New South Wales in the management of their landscapes. I commend all three bills to the House.

Debate adjourned on motion by Mr Andrew Fraser.

The House adjourned at 11.35 p.m. until Thursday 13 November 2003 at 10.00 a.m.
