

LEGISLATIVE ASSEMBLY

Friday 14 November 2003

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

Mr Speaker offered the Prayer.

REGISTERED CLUBS AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing) [10.03 a.m.]: I move:

That this bill be now read a second time.

This highly anticipated bill makes amendments to the Registered Clubs Act that resulted from deliberations of the club industry task force. As honourable members may recall, on 22 August I announced the formation of the club industry task force. The task force comprises representatives of ClubsNSW, the Services Clubs Association, the New South Wales Bowling Association, the Club Managers Association of Australia, the Leagues Clubs Association of New South Wales, the Liquor, Hospitality and Miscellaneous Workers Union, the Department of Gaming and Racing and members of my personal staff. The aim of the task force was to develop a set of recommendations that would clearly identify and articulate what is expected of the club industry in New South Wales in the future. Particular emphasis was placed on the importance of transparency and accountability. The proposals that resulted from this process represent a significant step in addressing the concerns not only of many club members but also of the general community.

This bill deals specifically with the provision of recommendations for legislative amendments to club governance, probity and various reporting requirements. The recommendations aim to raise and set a uniform high standard of transparency and accountability in reporting the activities of registered clubs. This will help to ensure that members are adequately informed of the decisions made by members of the governing body and senior club management. The changes will also pave the way for improved standards of accountability and will assist in dispelling perceptions and allegations concerning mismanagement of clubs. The terms of reference of the task force created a two-stage program. Stage one, encompassing governance, compliance and probity issues—which I shall shortly address—was completed on 26 October. This will be followed by stage two deliberations dealing with further governance issues, club elections and constitutions, codes of conduct, industry benchmarking and community service provision.

The task force is aiming to provide legislative proposals for stage two in the 2004 autumn session of Parliament. It is extremely important for the House and the general community to understand the very positive and hardworking role played by industry representatives on the task force. These representatives showed themselves to be very willing to reform and upgrade their procedures and practices, ensuring that the club industry would try to meet the highest standards of governance, compliance and probity. They willingly accepted constructive criticism and were prepared to accept procedures that would require additional work and responsibilities, both for senior employees and club directors. Importantly, club industry representatives actively sought the Government's involvement in this reform process. This was a genuine participatory process, a real partnership. I am advised that the discussions were frank and robust, with departmental representatives also accepting constructive criticism from the industry.

The club industry members of the task force were worthy representatives of the many thousands of club members in New South Wales. Importantly, it is these members who will gain most from these deliberations. Club members will gain a greater working knowledge of the clubs' activities and management, enabling them, if desired, to play a more constructive part in club elections, ensuring that the elections are fair and democratic, and that those elected are best suited to manage the club's affairs. Protecting and enhancing the rights of club members is at the heart of the Government's considerations in this exercise. These considerations have been enhanced by the work of the club industry representatives. Their commitment and endeavours will ensure that the relationship between the club industry and the Government remains on a firm and constructive footing.

I will now briefly address the subject matter of the bill. It has become clear that there is a need for the clarification of the standards that should be met in the accounts and reports of registered clubs. This is also true of the standards to be met by members of the clubs' governing bodies and senior executives. This is particularly relevant regarding financial and management accountability. It is worth repeating that the club industry has actively sought the Government's involvement in setting and developing these financial reporting and governance standards. The Government is not imposing these new requirements arbitrarily. Rather, the Government is working, as outlined, in partnership with the club industry participants. First, this bill will introduce enhanced disclosure requirements. Existing provisions in the Registered Clubs Act preclude members of a club's governing body from receiving honorariums unless the payment has been approved by a resolution passed at a general meeting.

However, over recent years allegations have been brought to the attention of the Department of Gaming and Racing involving circumvention of these provisions. It was found that members of the governing body of a club had received remuneration and other benefits from subsidiary companies and affiliated clubs. This is clearly against the spirit of the existing provisions. Therefore, the provisions regarding financial payments will be tightened and made more transparent. In addition, any non-financial payments, such as gifts, should be clearly reported to members in the club's annual report. Although the receipt of gifts is not technically a breach of the legislation, it is considered that this level of transparency should be provided as a right to members. They can make up their own minds as to whether or not they are happy with such gratuities. In essence, it will become necessary for board members and executives to provide details to the members of any payments received in the annual report. It will also be required that these payments be listed in a pecuniary interests register. It is considered that this form of open reporting should help to dispel any lingering perceptions that executives are offering any kind of special favours in return for personal financial gain.

Next, the bill will enhance the powers of the Director of Liquor and Gaming. As part of ensuring compliance with these new measures, it is imperative that the Government and the Department of Gaming and Racing have the authority to require that relevant individuals supply certain information. At present, the department's Director of Liquor and Gaming can gain access to information only if it is stored on the premises of a club. This can be a significant hindrance to certain investigations involving outside parties with financial or contractual links to a club. This bill will give the Director of Liquor and Gaming the specific power to direct members of the governing body and the secretary manager of a club to provide financial and personal information of relevance to an investigation being carried out under the Act. This will greatly assist the investigation of matters directly relevant to the new reporting provisions.

The bill will introduce requirements for the approval of remuneration packages. This measure reflects the concerns that have been raised regarding secrecy provisions contained in the employment contracts of secretary managers of certain registered clubs. In some instances, these contracts and remuneration packages are subject to broad confidentiality agreements between the chairperson of the club, the secretary managers or other senior executives. Effectively, this has meant that other elected members of the governing body have been excluded from participating in an essential aspect of the club's management. Club members have also been deprived of this information. This bill will require that such employment packages must be approved by all elected board members. In order to ensure proper supervision of secondary club premises, the bill will introduce requirements for the appointment of an authorised person to supervise these premises.

Due to an increasing number of club amalgamations, it is not uncommon for a club to operate from more than one set of premises. For example, one Sydney club now operates from 12 separate premises. This has led to the situation where it is possible that there will be no-one working at the secondary premises who would be held responsible for the day-to-day management of the premises. This is clearly undesirable. Accordingly, this bill will introduce a requirement that a club with more than one set of premises must appoint an authorised person for each venue, and that this person must be approved by the Liquor Administration Board. This will ensure a more uniform approach to the setting of appropriate management standards and compliance with important regulatory matters, such as responsible service of alcohol and responsible conduct of gaming. Additionally, this would also ensure that there will be some controls over who is appointed as a fit and proper person to manage a club's premises.

The various obligations and penalties that are attached to the role of secretary under the Act would also apply to those appointed as an authorised person. However, in acknowledgement that there will be certain circumstances where this may not be absolutely necessary, this requirement will be subject to specific exemptions. These will include such cases as where the secondary venue is within 10 kilometres distance of the primary club in a metropolitan area, or within 50 kilometres in the non-metropolitan area, or where the

secondary venue is very small and may only have a small number of employees. In these circumstances, it is considered that the operations of the second premises are relatively easy to monitor. The bill will require the declaration of corporate hospitality. It is a sad but true fact that allegations and complaints have been received from club members regarding the activities of senior managers and certain members of the clubs' governing body.

The complaints allege that these individuals have been in receipt of substantial corporate hospitality from persons with whom they have subsequently entered into major contractual arrangements. Although it is understood that these complaints are sometimes based on rumour and innuendo, it is considered important that measures be introduced to dispel such rumours and to provide proper transparent reporting of such hospitality when it does occur. The failure to report such hospitality to a club's members can create problems of perceived corruption. Simple reporting of this nature can overcome such negative perceptions, and hopefully bring to a halt such activities in the limited situations in which they occur. Accordingly, the measures in this bill will not prohibit such hospitality, but will require that any hospitality be recorded in a register and be disclosed in the club's annual report.

I now turn to the requirement for the approval of loans by club boards. Concerns have been expressed from time to time over the ability of clubs to advance loans to senior staff at very favourable terms and conditions. This may not necessarily be in the best interest of club members. Existing measures prohibit the club from providing loans to members of the governing body, unless approved at an annual general meeting of a club. This requirement is to be extended so that clubs will be prohibited from providing any form of loan to any member of the governing body. It will also be required that loans made to club employees must be approved by the governing body of the club, and the terms and conditions disclosed in the club's annual report. In addition, where loans are not provided for in the employee's contract of employment, the amount of loan must not exceed \$10,000.

The bill also introduces enhanced requirements for reporting conflict of interest. It is not unreasonable to expect that club members should be informed of any conflicts of interest that may arise due to the activities of board members. However, it is considered that existing legislative provisions concerning the declaration of such conflicts of interests are considered inadequate. Accordingly, under the new provisions, any member of the governing body of a club or secretary must disclose any conflict of interest. This information must also be reported in the club's annual report. Furthermore, any contract between the club and any company or other organisation in which staff or board members have a financial interest must be approved by the board and reported to the annual report.

The club industry will be fully involved with the implementation of these provisions. ClubsNSW and other club industry associations will take on responsibility for developing guidelines to assist clubs in dealing with conflicts of interest and tendering processes. It is envisaged that these guidelines will assist the industry in further raising standards of accountability. Existing provisions in the Registered Clubs Act require that clubs disclose various matters such as the salaries of the top five highest-paid employees, details of overseas travel by members of the governing body or employees, et cetera, in their annual reports. While this requirement is generally well observed, some clubs provide the members with an abridged version of the annual report only, and in so doing have omitted some of this important information. Accordingly, it will be required that this information be disclosed in any abridged or consolidated version of a club's annual report.

Another issue that has given rise to concern is the lack of reporting of legal settlements and legal fees. This is reflected in the complaints that have been received by the department concerning the payments that have been made to board members or to the management of clubs as a result of the settlement of a legal dispute. Despite the confidentiality provisions that may be part of certain of these legal settlements, for the sake of total transparency it is considered vital that all such payments are disclosed to the members in the club's annual report. Similarly, clubs will also be required to disclose in the annual report details of any legal fees of board members or management of clubs that have been paid for by clubs. Another aspect of the bill that relates to transparency is the new requirements for the disclosure of consultancies. Club members have a right to be informed of how their club's funds are spent. Again, these new requirements will address the perceptions of a lack of transparency in such dealings.

Another issue of transparency addressed by this bill is the alleged practice of employment of family members of board members and senior management. The measures in the bill will not prohibit the employment of direct relatives of board members and senior management. However—as I stated before—on the grounds of transparency, it is considered essential that full details of any such employment be disclosed to members of

clubs and be included in the club's annual report. The next set of measures contained in this bill relates to new provisions that will create a class of controlled contracts. The measures seek to address a growing trend for the involvement of private, entrepreneurial interest in the management of registered clubs. This is particularly of concern in regard to smaller clubs that are struggling with financial difficulties and the disposal of the assets of these clubs. This situation has created an alarming trend where it appears that private entrepreneurs have sought to gain control over a club's management and operations. In so doing, they have obtained significant financial benefits and in some cases ownership of the club's assets.

The Department of Gaming and Racing has been able to identify and prevent many of these arrangements from proceeding. However, some individuals and organisations are becoming more inventive in their attempts to circumvent the current legislative provisions and to gain control over club operations and assets. Accordingly, the bill will provide for certain contracts to be declared controlled contracts. Club members have also expressed concern that a club's governing body or executives are able to dispose of the club's major assets and premises without all members being involved in the process. This has even given rise to allegations that a minority of club members could be in a position to dispose of the club's major assets at less than market value. This would be of clear detriment to the interests of club members. Hence, this bill provides for changes that will prevent the disposal of major assets without a majority resolution of all members. When such disposal is approved by all members, it will also be required that it be done by way of public auction or open tender process. Failure to comply with these provisions will render the contract null and void.

The final amendment in this package again deals with the need for greater transparency and management of probity. Club members have raised concerns regarding the potential and existing business operations of some chief executive officers [CEOs] and secretary managers of clubs. These CEOs and secretary managers have entered into contracts with companies to supply goods and services to their club, with the secretary manager, or members of his or her direct family, having a definite or controlling interest in the contracted company. Such procedures have caused club members and the general community much concern. Are such deals in the best interest of the club and its members? Is it appropriate for an employee of the club to be dealing directly with a company in which he or she has a controlling interest? Is it appropriate for a club manager, already in receipt of an often generous salary package, to earn further income from a contract which he or she has arranged to sell goods and services to the club he or she is managing?

All these questions raise a number of probity issues and, while justifications in strictly legal terms may be provided, many club members are left with the perception that something is not quite right with these deals. Given these perceptions and probity concerns, the task force felt it would be to the benefit of the club industry as a whole to bring these activities to a halt. Therefore, the final amendment in this package will preclude a club's CEO or secretary manager from entering his or her club into a contractual arrangement with any company in which he or she, or members of his or her immediate family, have a direct or controlling interest. This will bring further transparency to the dealings of senior club employees, removing the perception that self-interested sweetheart deals are rife in the New South Wales club industry. In conclusion, this bill introduces numerous measures of direct and long-term benefit to registered clubs and their members. 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 changes are supported by the club industry, club employee associations and the Government. I commend the bill to the House.

Debate adjourned on motion by Mr George Souris.

PRIVATE MEMBERS' STATEMENTS

PACIFIC HIGHWAY FATALITY

Mr STEVE CANSDELL (Clarence) [10.23 a.m.], by leave: Last Thursday I was asked if I would go to our local ambulance station at Grafton as an officer was in some distress and wanted to talk to me. I will refer to him as John. When I arrived he was decidedly upset, and we made a coffee and went outside to discuss his issues. Two days earlier there had been a major accident on the Pacific Highway 17 kilometres south of Grafton. A semi-trailer and a four-wheel-drive vehicle had had a head-on collision, resulting in one deceased and two injured. This accident has brought the total loss of life on the Pacific Highway in 2003 to 44—almost one a week. John said he wanted me to relay his story to Parliament. He said he wanted the politicians to fully understand the tragic reality of what is happening daily on our roads and highways. He stressed repeatedly the urgency of fast-tracking the Pacific Highway divided highway project.

John told me that on arrival at the accident scene there was a semi-trailer on fire, a section of the vegetation on the roadside was flattened and there were the crushed remains of what looked like a Pajero four-wheel-drive vehicle. Near the car were four people, John said with tears welling in his eyes as he described the scene. One female with serious spinal injuries was lying on the ground, with an injured male sitting over her holding her hand. Although injured himself and very traumatised, he was comforting her and talking to her. John paused for a minute as he wiped tears from his eyes before going on. There were two more adults, one female and one male. The female was deceased, with horrific injuries and covered in blood. Her partner was kneeling next to her and cradling her in his arms. Her blood was all over him and he was crying. He held her in his arms and kept repeating, "She's the love of my life, she's the love of my life."

The ambulance officer put his arms around the man and hugged him, consoled him as best he could until the ambulance chaplain arrived and took over. John then went on with his job of securing the safety and wellbeing of the other accident victims and then relaying the injured and deceased to hospital. While at the hospital, John told me that the partner of the deceased rang his father-in-law to inform him of the death of his daughter. Halfway through his phone call he broke down and handed the phone to the chaplain, who confirmed the tragedy to the parents of the young lady who lost her life. The father said that he had to hang up the phone as his wife had just run out the door and onto the street screaming. These are the tragic realities of road accidents. As I said earlier, the ambulance officer asked me—no, he begged me—to bring home to our politicians the horror that these unsung heroes, the ambulance officers, have to confront on a regular basis. They want us, the politicians, to get on with the job of fixing the highways, particularly the Pacific Highway, and to stop playing politics with people's lives.

Private member's statement noted.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No 2)

Bill introduced and read a first time.

Second Reading

Mr NEVILLE NEWELL (Tweed—Parliamentary Secretary) [10.27 a.m.], on behalf of Mr Bob Carr:
I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill (No 2) continues the well-established statute law revision program that is recognised by all members as a cost-effective and efficient method for dealing with amendments of the kind included in the bill. The form of the bill is similar to that of previous bills in the statute law revision program. Schedule 1 contains policy changes of a minor and non-controversial nature that the Minister responsible for the legislation to be amended considers do not warrant the introduction of a separate amending bill. The schedule contains amendments to 37 Acts and seven statutory rules. I will mention some of the amendments to give honourable members an indication of the kind of amendments that are included in the schedule.

As honourable members will be aware, the separate public service departments comprising the staff of, or attached to, the Environment Protection Authority, the National Parks and Wildlife Service, Resource New South Wales, and the Royal Botanic Gardens and Domain Trust were recently abolished and the staff transferred to the newly created Department of Environment and Conservation. A number of changes have been made to the Acts relating to those agencies. In particular, because of the amalgamation, it is not necessary to retain Resource New South Wales as a statutory corporation. Accordingly, schedule 1 amends the Waste Avoidance and Resource Recovery Act 2001 so as to dissolve that corporation, transfer its assets and liabilities to the Crown, and to confer its functions on the Director-General of the new Department of Environment and Conservation.

Schedule 1 also makes a number of amendments to the Children and Young Persons (Care and Protection) Act 1998, including amendments consequential on the transfer of the Children's Employment Unit from the Department of Community Services to the Children's Guardian. Schedule 1 also amends the Parliamentary Electorates and Elections Act 1912 to deal expressly with the situation that arises when a candidate for election to this House dies before 6.00 p.m. on the day of the election. The bill confirms that that election fails. The Act already makes that provision where a candidate dies before the day of the election.

Schedule 1 also amends various Acts and statutory rules to reflect that the statutory functions of a government medical officer are to be exercised by the statutory health corporation, Healthquest. The last amendment in Schedule 1 that I will mention is to the Pawnbrokers and Second-hand Dealers Act 1996. This amendment makes it clear that the power of an authorised officer to inspect goods on the premises of a licensed pawnbroker or second-hand dealer extends to a power to open, or to require another person to open, any storage container on the premises, including a safe.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in Schedule 2 are those arising out of the enactment or repeal of other legislation, those correcting duplicated numbering and those updating terminology.

Schedule 3 repeals a number of Acts and provisions in Acts. One Act being repealed is the Small Businesses' Loans Guarantee Act 1977, consequent upon the national competition policy review of the Act. Although the review found that the Act did not operate in a way that restricts competition, it found that the Act was introduced to overcome problems associated with the previously regulated financial market that no longer exists. Consequently, the Act has not been used since 1989 and there is no longer any need for it to remain in force. Schedule 4 has a transitional provision to ensure that rights under existing guarantees given under the Act are preserved after its repeal. The Acts and instruments that were amended by the Acts or provisions being repealed are up to date on the legislation database maintained by the Parliamentary Counsel's office and are available electronically.

Schedule 4 contains provisions dealing with the effect of amendments on amending provisions, savings clauses for the repealed Acts and a power to make regulations for savings and transitional matters, if necessary. The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts concerned. Rather than repeat the information contained in those notes, I invite honourable members to examine the various amendments and accompanying explanatory material and, if any concern or need for clarification arises, to approach me. If necessary, I will arrange for Government officers to provide additional information on the matters raised. If any matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

POLICE LEGISLATION AMENDMENT (CIVIL LIABILITY) BILL

Second Reading

Debate resumed from 13 November.

Mr PETER DEBNAM (Vaucluse) [10.33 a.m.]: I note that constituents of the Minister for Police are in the public gallery, and of course Ryde is an area that is suffering in the current crime wave across Sydney. I will mention a couple of incidents that occurred in Ryde over the past few days. The Police Legislation Amendment (Civil Liability) Bill will ensure that front-line police have as much legal protection as the police Minister has had for some years. This matter arises regularly, including when an article appeared on the front page of the *Daily Telegraph* on 11 July. Prior to that date I had been talking to journalists about the explosion in litigation in New South Wales involving police. Ian Ball, President of the Police Association, in an article in the *Daily Telegraph* quite rightly stated:

It's fair to say that a lot of cops who have been subject to litigation are taking the approach of absolute hands off and not making arrests, because they're not going to be put in a position where their personal assets are put at risk.

I am not aware of any police who have made that decision, but I can certainly understand the sentiment. Many front-line police are dealing with very violent characters on the streets, and quite often they are put in situations where they are not clear on what action they should take. Parliament and the community need to tell police that we want them to do whatever they need to do on the streets of Sydney because they are our agents for community safety; we need their protection. The front-line police need to know that they have the full support of the community and Parliament. This bill will provide further support for front-line police doing their job. I make the point that this issue came up in July because I raised with the *Daily Telegraph* the explosion of litigation in New South Wales, specifically relating to police issues, where contingent liability has blown out.

On 11 July the Government gave its standard response: Hold off, we will look at the problem and meet later with the Police Association. The Government also issued a press release attacking me, but I suppose that is part of politics. It did not take long to do that, because later that evening the Minister for Police told the *Daily Telegraph* he had met with the Police Association and if the civil litigation issue needed to be resolved it would be addressed urgently. On 12 July the *Daily Telegraph* ran that story, stating that the Government had highlighted the issue on the previous day, had finally realised it had a problem, and had agreed to do something about it. The objects of the bill are:

- (a) to amend the *Employees Liability Act 1991* to confirm that police officers are employees of the Crown for the purposes of that Act, and
- (b) to amend the *Law Reform (Vicarious Liability) Act 1983* to require persons seeking damages for torts committed by police officers in the performance or purported performance of their functions as police officers generally to sue the Crown instead of the police officers concerned, and
- (c) to amend the *Police Act 1990* to exclude any member of NSW Police from personal liability for any injury or damage caused by any act or omission of the member in the exercise by the member in good faith of a function conferred or imposed by or under that Act or any other Act or law (whether written or unwritten).

Essentially, we are saying to front-line police that if they are doing their job in good faith, if they have returned to duty, they have the full backing of the law, the Crown, Parliament and the community. This is a much-needed change and I am a little surprised that it was not resolved previously. It was resolved between the Opposition and the *Daily Telegraph* when we raised it in early July. I am a little concerned that it has taken so long to implement. However, the Carr Government operates by press release, and a press release on 30 September said that the Government would resolve the problem. It is now 14 November and it was only because the Opposition agreed to resolve this matter urgently that it is being processed through Parliament today. We agreed to that on the basis that although we have not had much time to look at the bill we are happy to assist its urgent passage through this House.

The Opposition will continue to consider the bill over the next few days and if there are any concerns we will raise them in the upper House. Unfortunately, whenever there have been policing and law and order issues during the past eight years the Carr Government has had to be dragged kicking and screaming to take action. In late 1996 I introduced car impounding legislation to take care of car hoons. I said that if hoons are going to use cars to intimidate the community we will hit them where it hurts, we will take away their vehicles, and the Government adopted that bill. It was the Opposition who said that over the past few years mobile phone thefts have become a major problem, and that if the Government would work with the telecommunications industry—

Mr John Watkins: Point of order: I am loath to interrupt the honourable member, but car hoons and stealing mobile telephones are a long way from the leave of the bill.

Mr SPEAKER: Order! I remind the honourable member for Vacluse of Standing Order 138, and its application to this debate.

Mr PETER DEBNAM: I make the point that this bill aims to assist police in doing their duty on the streets of New South Wales and gives them the full backing of the community and of Parliament. I am highlighting a number of instances where Parliament has moved to do that in previous years, but the Government has been dragged kicking and screaming to do it. We are still waiting for reform of the Director of Public Prosecutions and bail reform. The Minister for Police issued a press release on 30 September saying he was going to sort out this bill, and we finally get to it on 14 November. He issued another press release yesterday saying that he would sort out the bail system. I am sure we will get to that next year.

The Coalition has referred to sentencing reform. We have pursued gun crime aggressively for some time. Task force Gain was finally put in place a few weeks ago after a relentless campaign by the Opposition. Today we have addressed civil liability protection, and zero tolerance policing will be next. What we really need in New South Wales to attack the current crime wave, not only in the electorate of the Minister for Police but right across Sydney and the State, are zero tolerance strategies. With another few months pressure on the Government we will eventually see it embrace that as well.

Mr GREG APLIN (Albury) [10.41 a.m.]: I support the honourable member for Vacluse in saying that the Police Legislation Amendment (Civil Liability) Bill is overdue. These situations are nothing new. The protection of police whilst they are performing their duty should have been considered and legislated for some time ago. The objects of the bill are to confirm that police officers are employees of the Crown for the purposes

of the Act, to require persons seeking damages for torts committed by police officers in the performance or purported performance of their functions as police officers generally to sue the Crown instead of the police officers concerned, and to exclude any members of New South Wales Police from personal liability for any injury or damage caused by any act or omission of the members in the exercise by the members in good faith of a function conferred or imposed by or under the Act, or any other Act.

In his second reading speech the Minister said quite correctly that the bill strikes the necessary balance. It protects police from personal legal claims while ensuring that officers who have engaged in serious and wilful misconduct can be held accountable. This is the essential balance that must be maintained and be seen by the public of New South Wales to be at the heart of these amendments. That is fundamental. Also fundamental is the principle that no police officer acting in the execution of his lawful duty should ever fear for his own property or personal assets simply because they are performing their roles. We all support the police in the performance of their roles and we take to heart the difficulties they encounter in the performance of their roles, because so often where claims are brought against them they suffer unnecessary stress. This can persist for many years. The Minister referred in his second reading speech to that significant stress over extended periods.

Let us look particularly at my electorate. The Minister indicated the number of claims and torts that had been brought over a particular period. In the Albury local area command two civil torts have been brought over the past four years involving claims against individual officers as well as the Crown. These cases often involve alleged unlawful arrest and assault, but they can extend to include persons who were in the vicinity of what was lawful police activity at the time. Sometimes those people choose to bring litigation against police. Police offer their services in a range of difficult situations. Often they are called to assaults in licensed premises, where people are often affected by alcohol or high emotion. We have to recognise that in these cases police are under already considerable stress.

I shall cite a situation that happened in my electorate but could have happened anywhere in New South Wales. A publican called for police assistance in the early hours of Saturday morning. We all know what that might entail. The patrons argued and fought on the premises. The police were greeted by a drunken and aggressive crowd who were still consuming alcohol, and they attempted to move the patrons on. The incident got out of hand and the group of intoxicated people began punching, shoving, pushing and spitting on police. Sometimes these things can go on for 40, 50 or 60 minutes.

Often police have to bring in reinforcements. Sometimes they have used capsicum spray to subdue the offenders and frequently the police are jumped on, spat upon, punched and have chairs thrown at them while they are performing their duties, attempting to keep the peace. In this incident several officers were assaulted. They were hit on the back of the head as they attempted to arrest members of the crowd and they had objects thrown at them. Two officers were injured and a police van was damaged. Is that not typical of an alcohol-fuelled incident to which I refer? Sometimes these situations give rise to claims by alleged offenders against the police. This bill goes to the heart of protecting police.

Let me refer to one other instance to give an indication of why this bill is so necessary. Officers, particularly highway patrol officers, are frequently engaged in high-speed pursuits of alleged offenders. Frequently they are chasing people who are breaking the law not only by exceeding the speed limit or driving erratically but, in some cases, by driving stolen vehicles. The vehicle being chased might crash, perhaps as a result of the pursuit, perhaps because the offender has consumed alcohol, or perhaps because the driver is unlicensed or under age. The police are lawfully engaged in a pursuit, making a decision as to whether to continue, given the road conditions and the urban situation. If the vehicle crashes, claims or torts may be brought by relatives or survivors, and the police live in stress and fear that they may be responsible in some way and will be brought to account and have their own livelihoods threatened.

This bill is important for the protection of officers performing their duty, but I call on the Government to protect them even more, perhaps by installing some form of video recording in their vehicles to ensure, and to record, that police are taking the appropriate action in the circumstances. They need protection. This bill goes some of the way. I call on the Minister to particularly consider officers involved in high-speed pursuits to ensure they are protected from claims if there is an accident.

Mr JOHN WATKINS (Ryde—Minister for Police) [10.48 a.m.], in reply: I thank honourable members for their contributions, but I have to say that the honourable member for Vacluse is becoming quite notorious for his emotive exaggeration about law and order issues. His constant refrain of a crime wave in Sydney goes directly against the independent evidence provided by the Bureau of Crime Statistics and Research that there is a level or downward trend in every crime indicator except for stealing from a retail store.

I repeat: Crime statistics for New South Wales are available in black and white from the independent Bureau of Crime Statistics and Research, and crime in New South Wales is either steady or it is going down in every indicator except stealing from a retail store, or shoplifting. The honourable member for Vaucluse referred also to the explosion in litigation. Earlier in the year and today he deliberately alluded to the contingent liability that is faced by the Government, knowing that the contingent liability that police officers face comprises a number of different aspects of claims against them, not all related to police officers carrying out their duty. It also covers suits such as wrongful dismissal and hurt on duty claims. The contingent liability on police is quite high because policing is a dangerous business.

I acknowledged in my second reading speech that there had been a growth in claims against police. In 2003-04, 44 of the 186 police tort claims involved claims against individual officers. I acknowledge that that is a growing issue of concern. When the Police Association, on behalf of its members, raised this issue with me I immediately said we would address it. We designed the legislation and we brought it before the House as quickly as possible. The Police Association, which is pleased that the legislation has been introduced, is totally supportive of it. The bill will ensure that police officers can go about their official duties without fear of being sued. No longer will vexatious claims be able to be made against individual officers who are simply carrying out their duty.

Some of these vexatious claims have been delivered against police out of revenge. People who have been arrested by police want to get back at a policeman or policewoman and they put in a civil claim against them. This bill will ensure that that no longer happens. They cannot sue individual police officers; they have to sue me, or the Crown. That is as it should be. However, the bill makes it clear that officers who have engaged in serious and wilful misconduct can be held accountable for their actions in the civil courts. Again, the Police Association accepts that provision. The bill, which preserves the rights of plaintiffs to recover damages, will reduce the time and cost of civil cases involving police. That will benefit all parties. This legislation has been warmly welcomed by serving policemen and policewomen in this State. I am pleased that the Opposition is supporting it and I commend it to the Parliament.

Motion agreed to.

Bill read a second time and passed through remaining stages.

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [10.53 a.m.], on behalf of Mr Craig Knowles: I move:

That this bill be now read a second time.

The main purpose of this bill is to make amendments to the Duties Act 1997, the Fines Act 1996, the First Home Owner Grant Act 2000, the Land Tax Management Act 1956, the Pay-roll Tax Act 1971, the Taxation Administration Act 1996 and the Unclaimed Money Act 1995. I will deal with the amendments to each Act in turn. The bill amends the Duties Act 1997 in respect of duty on the transfer of dutiable property, lease duty and mortgage duty. One significant purpose of the bill is to impose duty on the statutory vesting of land to overcome the current situation where a change of ownership occurs but duty is not currently payable. Mergers of entities and statutory vesting are increasingly being used as mechanisms for changing ownership of land. The bill will ensure that such transactions will become liable to duty. Exemptions have been included for those vestings where it is inappropriate to tax, such as to an executor on death. This amendment is consistent with the approach taken by Queensland and soon to be taken by Western Australia.

The bill clarifies anti-avoidance provisions relating to arrangements that prevent the value of property being artificially reduced for duty purposes. Generally, a transfer of goods alone is not subject to duty. Goods are only dutiable property if they form part of a transaction that includes other dutiable property. The current Act provides a discretion for the chief commissioner to disregard the value of goods if satisfied that it would not be just and reasonable to charge duty. The provisions have potential for abuse where goodwill of little or no value is being transferred. The bill removes this discretion in cases where goods are used in connection with a business and goodwill forms either the whole or part of the other dutiable property in the transfer.

A practice has emerged whereby splitting of leases by term or parties has resulted in a reduction in the duty payable because no duty is payable on leases when the total rent is less than \$20,000. The bill introduces provisions to aggregate leases between the same or associated parties for consecutive terms over the same property. In these situations the combined leases will be subject to duty. The Duties Act was amended last year to strengthen an anti-avoidance provision dealing with the use of long-term leases that avoid or minimise transfer duty. These anti-avoidance provisions have been effective and will be retained. However, the other States have addressed these practices by also charging the transfer rate of duty on lease premiums and it is appropriate that New South Wales imposes transfer duty on lease premiums.

The bill provides an exemption from stamp duties for the joint government enterprise being established to allocate funds from the New South Wales, Victorian and Commonwealth governments for water savings projects, to facilitate environmental flows for the Murray and Snowy rivers. The bill also makes a number of minor statute law amendments to replace references to repealed Acts and to clarify the mechanism by which forms are approved by the chief commissioner. Current contractual arrangements made by the Infringement Processing Bureau [IPB] with its 400 or more clients extend beyond 1 October 2003 when the IPB was transferred from the New South Wales police service to the Office of State Revenue [OSR]. The IPB became a unit within the State Debt Recovery Office, a division of the OSR. The bill authorises the State Debt Recovery Office to enter into such arrangements with new clients. The bill also makes consequential amendments to references that describe the IPB as being part of the New South Wales police service.

The bill provides that in the case of dual occupancy or multiple occupancy residences constructed under a single contract, eligibility for a grant will be considered on each residence separately. The bill also removes an unintended opportunity for a person to apply for a grant in relation to a further interest in his or her current residence. This is consistent with amendments proposed in other jurisdictions. The bill also clarifies the residency test for the grant by requiring the applicant to reside in the home for a continuous six-month period. The bill amends the Act to remove provisions that can require applicants who are paid the grant in respect of terms contracts to return the grant solely because the transaction is not completed by registration of the transfer. The bill confirms eligibility for the grant for a shared ownership scheme with the Department of Housing where tenants buy a 75 per cent interest in the home with an opportunity to purchase the remainder at some time in the future.

The bill amends the Land Tax Management Act 1956 provisions relating to the land tax concession for an owner's principal place or residence. The amendments will allow an owner to claim the concession for two residences where the owner has bought a new residence and is in the process of selling the existing residence, but has not been able to complete the sale by the taxing date. The bill will also remove certain restrictions on the current exemption on land where a new family residence is being built or an existing one is being refurbished, provided the owner takes up residence in the completed house within two years and remains in residence for at least six months. The bill will allow a principal residence to be used for incidental business purposes, such as the use of one room as a home office or workshop, without losing the principal place of residence exemption from land tax.

The bill clarifies an existing concession where the owner is absent from the home for extended periods, but resumes occupation within six years. Under the amendments an owner will be allowed to rent the home for a period of up to six months in any tax year before the concession ceases to apply. The amendments also impose a condition that the owner must occupy the home for at least six months after resuming occupation or forfeit the concession for the entire period of the owner's absence from the home. The bill allows each family, including dependents under 18, a concession for only one property, except when buying a new principal place of residence.

This amendment restricts tax minimisation practices, such as transferring small interests in land to tenants, particularly family members. It also removes uncertainty by denying the exemption for two properties where a couple claim exemptions for different principal places of residence. This restriction will not apply to couples who are permanently separated or to family members over 18 years of age. The bill provides an exemption from land tax for the joint government enterprise being established to allocate funds from the New South Wales, Victorian and Commonwealth Governments for water saving projects to facilitate environmental flows for the Murray and Snowy rivers.

The bill closes a loophole in the Pay-roll Tax Act 1971 that allows an employer to avoid payroll tax on wages paid outside Australia in relation to services provided by an employee in two or more States. The bill provides an exemption from payroll tax for the joint government enterprise being established to allocate funds

from the New South Wales, Victorian and Commonwealth Governments for water saving projects to facilitate environmental flows for the Murray and Snowy rivers. Following the success of the "phoenix" company provisions inserted into the Pay-roll Tax Act in November 1999, the Government will introduce general provisions into the Taxation Administration Act that will enable recovery of taxes payable under State revenue laws, from directors and former directors of corporations in certain circumstances.

The bill also applies the definition of "decision" contained in the Administrative Decisions Tribunal Act to the Taxation Administration Act to provide certainty for taxpayers applying for a review of decisions made by the chief commissioner. The bill makes a number of minor amendments to the Taxation Administration Act and deletes an obsolete provision in relation to "reciprocal taxation law", following the insertion of the Revenue Laws (Reciprocal Powers) Act 1987 provisions into the Taxation Administration Act 1996 and the consequential repeal of that Act.

The bill increases the minimum amount required to be returned under the Unclaimed Money Act from \$20 to \$100. This means that small amounts up to \$100 will no longer be given to the Government if unclaimed after six years. About 2 per cent of the small amounts paid to the Government in 2002-03 were reclaimed by the owners, that is, 400 amounts totalling \$20,000, or an average of \$50 per claim, out of a total of 20,000 small amounts totalling \$800,000 lodged with the Government. This amendment brings New South Wales into line with the Commonwealth, Victoria and South Australia. I table a summary of the bill for the assistance of honourable members and seek leave to have it incorporated in *Hansard*.

Leave granted.

SUMMARY OF THE BILL

Schedule 1 Amendment of Duties Act 1997

Transfer Duty

The amendments impose transfer duty on a statutory vesting of land in New South Wales, specifying various circumstances in which a statutory vesting occurs and exempting from duty the vesting of dutiable property in a legal personal representative of a deceased person. See **Schedules 1 [2], [3], [4] & [10]**

The amendments replace section 24 of the current Act to clarify that arrangements made for a collateral purpose of reducing the amount of duty otherwise payable are to be disregarded. See **Schedule 1 [6]**

The amendments limit the Chief Commissioner's discretion to exclude the value of goods from the dutiable value of property when assessing duty on transfers of property in cases where the goods are used in connection with a business in respect of which the goodwill of the business is, or is part of, the dutiable property. See **Schedule 1 [7]**

Lease Duty

The amendments impose duty at the rate applicable to the transfer of dutiable property on the premium paid or payable for a lease with the exception of a premium paid on a lease of premises in a retirement village, which are exempt from duty. See **Schedules 1 [14] & 1 [12]**. The Bill also makes some consequential amendments. See **Schedules 1 [13] & [17]**

The amendments also provide for the aggregation of leases that have been split to bring them under the threshold exemption of a total rent cost of not more than \$20,000 per annum. For the purpose of calculating lease duty, leases between the same or associated persons over the same property for consecutive terms or terms that are not more than 3 months apart, will be aggregated. See **Schedule 1 [18]**. The Bill also makes some consequential amendments. See **Schedules 1 [15] & [16]**

Mortgage Duty

The Bill clarifies that security interests in land are not liable to mortgage duty and also readdresses the circumstances in which a collateral mortgage forming part of a package of securities that applies to land in New South Wales and land in other jurisdictions is chargeable with duty when an advance or further advance is made. See **Schedule 1 [19] & 1 [22]**

The amendments also contain transitional provisions that apply this amendment to existing mortgages if an advance or further advance is made after the commencement of the amendment. See **Schedule 1 [26]**. The Bill also makes some consequential amendments. See **Schedules 1 [20] & [21]**

General

The amendments exempt a joint government enterprise that has the function of allocating funds for joint water savings projects from all duty chargeable under the Act. See **Schedule 1 [24]**

The amendments enable regulations of a savings or transitional nature to be made as a consequence of the amendments made to the Act. See **Schedule 1 [25]**

Statute law revision

The amendments clarify the nature of a court order by which dutiable property may be vested and be liable to transfer duty. See **Schedule 1 [1]**

The amendments clarify the mechanism by which various forms required for the purposes of the Act are approved by the Chief Commissioner. See **Schedules 1 [5] & [27]**

The Bill makes amendments to create consistency of language in respect of cancelled agreements. See **Schedules 1 [8] & [9]**

The amendments also replace references to provisions of Act that have been repealed. See **Schedules 1 [11] & [23]**

Schedule 2 Amendment of Fines Act 1996**Transfer of functions of Infringement Processing Bureau to Office of State Revenue**

The State Debt Recovery Office and the Infringement Processing Bureau within the Police Department have now become part of the Office of State Revenue. The amendments enable certain persons employed in the Office of State Revenue to issue and deal with penalty notices. See **Schedule 2 [1]**

The amendments also expand the functions expressed to be exercised by the State Debt Recovery Office to enable that Office to enter into arrangements for the collection and recovery of money payable under penalty notices and the issuing of courtesy letters. See **Schedule 2 [2]**

The amendments enable regulations of a savings or transitional nature to be made as a consequence of the amendments made to the Act. See **Schedule 2 [3]**

The Amendments also insert transitional provisions into the Act. These provisions:

- add the Treasurer and the Director of the State Debt Recovery Office as parties to service agreements in force as at 1 October 2003 that were entered into by the Infringement Processing Bureau for the recovery of penalties payable under penalty notices; and
- translate references in instruments relating to the Infringement Processing Bureau into references to the Office of State Revenue or the State Debt Recovery Office, as the case requires.

See **Schedule 2 [4]**

Schedule 3 Amendment of First Home Owner Grant Act 2000**Acquisition of fractional interests**

The amendments make it clear that an applicant cannot obtain a grant under the Act on the transfer of a fractional interest in a home. See **Schedule 3 [4]**

Multiple occupancy contracts and multiple occupancy land

The amendments insert sections 6A and 6B into the Act.

Section 6A applies to the purchase or construction of dual occupancy residences for two separate homebuyers under one contract. A person will be eligible under the Act if each home comprises an exclusive occupancy, that is, each homebuyer will occupy the home as a place of residence to the exclusion of those who purchase other homes, or for whom other homes are built, under the contract.

Section 6B gives eligibility to the purchase or building of a home on a parcel of land on which there is another home, or other homes, if each home purchased or built is an exclusive occupancy. See **Schedule 3 [3]**

The amendments make a number of consequential amendments See **Schedules 3 [1] & [8]**

The amendments also provide that the Department of Housing is not an interested person who is required to join in the making of an application under the Act. See **Schedule 3 [8]**

Purchasers under terms contracts

The amendments allow a purchaser under a terms contract to retain a grant under the Act even though the transaction is not completed by the registration of a transfer. See **Schedules 3 [2] & [7]**

The amendments also define *terms contract*. See **Schedule 3 [1]**

The residency test

The amendments introduce a period-based residency requirement that the home is to be occupied as the principal place of residence for 6 consecutive months to commence at any time within 12 months after completion of the eligible transaction in order to receive the grant. See **Schedules 3 [5], [6] & [9]**

Savings and transitional provisions

The Amendments make savings and transitional provisions as a consequence of the amendments made by Schedule 3. See **Schedules 3 [10] & [11]**

Schedule 4 Amendment of Land Tax Management Act 1956**Trust created by will**

The amendments restore the exemption provided to a deceased estate for the first tax year following the death of the owner of the land or, where the land has not been distributed pursuant to the will by the expiration of that time, for such longer period as may be approved by the Chief Commissioner. See **Schedule 4 [2]**

Principal place of residence

The amendments repeal and replace the exemption granted under the Act for a person's principal place of residence. The provisions are now set out in Schedule 1A. See **Schedules 4 [4] & [11]**

The amendments also make a number of consequential amendments. See **Schedule 4 [1], [3], [6], [7], [9] & [10]**

Exemption from land tax

The amendments grant an exemption from land tax in respect of the land of a joint government enterprise that has the function of allocating funds for water savings projects. See **Schedule 4 [5]**

Land used for two or more exempt purposes

The amendments insert, by way of statute law revision, a new section 10A. The substituted section makes it clear that if land is used for more than one purpose and each of those purposes is an exempt purpose, the land is exempt from taxation. See **Schedule 4 [8]**

Savings and transitional provisions

The amendments make savings and transitional provisions as a consequence of the amendments made by the Schedule 4. **Schedule 4 [12] & [13]**

Schedule 5 Amendment of Pay-roll Tax Act 1971**Wages liable to pay-roll tax**

The amendments close a loophole that allows the avoidance of tax on wages paid outside Australia to an employee who provides services in two or more States. See **Schedule 5 [1]**

Exemption from pay-roll tax

The amendments grant an exemption from land tax in respect of the land of a joint government enterprise that has the function of allocating funds for water savings projects. See **Schedule 5 [2]**

Recovery of pay-roll tax from directors and former directors of corporations

The amendments repeal part 5A of the Act as a consequence of the inclusion of corresponding provisions on behalf of the taxation Acts in the Taxation Administration Act 1996. See **Schedule 5 [3]**

Savings and transitional provisions

The amendments enable regulations of a savings and transitional nature to be made as a consequence of the amendments made by the Schedule 5. See **Schedule 5 [4]**

Schedule 6 Amendment of Taxation Administration Act 1996**Acceptance of money or return not necessarily an assessment**

The Bill makes a minor amendment to make it clear that the acceptance of money or a return does not of itself constitute an assessment. See **Schedule 6 [1]**

Recovery of tax from directors and former directors of corporations

The amendments insert a new Division 2 into Part 7 of the Act. The new Division applies the provisions relating to so-called "Phoenix companies" that are contained, in the Pay-roll Tax Act 1971 and sections 222AOA-222AOE of the Commonwealth Income Tax Assessment Act 1936, to all the revenue laws to which the Taxation Administration Act 1996 applies. Phoenix companies are companies that are wound up by the directors to avoid paying debts, which may include State taxes. The same directors may immediately start up another company to carry on the same sort of business. See **Schedule 6 [3]**

The amendments also makes a consequential amendment. See **Schedule 6 [2]**

Disclosure of information

The amendments reinstate the Commissioner of Police and the Commissioner of Vocational Training as authorised recipients of information obtained under or in the administration of a taxation law. See **Schedule 6 [5]**

The amendments also extend the prohibition on secondary disclosures of information to ensure that information obtained under or in the administration of a taxation law cannot be further disclosed without the consent of the Chief Commissioner. See **Schedule 6 [6]**

Review of decisions by the Administrative Decisions Tribunal

The amendments create consistency with the Administrative Decisions Tribunal Act 1997 by providing that the decisions of the Chief Commissioner that are subject to review under that Act are decisions within the meaning of that Act. See **Schedule 6 [7]**

Minor amendments

The amendments delete an obsolete provision. See **Schedule 6 [4]**

The amendments also extend the power of the Chief Commissioner to use amounts that would otherwise be required to be paid to a person to offset a tax liability of the person. See **Schedule 6 [8] & [9]**

Savings and transitional provisions

The amendments make savings and transitional provisions as a consequence of the amendments made by Schedule 6. See **Schedule 6 [10] & [11]**

Schedule 7 Amendment of Unclaimed Money Act 1995**Increase in minimum amount required to be returned as unclaimed money**

The amendments increase, from \$20 to \$100, the minimum amount required to be returned to the Office of State Revenue by a business in its unclaimed money return. See **Schedules 7 [1]-[3]**

Savings and transitional provisions

The amendments make savings and transitional provisions as a consequence of the amendments made by Schedule 7. See **Schedules 7 [4] & [5]**

Mr BRYCE GAUDRY: I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

WORKERS COMPENSATION AMENDMENT (INSURANCE REFORM) BILL**Second Reading****Debate resumed from 13 November.**

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [11.05 a.m.], on behalf of Ms Reba Meagher, in reply: I thank honourable members for their contribution to the debate on the Workers Compensation Amendment (Insurance Reform) Bill. Rather than respond to each of the Opposition's errors I will simply respond to the most obvious. In relation to the expanded definition of "wages", as the honourable member for Gosford is well aware, it was not the purpose of the change to the wages definition to raise extra workers compensation premiums. WorkCover was instructed to do everything possible to make the changes revenue neutral through a reduction in the rates for each classification and the experience F factors. WorkCover has undertaken extensive consultation with employers regarding the appropriate average premium rate in light of the changes.

Every single classification has had its premium rate reduced by at least 10.3 per cent to take into account the additional payments to workers, not previously included. This figure was estimated by PricewaterhouseCoopers. The experience, or F factors, have been similarly reduced. The result is that the average premium for 2003-04 has been reduced to 2.57 per cent from 2.87 per cent. Some employers will find their premiums reduced by more than 10.3 per cent because of a good claims record in their industry. For example, the premiums of cotton growers, clothing and footwear retailers, newsagents, pharmacies, underground gold mining companies and soft drink manufacturers, among others, have reduced by 24 per cent in 2003-04, due to fewer claims. Some employers, of course, will have an increase, due to a larger number of injuries and claims in their industry.

The WorkCover deficit currently stands at \$2.982 million. This is a \$248 million improvement on the December 2002 valuation. The scheme's performance is the strongest it has been for more than a decade and compares favourably to the unviable and financially haemorrhaging scheme that existed prior to the Government's legislative reforms. Again WorkCover's success in combating fraud is well known to the Opposition, particularly to the honourable member for Gosford. These reforms will encourage WorkCover to build on its existing work in undertaking wage and premium audits and review of employer classifications.

Recent initiatives to improve premium compliance have generated additional premiums of \$47 million. Further activity along the lines proposed is expected to reduce the deficit in the scheme by approximately \$100 million over the next six years. While this is beneficial to the scheme, premium compliance and fraud are not the major contributors to the scheme's poor performance. But those cheating the system currently face severe penalties as a result of new fraud provisions introduced by the Carr Government in the Workers Compensation Legislation Amendment Act 2000 and the 2001 Act.

These provisions extend the coverage of the Act to also include all persons who play any part in a fraudulent act against the WorkCover scheme. Under these provisions, fraudulent persons are subject to a maximum penalty of \$55,000 or imprisonment for two years or both. WorkCover has established a Fraud Investigation Team, which consists of a team of specialist investigators and prosecutors who bring decades of experience to the investigation of criminal activity in the WorkCover scheme. The unit aims to ensure that employers pay the correct premiums, health professionals provide appropriate services and fraudulent claims are detected as early as possible.

Using sophisticated data management approaches, WorkCover can now identify claimants who may be illegitimately receiving benefits from several employers with policies managed by different insurers for a single injury, or who may be claiming benefits while working and receiving wages. WorkCover has also invested significantly in software designed to improve systems for detecting a variety of other types of claimant fraud. The Government will maintain its tough line on compliance and fraud to ensure that the system is fair to workers and employers alike.

The bill will create the administrative framework necessary for WorkCover to implement the recommendations made in the report entitled "Partnerships for Recovery: Caring for injured workers and restoring financial stability to workers compensation in New South Wales". The Government's implementation of the report will complete the reform process that the Minister announced in June 2000, which aims to build a system that is fair, affordable and efficient. I take this opportunity to remind honourable members of the Government's achievements in reforming workers compensation over the past three years. The Government's reforms in 2000-01 put the framework in place to provide incentives to employers, better injury management and fairer premiums. Since that time we have achieved a great deal. A number of highly successful initiatives were introduced from 1 January 2002, including professional liability payments, the claims assistance service and the Workers Compensation Commission.

PricewaterhouseCoopers estimates that the 2001 legislative changes made by this Government have saved the scheme \$1,533 million, with 94 per cent of those savings made in legal and investigation costs. The savings are being passed on to workers. The actuaries state in their report that payments made directly to injured workers have increased by \$47 million. We are now seeing the benefits of a workers compensation scheme that supports injured workers effectively and facilitates their earliest possible return to work following injury. As a result of these reforms about 75 per cent of workers now get weekly benefits within seven days of the injury being notified to the insurer compared with 53 per cent under the previous arrangements.

Disputes have reduced by 75 per cent from 8,000 per quarter to 2,000, and the average reporting delay for an injury has almost halved from a median of 21 days to 13 days. These results reveal significant benefits for injured workers. At the same time \$67.5 million in premium discounts have been made available to safer employers. In all ways this is an effective piece of Government legislation that has been improved by amendments. It demonstrates clearly the targeting of these reforms both to benefit employees and to reward those employers who deal effectively with the issues in the Workers Compensation Act. I commend the bill to the House.

[Debate interrupted.]

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

That Standing and Sessional Orders be suspended to permit additional speakers in the debate on the Workers Compensation Amendment (Insurance Reform) Bill.

WORKERS COMPENSATION AMENDMENT (INSURANCE REFORM) BILL**Second Reading**

[Debate resumed.]

Ms ANGELA D'AMORE (Drummoyne) [11.13 a.m.]: I support the Workers Compensation Amendment (Insurance Reform) Bill, which puts in place a new framework for the delivery of workers compensation services to workers and employers. Most workers compensation services are now provided by the six managed fund insurers, which hold licences under the scheme and hold scheme funds on trust. This bill will replace the managed fund insurers with a nominal insurer, which will act as the sole insurer providing workers compensation to most employers and workers and hold scheme funds in a single trust fund to be known as the Workers Compensation Insurance Fund. The nominal insurer will engage scheme agents to act on its behalf in delivering workers compensation services. Scheme agents will hold contracts to provide services such as issuing policies to and collecting premiums from employers, asset and funds management and investment, and managing workers' claims. Scheme agents will be engaged by contract rather than holding licences. This will make managing the performance of the insurers reactive.

WorkCover is currently constrained by the existing legislation to a role as a regulator. WorkCover will act as the agent of the nominal insurer in contracting with scheme agents. In this way WorkCover's powers to exercise central control over the management of the scheme will be enhanced. WorkCover's regulatory functions will also be extended to scheme agents to ensure that it has sufficient powers to act in the best interests of the scheme. The practical effect of the reforms will be that WorkCover as the administrator for the nominal insurer will play a stronger role by having greater powers to oversee the activities of agents and service providers within the scheme. WorkCover will be able to monitor their performance against the agreed contract, undertake audits of performance and encourage continuous improvements through renewing the contracts of the most efficient agents.

The new process will also allow specialist service providers, such as those with expertise in the management of catastrophic claims, to enter the market, provided they are able to demonstrate the capacity to undertake the roles and meet the performance standards and outcomes stipulated in the tender process. I understand that insurers currently operating in the market have indicated that they are interested in remaining in the reformed workers compensation market. I contacted Mary Yaager, the workers compensation officer for the Labor Council of New South Wales—with which the majority of unions in this State are affiliated—and I am pleased to report to the House that the Labor Council supports these amendments. Worker compensation can be a very difficult area and continuous reforms are needed. I was an industrial relations practitioner prior to my election to this place so I have a great deal of expertise and experience in this field. I look forward to the implementation of these reforms. The reforms in the bill before the House build on the important work that the Government has already done in controlling the costs of the workers compensation scheme while ensuring that injured workers receive prompt payments and immediate access to medical and other health care. I commend the bill to the House.

Mrs JILLIAN SKINNER (North Shore) [11.18 p.m.]: I speak on the Workers Compensation Amendment (Insurance Reform) Bill primarily because I represent an electorate that comprises the fourth largest central business district [CBD] in Australia. Many employers in my electorate—not only in the North Sydney CBD but in the thriving business areas of other suburbs—have not had an opportunity to contribute to discussions about this bill. I have been unable to consult them or anyone else who takes a great deal of interest in this legislation. Honourable members will be aware that less than 24 hours after the introduction of this bill the Government proposed its passage through all stages, and suspended standing and sessional orders twice in order to do so. In other words, the Government did not want to give Opposition members the opportunity to consult with local communities—or even each other—about this bill. That is a great concern.

Mr Bryce Gaudry: Tell the truth, Jillian.

Mrs JILLIAN SKINNER: I am astonished by the attitude of the Parliamentary Secretary. He will remember the scenes in this place when the Labor Council of New South Wales, to which the previous speaker, the honourable member for Drummoyne, referred, took great exception to the Government's proposed amendments to WorkCover. Perhaps the Government feared that employers would take the same kind of action on this occasion because they will certainly miss out under this bill. Although employers have not seen the specifics of the bill, they have raised with me their concerns about the Government's actions in this regard. For example, they have complained about the Government's conduct this time last year when it rushed through Parliament changes to the definition of wages, which has now been expanded further to include superannuation, directors' fees, fringe benefits and so on. I have raised this matter in my newsletters to constituents and employers have responded to say that they are disgusted that the changes have been introduced in this manner.

I join the honourable member for Gosford in expressing the Coalition's great concern and disgust that the Government has introduced this important legislation without giving us a proper opportunity to consult and without allowing the business community to have its say. I have read the bill and various contributions of honourable members who have spoken in the second reading debate and I am concerned about the management of the funds. A number of reports have been conducted into WorkCover but there has been no general review. It is proposed that a parliamentary committee of the Legislative Council inquire into WorkCover. I believe that committee would formulate some ideas that the Government should take on board.

I am particularly concerned about the bill's establishment of a nominal insurer—the title is so ridiculous I can never remember it. That is not an insurer but a fund manager. It will have responsibility for operation of the funds, which comprise the contributions made by employers as premiums. The proposed functions of the nominal insurer indicate that the Government will control the funds just as it controls the schemes, but it will not accept any responsibility for how those funds are managed. It will not ensure that the funds operate satisfactorily and it will not accept any responsibility for the fact that employers' liabilities will be discharged by payments into the fund. As my colleague the honourable member for Gosford said, the Government is saying that it wants all the power but no responsibility. That is unsatisfactory.

As has been said, many reports have been produced covering what should be done about WorkCover, including the 1997-98 Grellman report, the McKinsey report and the PricewaterhouseCoopers report. However, no inquiry has been initiated despite the fact that the Grellman report recommended the establishment of an advisory council. The WorkCover fund is \$2.9 billion in deficit. According to the PricewaterhouseCoopers report, WorkCover is administering a fund that has an annual income of \$7 billion, but its operations have never been examined. I share the very grave concerns expressed not only by my parliamentary colleagues on the Coalition side but also by the business community. I speak particularly on behalf of the business community—those people who have offices and businesses and who work in the North Sydney central business district and elsewhere in my electorate.

Mrs KARYN PALUZZANO (Penrith) [11.22 a.m.]: I support the bill, which, as honourable members are aware, constitutes the final stages of the reform program for workers compensation announced by the Minister in June 2000. I propose to take this opportunity to remind honourable members of the Government's achievements in improving outcomes for injured workers. The implementation of the reforms to the workers compensation legislation made in 2001 has been the cornerstone of the Government's achievements. A number of successful initiatives were introduced from 1 January 2002, including provisional liability and the establishment of the Workers Compensation Commission and the claims assistance service. Provisional liability has led to workers being paid benefits as soon as their injury has been reported. The Workers Compensation Commission has replaced the former elaborate, slow and costly court-based dispute resolution system with simpler, fairer and faster ways of resolving disputes. The claims assistance service has helped thousands of workers and employees to make and deal with workers compensation claims without the need to seek legal advice to answer straightforward questions.

Since 2002 WorkCover has also introduced a number of initiatives to improve return-to-work outcomes. The ultimate objective of the workers compensation system is to return injured workers to suitable employment in a timely, safe and durable manner. Early return to health and work is beneficial to injured workers both socially and economically. Employers also benefit through a reduction in the cost of claims and reduced premiums, and the scheme's financial performance is improved through reduction of future liabilities. WorkCover has a number of programs and strategies in place to assist injured workers and to improve their return-to-work outcomes. These include a job placement program that assists injured workers to find

employment with a new employer by providing financial initiatives such as wage subsidies to the new employer and by providing funding for the purchase of essential equipment to accommodate a worker's impairment so that he or she can return to suitable employment or participate in retraining.

A work trial scheme provides injured workers with up to six weeks on-the-job experience to upgrade their fitness or to learn new job skills. Retraining is also provided to assist workers who need to acquire or update work skills and knowledge. A trial liability job replacement initiative has been established in conjunction with insurers to improve job placement services for long-term injured workers. Case management programs have been implemented to introduce a co-ordinated and managed program integrating all aspects of claims and injury management. WorkCover is considering a number of other initiatives that will be developed further in the course of implementing the new workers compensation scheme.

The bill will allow WorkCover to make major reforms to the manner in which workers compensation is delivered to injured workers and their employers to ensure that premium collection and claims management services are provided by the most expert and experienced service providers available. These reforms will provide the administrative infrastructure necessary to enable WorkCover to act as a stronger scheme manager and to monitor the performance of all stakeholders in ensuring that injured workers receive benefits and entitlements as quickly as possible and that they receive the required support to enable them to return to work. I commend the bill to the House.

Mr WAYNE MERTON (Baulkham Hills) [11.28 a.m.]: Workers compensation is probably one of the most important aspects of insurance facing this community. Every day millions of workers throughout Australia face employment-related perils that can result in injury, and sometimes very serious injury that might tragically bring their working life to an end. No-one is suggesting that these people should be denied the compensation to which they are entitled. I recall when members of the trade union movement marched up and down Macquarie Street jeering, heckling and hassling the State Labor Government in response to its reform of the workers compensation system. The union movement and the workers thought they were going to be denied fair and proper compensation, and in that instance they were probably correct.

Workers compensation has had a lengthy history of change and reform in New South Wales. However, we must look at the other side of the coin. The great majority of employers are hardworking decent people who provide employment and who are trying to obtain some measure of security for their families and their future. The bill does not appear to help anyone. It has been rushed through this Parliament in about 24 hours, and we are now being called upon to debate it. I congratulate the shadow Minister for Industrial Relations, the honourable member for Gosford, who painstakingly examined this legislation at short notice and presented an excellent speech yesterday. He did not have the benefit of being able to consult with people who are vitally involved in the process, that is, employers. Employers pay the premiums and, in many instances, their businesses are very close to the line when they receive the bill for their workers compensation premiums on a Friday afternoon. They often ask whether it is worthwhile continuing in business or whether they should forget it and close down. Quite simply, many businesses cannot afford the premiums.

It is not workers compensation insurance; it is merely a loan because if a person makes a claim and it is paid out, the employer has to repay it. It is a furphy, a fallacy and a fundamentally flawed concept to talk about workers compensation insurance in New South Wales, where the rates are substantially more than those in most other States. If that is not a deterrent for employment, I do not know what is. Nevertheless, this Government conducts inquiry after inquiry but it is not prepared to bite the bullet and ascertain why insurance premiums are higher in New South Wales than in most other States. Workers compensation is about a sense of balance, fairness and equity between employers and employees, and this legislation does not provide that.

When an employer in a small factory in Western Sydney receives his workers compensation bill on a Friday afternoon after a bad week and sees his premiums, he wonders whether to open on Monday morning or to call a staff meeting on Friday afternoon and tell his staff he has had enough and cannot continue. That is the scenario in many businesses throughout New South Wales but, regrettably, the Government does not seem to understand that. In the fine print this legislation provides that the new structure—the Nominal Insurer, which is established as the statutory legal entity—will operate as a licensed insurer to issue workers compensation, in place of the existing management fund. But at the end of the day an employer may not be insured at all.

The Government makes no apology for the fact that the Nominal Insurer enjoys the provisions of proposed section 154B (5). In fact, it is quite upfront about it. I suppose this is the bitter pill—misguided but honest—because at least the Government admits it. That section gives no assurance, no reassurance and no

certainty to a person running a factory that if a claim is made against them there will be sufficient funds to cover the claim. The Government is not prepared to accept liability if there are insufficient funds as far as the Nominal Insurer is concerned. Proposed section 154 B (5) states:

The liabilities of the Nominal Insurer as insurer under a policy of insurance can only be satisfied from the Insurance Fund and are not liabilities of the State, the Authority or any authority of the State.

If the fund goes bad, the hat is passed around. Employers who run factories at St Mary's, Miranda, Blacktown or other places have paid insurance premiums and have paid out claims made against them in the past three to five years. They have nothing to do with the day-to-day operation of workers compensation and the Nominal Insurer, and if the fund goes caput it is not their fault. If it goes caput the Government does not want to know anything about it. No-one in the State wants to know anything about it. Who will pick up the tab? The employers. Members of the Government do not understand what it is like to run a business.

If there were no employers in New South Wales there would be no jobs: small business provides jobs. I would have thought that a committed Australian Labor Party Government would be interested in maintaining employment. If the Government continues to disregard the rights of employers, put their assets at risk, and make it not viable and workable for them to run their businesses, they will leave New South Wales and go somewhere else where there is a decent workers compensation system with lower premiums, and where they really do have insurance. The Government is offering employers a loan to cover any claims. If the fund goes caput the Government double-dips and passes the hat around amongst employers. How much does the Government think employers can take? How much more should they be penalised for trying to have a go and earn money for their employees? The Government does not understand that without employers there would be no jobs. The Government has industrial officers, and I think it knows that the present system is not working. We have a deficit of something like \$2.9 billion.

Mr Gerard Martin: It is notional.

Mr WAYNE MERTON: It is a deficit, notional or not. That is what the reputable firm of accountants say.

Mr Bryce Gaudry: A triple-A rating.

Mr WAYNE MERTON: Let us not talk about the State rating but about the reality of workers compensation. There is already a \$2.9 billion debt. If the Government were fair dinkum about addressing the question of workers compensation it would give the Opposition adequate time to consult with people in the industry. Employers have a little interest in this! They pay \$7 billion worth of premiums yet they have not been consulted. This legislation is going to go through Parliament in something like 24 hours and the employers will be presented with a fait accompli. Is that democracy or is that Australian Labor Party-style democracy in 2003? This is a government that is purported to represent workers—employers are workers. The rights and interests of employers are intrinsically woven with the rights and privileges of employees, because without employers there would be no employees.

The Opposition does not believe that if the fund goes caput the Government should be able to say to employers, "Well, fellows, it is all yours. We have collected the premiums. You have paid them in good faith and now you have not got any insurance. We will pass the hat around again and make you pick up the shortfall." That is simply not good enough; it is appalling. The Government is aware of the problems. Some years ago people in the streets hassled Cabinet Ministers as they walked down Macquarie Street. Yet the Government is going to rush through this legislation without consulting all the stakeholders. The Opposition has submitted quite clearly that this legislation cannot work; it is inequitable, unfair and unjust, and at the end of the day it is a deterrent to employment in New South Wales.

Mr MICHAEL RICHARDSON (The Hills) [11.39 a.m.]: I want to sound a note of protest about the way in which the Government is conducting this debate. It is absolutely disgraceful that a bill on an issue as contentious as workers compensation has been introduced in this House in the way that it has been, with no opportunity whatsoever for the Opposition to consult with employers or to consider its position, and clearly no real consultation between the Government and employers. While the Opposition acknowledges that workers compensation is in place to protect the rights of injured workers—and the Opposition stands for the rights of injured workers—we believe that the scheme needs to be efficient and effective, and that it should not be a drag or penalty on business in this State.

Businesses have rights, too. Time and again employers in my electorate complain to me about the extraordinarily high cost of workers compensation premiums. They complain that it is not insurance at all, that they are simply paying for the cost of compensating injured workers up front—and that they continue to pay for it for years afterwards by way of grossly increased premiums. Employers are absolutely bemused that the Government cannot get this issue right—and it never has been able to get it right. The Parliamentary Secretary who introduced this bill—incidentally, the bill must have been very important to the Government for a Parliamentary Secretary to have introduced it—spoke about the workers compensation reform process starting in 2000. We all remember what happened then. We all remember the blockading of this Parliament; we all remember what the union movement thought of the Government's attempt to reform the system—

Mr Chris Hartcher: When a rotten, little rat sneaked through.

Mr MICHAEL RICHARDSON: Yes. We also remember the Premier sneaking, like a rat through the sewers, through the secret tunnel from the State Library into the Parliament House car park to avoid the picket line. That has been the attitude of this Government towards WorkCover, and the reform process has been a complete farce. The facts are that WorkCover's total deficit as at 30 June last year was \$2.8 billion, with total assets at \$5.766 billion and liabilities at \$8.567 billion. In other words, it has an enormous total deficit of almost \$3 billion. However, there is no indication in the legislation that that deficit will in some way be erased or even reduced. The Hon. John Della Bosca spoke in another place and in the media about the massive improvements his reforms would make to workers compensation. However, we really have not seen the results of those improvements.

One of the issues that the Opposition has been very concerned about, and that employers in my electorate have spoken to me about time and again, is WorkCover fraud. Unfortunately, WorkCover fraud is rife, particularly when it comes to bad backs. That is the fallback position for a large number of fraudulent employees. I recall a nursery operator in my electorate coming to see me a few years ago. He told me that a fellow had been working for him for 2½ days when he put his back out. For more than six months that employer paid out an enormous amount of money to keep the employee in the lifestyle to which he was accustomed, and WorkCover did not resolve the issue.

To his credit, the Minister at least paid lip service to the idea of rehabilitating injured workers. The Opposition believes that where a worker has been genuinely injured, getting that worker back to work should be a primary objective of WorkCover. However, in too many instances that simply does not happen. Employees who understand how to rot the system are doing exactly that, and it is the employers who pay every time. The Minister claimed to have saved WorkCover \$1.5 million a year through fraud detection and prevention—which, I think members would agree, is a drop in the ocean—but he could not tell Parliament how many people were in WorkCover's fraud squad or how much their work cost the scheme each year.

So although the Minister claimed the saving of \$1.5 million a year, he was not able to provide concrete evidence to back up that assertion. Since the Fraud Prosecution Unit was created, 23 prosecutions have been commenced, there have been four successful prosecutions and a further 19 matters are awaiting hearing. It now costs almost \$400 million a year to run WorkCover, and 16 per cent of premiums collected go to the administration of the scheme. In other words, before \$1 in compensation is paid to an injured worker, before he has got through the door of the doctor's surgery to get some rehabilitation and before he has seen a physiotherapist, \$400 million has gone out in costs. I do not believe that any provision in the bill will address that issue. The Government has not seen fit to brief the Opposition on the legislation's effect on the workers compensation scheme. It has also not seen fit to brief employer organisations on what it means and to seek their concurrence. The honourable member for Gosford would confirm that.

Mr Chris Hartcher: Absolutely.

Mr MICHAEL RICHARDSON: What we have is something that seems like a good idea. Some fancy terms have been thrown around, we have the establishment of the Nominal Insurer as a new statutory legal entity—

Mr Chris Hartcher: That's why it's called the Nominal Insurer: because the insurance is nominal.

Mr MICHAEL RICHARDSON: That is right. As the honourable member for Gosford said, it is called the Nominal Insurer because the insurance is nominal. Perhaps it is a nominal position as well. I suspect that one thing that can be guaranteed is that the Nominal Insurer will add to that \$400 million cost of

administration of the WorkCover scheme. The Nominal Insurer will be established as a statutory legal entity that will operate as a licensed insurer in place of the existing managed fund licensed insurers to issue workers compensation policies of insurance and deal with claims under those policies as insurer. The Nominal Insurer will be able to appoint agents to exercise any of its functions. As the honourable member for Gosford said in his excellent contribution to this debate—made at very short notice, I might add—the Nominal Insurer will simply replace the fund manager.

The Government has not advanced any meaningful argument as to why this change is being made, or as to what advantage it will confer on the system. Does it address the issues that I have spoken about? No, it certainly does not. Does it address the issues that are of most concern to employers and injured employees? No, it does not. It simply changes the name for the sake of change; it simply shuffles the chairs on the deck of the *Titanic*. For those reasons the Opposition reserves its position on the bill so we may consider it. We will have time to do so before the debate goes to the upper House. I am sure that the honourable member for Gosford will have a great deal of input in that debate in the upper House.

Question—That the word stand—put.

Division called for and, pursuant to sessional orders, deferred.

SUPERANNUATION LEGISLATION AMENDMENT (FAMILY LAW) BILL

Second Reading

Debate resumed from 12 November.

Mr CHRIS HARTCHER (Gosford) [11.50 a.m.]: I thank the Clerks, as always, for their excellent assistance in these matters. The Coalition does not oppose the Superannuation Legislation Amendment (Family Law) Bill. This bill makes a number of changes to bring New South Wales government superannuation schemes into line with changes to Commonwealth legislation. It also rectifies some mistakes made in other superannuation legislation. The bill makes a number of amendments to legislation governing the New South Wales judicial, parliamentary and public sector employees superannuation schemes. The changes stem from Commonwealth reforms that provide for the division of superannuation on marriage breakdown under the Family Law Act 1975. The Commonwealth laws make superannuation part of the marital property and provide for superannuation splitting where that is appropriate.

The changes contained in this legislation set down the processes to be followed in dividing superannuation assets, the valuation of those assets and the requirements for information from superannuation trustees. 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. The result of this legislation 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 bill contains also a number of amendments to deal with three issues of a minor nature. It appears, from the nature of those amendments, that the Government forgot previously to extend certain changes to superannuation to all the superannuation legislation on the New South Wales statute books. The Acts that appear to be affected are the Transport Employees Retirement Benefits Act 1967, the New South Wales Retirement Benefits Act 1972, the Local Government and Other Authorities (Superannuation) Act 1927 and the Public Authorities Superannuation Act 1985. These amendments will enable some superannuation changes previously made to be applied consistently across all New South Wales public sector schemes.

There were three changes. The first was to 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. These changes were made to all other relevant legislation in 2000. Apparently the schemes dealt with by those two Acts were not adjusted in the year 2000 legislation. The second change is to extend 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. Those changes were made to all other relevant legislation in 1993 and 2000. It is amazing that such a large number of Acts could have been omitted from supposedly comprehensive legislation that was passed regarding same-sex partners and de facto partners in 1993 and 2000.

The third of the changes was to extend the provision of spouse benefits in the Transport Employees Retirement Benefits Act 1967. 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. These changes were made to all other relevant legislation in 2002. One can only question why the Transport Employees Retirement Benefits Act was overlooked when changes were made in that year to other superannuation schemes. One wonders who has fallen asleep at the wheel when supposedly looking after the benefits of transport employees. The original railway superannuation scheme set up in this State was the first superannuation scheme established anywhere in Australia. For many years it was the model used in the administration of other government superannuation schemes and some private schemes. That was proudly hailed—and quite rightly so—as an enormous social landmark at that time.

I pay credit to the Australian Labor Party and what was then the Australian Railways Union, or its predecessor, for initiating that major landmark legislation to introduce superannuation for railway employees. I have said that it was the first superannuation legislation in Australia, but it was probably the first in English-speaking nations. We tend to forget some of the great pioneering works, but the trade union movement, to its credit, in those days was one of the architects of many pioneering changes. I acknowledge also that the work done to ensure people have superannuation has been of enormous benefit in enabling people in good superannuation schemes to plan their lives. This legislation recognises the unfortunate prevalence of marital and relationship breakdowns in our society, and enables appropriate arrangements to be made by the parties regarding treatment of superannuation assets in those circumstances.

Essentially, superannuation is a Commonwealth matter, and almost all private sector employees are not covered by the legislation now under consideration. The State superannuation schemes apply to only State employees, and that is why the various Acts mentioned in this debate—except for the parliamentary contributory scheme, which of course is of concern to members of Parliament, who are not public servants—relate to State public services. Several million people in the private sector are covered by Commonwealth legislation. However, there must be almost half a million people covered by State superannuation legislation in its various forms, and this bill will make the State schemes consistent with the Federal scheme. This is important legislation. It reflects the Australian interest in superannuation and the important role that superannuation plays in enabling people to plan for their own retirement and control their own investments. The New South Wales Opposition does not oppose the bill.

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [11.58 a.m.], in reply: I thank the honourable member for Gosford for his contribution to the debate, made on behalf of the Opposition, and I thank the Opposition for not opposing the bill. In fact, the honourable member's speech was substantially in support of the bill. He also paid tribute to the role of the trade union movement in the development of superannuation schemes back in the days when superannuation was introduced into the railway industry. With those few remarks, I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

MOTOR ACCIDENTS LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 12 November.

Mr CHRIS HARTCHER (Gosford) [12.00 p.m.]: I indicate at the outset that the Coalition, having had a greater opportunity to consider the bill, has some concerns about it. Notice of this legislation was given on Tuesday, and on Wednesday night and again on Thursday afternoon standing and sessional orders were suspended to allow it to pass through all stages. I saw the bill, on behalf of the Opposition, for the first time on Wednesday night. I have had only a limited opportunity to consult with any interested parties and the Coalition

has had no time in which to determine its position on the legislation. As I indicated on the workers compensation bill and as the honourable member for Epping indicated on the audiovisual link legislation, we reserve our rights when this matter comes before the Legislative Council, to reconsider whatever position we adopt in the light of all the evidence and all the submissions we are able to obtain.

A number of weeks remain in the parliamentary program outlined in the notice given by the Leader of the House some months ago. The Parliament is scheduled to sit in both November and December. There is ample time for this legislation to be treated in accordance with the standing orders. On two occasions, standing and sessional orders were suspended to force this legislation through the House. One can only ask why the Government is so worried about sitting in December. The dates are in our diaries, we are ready to go, yet we have this extraordinary urgency which means that the legislation is now being raced through the House. I have now had the opportunity to consult with the Law Society, an opportunity I was given only yesterday afternoon. I must apologise to the ministerial adviser to whom I indicated that we would not have any problems with the bill. When I was able to speak with the Law Society yesterday afternoon some concerns were expressed to me. Accordingly, there is a need for us to consider the matter further.

On 5 December 2002 the Hon. John Della Bosca, the Special Minister of State, in the Legislative Council made a ministerial statement about the Supreme Court case of *Pender v Powercoal*. I will not go through that statement, but essentially he said that the decision was contrary to the interests of the insurance schemes operating for injured workers in this State, and that it was inappropriate and inapplicable. He said that people injured while driving motorised equipment on industrial sites should be able to claim under the Motor Accidents Compensation Act rather than under the Workers Compensation Act or, in the coalmining case, the Coalmining Scheme. He said that at some stage he would introduce legislation to overturn the decision of the court in *Pender's* case and he would make that legislation retrospective.

It has taken one whole year from 5 December 2002 to draft a fairly simple piece of legislation. That is quite a serious reflection on the Minister. I believe it is a reasonable assessment to make of the Minister that he needs to get his act together. He constantly fails to do the right thing by the people of the Central Coast, an area for which one of his ministries is responsible. He has now been caught out, as Special Minister of State, with this legislation. It has taken a whole year to get a fairly simple piece of drafting before the Parliament. One can only say that the Premier should have a good hard look at whether he retains the Minister. When the Minister made his statement the Leader of the Opposition in another place, the Hon. Michael Gallacher, indicated that the Coalition would give the legislation the priority it deserved, and that is what we are doing.

In his reply to the Minister, the Leader of the Opposition said that there is a difference in the way that workers are treated in this State and he made it clear that we do not support injured workers being treated differently. *Pender's* case relates to coalminers, and the Opposition has continually referred to coalminers being treated under a different workers compensation scheme than other workers. This issue needs to be addressed as a matter of urgency to ensure that 100 per cent of workers in this State are treated equally under the law. That is the position of the Coalition, as put so clearly by the Hon. Michael Gallacher on 5 December 2002. The concerns we have about this bill are perfectly consistent with the concerns voiced by the Hon. Michael Gallacher on that occasion. We are not happy with this ongoing system of differing schemes for compensation in New South Wales. That is what has caused the confusion here. That was the reason for the court case. That is the reason for the introduction of this bill.

In this State a number of different schemes operate. The Government refuses to rationalise them and the result is that all workers are not being treated equally. Workers are entitled to equal treatment under the law if they are injured in the course of their employment. That is not happening, and it is not happening because coalminers have a separate scheme which is outrageously expensive and which is threatening jobs and job creation in New South Wales. I am advised that the coalmining scheme in New South Wales is four times more expensive than a similar scheme in Queensland. The New South Wales scheme adds one dollar to every tonne of coal that is sold overseas. At present the coal market is extremely competitive. The coal industry, which is of crucial importance to the Hunter district and has been important historically to the western district of New South Wales, has a problem with financial viability and, as we have seen only two days ago, in one mine 45 contractors have lost their jobs.

Unless the coalmining scheme is addressed and the costs that it imposes on efficient operations are brought to account, there will be further job losses in New South Wales. I do not think any member of this House, especially members from the Hunter region, would want to see that happen. As the Hon. Michael Gallacher said on 5 December 2002, and as I repeat now, the Opposition is concerned about the confusion in the

schemes. If a coalminer using motorised equipment is injured in a coalmine and brings his claim not under the coalminers compensation scheme but under the motor accidents scheme, simply because that gives him a better range of benefits, that was his legal advice, and that is the law that was upheld by the Supreme Court, then he has acted within his legal rights. But then there is a confusing situation as to who can claim and what scheme will bear the costs.

In relation to retrospectivity, the Minister stated on 5 December that he intended to introduce legislation. As I said earlier, it has taken him nearly a year to do so. He wants to backdate this legislation to 5 December, which was the date of his statement. I am advised by the Law Society that all third party claims lodged after 5 December 2002 would be unable to proceed under this bill's retrospectivity clause. The Law Society has a genuine concern about retrospectivity. I will inform the House of the advice I was given by the Law Society, because it is most important and appropriate and it is why we will not facilitate the passage of this bill. The Law Society stated:

The effect of this bill is to prevent workers injured in an accident (not on a road or a road related area) resulting from the operation of any type of unregistered motor vehicle eg forklift, mobile crane, mine dump truck etc where the accident occurred as a result of the negligence of the employer (eg defect in the vehicle, negligent driving of fellow employee etc) from bringing a claim for damages under the *Motor Accidents Act/MACA*.

Prior to this legislation, the law as understood by practitioners and indeed as confirmed by the Court of Appeal in *Pender's* case was that such an accident was a motor accident and if the accident occurred as a result of the employee's negligence by the employer as a result, for instance, a defect in the crane, etc or the negligent driving of another employee of the same employer, the injured worker would be able to bring a motor accident claim and indeed must bring his claim under the *Motor Accidents Act/MACA*. This meant that the injured worker, though having the burden of having to complete and serve the motor accident claim forms, reports the accident to the police and follows the other procedural requirements of the *Motor Accidents Act/MACA* could bring the claim for non-economic loss, that is pain and suffering, loss of enjoyment of life, etc, if he or she exceeded 10% whole person impairment threshold under the *Motor Accidents Act/MACA* rather than having to pursue work injury damages claim with a much higher threshold of 15% and the other restrictions making a work injury damages claim unsustainable.

That is the nub of the problem. Under one scheme one has to jump the 10 per cent hurdle, but under the other scheme it is the 15 per cent hurdle. It is no wonder people are seeking compensation under the motor accidents scheme rather than the workers compensation scheme. The letter continues:

Accordingly, there are a large number of these claims outstanding, some of which were commenced prior to 5 December 2002, some of which were commenced after that date. If the action was commenced prior to 5 December 2002, it escapes this nasty piece of legislation. However, if the client was unfortunate enough to start proceedings after 5 December 2002, not only will that action be not able to be proceeded with but the worker who has brought the action is exposed to a costs order in favour of the Defendant as a result of the proceedings being discontinued.

It is pertinent to point out that these actions have been brought pursuant to the *Motor Accidents Act/MACA* since 1988 and indeed all practitioners who practice in this area have told their clients that they have no option but to follow the procedural requirements of the *Motor Accidents Act/MACA* and sue for damages pursuant to the *Motor Accidents Act*.

Without any notification these clients have not only been retrospectively deprived of their legal right to bring a damages claim, but will become liable to pay thousands of dollars in costs.

This is the worst kind of retrospective legislation taking away people's right retrospectively but in addition exposing them to a costs order.

It is relevant that 5 December 2002 was the date when apparently the Minister, Mr Della Bosca, announced in Parliament that he would bring down legislation to cure the Court of Appeal decision in *Pender* (which confirmed that all of these offroad unregistered vehicle type accidents were subject to the *Motor Accidents Act/MACA*).

There has been no consultation with the Law Society, Bar Association or Labour Council and indeed the Law Society only became aware of the legislation and its impact on 12 November which was the date prior to the Bill being introduced into Parliament.

We cannot agree to the passage of the legislation at this time. However, we reserve our position. If the Government consults with the relevant organisations and those organisations withdraw their objections, our position could change. But following standing and sessional orders being suspended twice, retrospectivity, the rights of thousands of people being affected, possible orders for legal costs, and the possible effect on the viability of the coalmining industry we are obligated to oppose the bill being read a second time at this stage. We ask the Government to defer the debate pending proper consultation with the relevant bodies, including the Law Society, the Bar Association and the New South Wales Labour Council. The coalmining industry is highly unionised. What is the view of the Construction, Forestry, Mining and Energy Union of the bill? I suspect that it has been neither consulted nor advised about the bill, although it is extremely interested in pursuing the appropriate legal claims of its members who are injured in industrial accidents.

The Government will win a division in the Legislative Assembly. I do not know whether it will win a division in the Legislative Council on legislation that affects the rights of many thousands of people and on which there has been no consultation. I venture to suggest it will be much harder for the Government to win a division in the Legislative Council than it would be in the Legislative Assembly. I do not believe that ministerial statements should change the law. It is a practice that is appropriately criticised and complained about. For example, the Federal Treasurer will issue a press release about changes to tax laws and everyone's tax rights being affected, and it is ages before the legislation is introduced into Federal Parliament. We have exactly the same problem with the retrospectivity clause in this legislation.

It would not be a problem if it were simply a matter of changing the law and no-one's rights being affected, but since 5 December 2002 hundreds of claims that have been filed but not dealt with will be retrospectively ruled out. Injured workers who filed claims after 5 December 2002 will be subject to another scheme. They may be liable for legal costs because of their action is in a court of law and their rights may be injuriously affected. I have not been able to do the necessary research, but I am advised by an organisation as reputable as the Law Society that that may be the scenario. I note that the honourable member for Wallsend, who is in the chair, represents an area that has a strong interest in the coalmining industry, as does the Parliamentary Secretary at the table, the honourable member for Newcastle. I also have a strong interest in the coalmining industry. At this time the Coalition does not support the second reading of the bill.

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [12.16 p.m.], in reply: The honourable member for Gosford is crying crocodile tears. He had the opportunity to speak with his colleagues in the upper House to advise them that the motion to deal with legislation from the Legislative Assembly by a certain date could impact on thorough debate in this House. Since that time the trend in this House has been to move legislation to the other place. The honourable member said that the legislation had not been before the Law Society or other appropriate organisations. However, I point out that on 2 December 2002 the Motor Accidents Legislation Amendment Bill 2003 consultation draft went before the Workers Compensation Advisory Council on which there is a member of the Law Society.

The ministerial statement made by the Hon. John Della Bosca on 5 December 2002 in which he clearly indicated that the legislation proposed to deal with *Pender v Powercoal Pty Ltd* was made available to the advisory council. The mining division of the CFMEU brought *Pender v Powercoal Pty Ltd* to the attention of the Government. The trade union movement sought the assistance of the Minister for Industrial Relations, the Hon. Della Bosca, to deal with this anomaly. At the conclusion of his ministerial statement on 5 December 2002, the Hon. John Della Bosca said:

I propose that legislation to address the effect of the decision in *Pender* be backdated to commence from the date of this ministerial statement.

As the honourable member for Gosford said, retrospective legislation is not unusual in either the Federal or State sphere. At the time industry both supported and agreed to the retrospectivity of the legislation. When the Minister introduced the appropriate legislation, they clearly accepted that retrospectivity would become a part of the Act. The crocodile tears of the honourable member for Gosford, the old swamp fox, over the past few days are inappropriate. All honourable members are aware of the impetus for the recent pressure: the resolution of the Legislative Council that legislation from this Chamber must be received in the other place by Tuesday next. This bill will be more fully debated in the Legislative Council. I commend it to the House.

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

Division called for and, pursuant to sessional orders, deferred.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (QUALITY OF CONSTRUCTION) BILL

Bill introduced and read a first time.

Second Reading

Ms DIANE BEAMER (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [12.21 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Environmental Planning and Assessment Amendment (Quality of Construction) Bill. This bill is important legislation relating to building quality. In March 2002 the Deputy Premier and then Minister for Planning, the Hon. Dr Andrew Refshauge, announced that the State Government had set up a joint select parliamentary committee, known as the Campbell committee, to look into the quality of buildings in New South Wales. The select committee looked at the role that building certifiers should play in ensuring the quality of workmanship in home building across the State. It examined what checks and balances there should be to ensure that consumers are protected and that their homes are safe, properly certified and built to an appropriate standard. The examination also covered options for improving the system of builder licensing. The legislative reforms proposed in this bill are reflective of the recommendations of the Campbell committee.

In July 2002 the Campbell committee released its recommendations on the changes it considered necessary to make the home building industry more responsive to the needs of consumers. In all, there were 55 recommendations relating to certification, licensing, dispute resolution, consumer education, building contracts, building standards and structural change. The select committee identified key challenges for home building in New South Wales. The first key challenge was to improve the structure of the system so that it would be more efficient, less complex and costly, and better understood by both builders and consumers. The second key challenge was to focus attention at the point at which homes are actually being built, with locally based building inspectors intervening when things go wrong. The third key challenge was to streamline co-ordination between government regulatory bodies with roles in overseeing home building, so that key functions are no longer fragmented.

The New South Wales Government has responded to the committee's recommendations by introducing measures designed to improve the quality of buildings, particularly residential buildings, and the accountability of the people who build and certify them. The Building Legislation Amendment (Quality of Construction) Act 2002, which was assented to on 18 December 2002, is one of these measures. It includes a wide range of provisions related to improving the quality of buildings in New South Wales. The Environmental Planning and Assessment Amendment (Quality of Construction) Bill will carry over provisions from the Building Legislation Amendment (Quality of Construction) Act, with some changes and introduce some new provisions.

Schedule 1 of the Building Legislation Amendment (Quality of Construction) Act makes changes to the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000, which are administered by the Department of Infrastructure, Planning and Natural Resources [DIPNR], to make them work better, particularly in relation to the certification of building work and other development under part 4A of the Act. A small number of the provisions in schedule 1 of the Building Legislation Amendment (Quality of Construction) Act commenced in February 2003. However, the remainder of the provisions in this schedule did not commence because a number of the provisions required further refinement. The provisions of the Building Legislation Amendment (Quality of Construction) Act 2002 that amend the Environmental Planning and Assessment Act and Regulation, which commenced in February 2003, primarily relate to technical and administrative matters, and amendments to the penalty infringement notice regime.

They include provisions that give principal certifying authorities [PCAs] power of entry to land on which they have been appointed to oversee building work or subdivision work, introduce a new penalty of \$1,500 for failing to comply with an order by council requiring a person to comply with a development consent, give power for DIPNR departmental auditors to be authorised to issue a new \$600 penalty on certifiers who fail to lodge copies of certificates that they have issued with the relevant council, introduce new cumulative penalty infringement notices relating to fire safety, allow an application to modify a development consent granted by the court to be submitted to the consent authority, rather than the council, clarify that requirements of the Environmental Planning and Assessment Act and Regulation continue to apply even after the time in which they were meant to be complied with has passed, and clarify that for every offence against the Regulation, a person is liable for the amount set down in the regulation, or where no amount is set, for a maximum penalty of 1,000 penalty units, that is, \$110,000.

Schedule 2 of the Building Legislation Amendment (Quality of Construction) Act makes amendments to the Home Building Act and Regulation. Most of the provisions relating to home building have commenced. The major initiatives now in place as a result of those amendments include a new dispute resolution process that has been in place since 1 July 2003 to help consumers and traders resolve residential building disputes. Where appropriate, the dispute can be referred to a building inspector or the parties advised of other avenues of resolution, such as an application to the Consumer, Trader and Tenancy Tribunal. Building inspectors can meet the consumer and trader on site, inspect the items in dispute, and assist the parties to achieve a suitable outcome.

An on-line register has been established where consumers can check whether their preferred contractor is correctly licensed before they actually sign the contract. A Standards and Tolerances Guide for building work has been produced to help ensure both consumers and traders know with certainty the quality standards that need to be met in cases where standards are not prescribed in the Home Building Act, the Building Code of Australia or the Australian Standards. Although the provisions relating to a home building advisory and advocacy service have not commenced, the Office of Fair Trading has established a Home Building Service to take responsibility for the licensing and regulation of builders and tradespeople in the home building industry and specialist contractors across all industries.

The Office of Fair Trading is currently reviewing the remaining uncommenced provisions of schedule 2, which are not affected by the new Environmental Planning and Assessment Amendment (Quality of Construction) Bill. It is anticipated that the uncommenced provisions of schedule 2 of the Building Legislation Amendment (Quality of Construction) Act will commence shortly, once the necessary regulations have been made. Schedule 3 of the Building Legislation Amendment (Quality of Construction) Act makes amendments to the Conveyancing Act. These amendments commenced on 1 July 2003 and have the effect of preventing vendors from completing the settlement of a contract for the purchase of a strata lot, a proposed strata lot, or a Torrens title lot that includes the future construction of a dwelling-house or a newly constructed dwelling-house until an occupation certificate has been provided to the purchaser.

Because a decision was made not to commence the remaining provisions of the Building Legislation Amendment (Quality of Construction) Act that amend the Environmental Planning and Assessment Act and Regulation on 1 July 2003, government approval for further amendments to the Act and Regulation was sought and granted. While most of the uncommenced provisions have been revisited, not all have been amended. However, both the revised and unrevised provisions have been included in the new bill for administrative convenience. The Department of Infrastructure, Planning and Natural Resources has revised some other provisions of the Building Legislation Amendment (Quality of Construction) Act after undertaking further consultation. Some of this consultation was undertaken in the form of 14 information forums that the Department of Infrastructure, Planning and Natural Resources held for stakeholders, including councils and certifiers, across the State during September and October 2003.

Stakeholders invited to the September and October 2003 development assessment and certification forums of the Department of Infrastructure, Planning and Natural Resources included all councils across New South Wales, the four New South Wales accreditation bodies, all accredited certifiers, the Australian Institute of Building Surveyors—which did a mail-out of invitations to all its members—the Housing Industry Association of Australia, the Master Builders Association and the Upper Parramatta Catchment Management Trust. A number of developers, lawyers and academics also attended. It should be noted that the 14 sessions held across the State for external stakeholders were attended by a total of approximately 800 people. The venues for these forums were Sydney, with five venues, one for each of the sessions, Parramatta, Wollongong, Newcastle, Port Macquarie, Ballina, Queanbeyan, Wagga Wagga, Dubbo and Tamworth.

The feedback obtained from participants at these forums has helped the department to understand the development and building issues that councils and private certifiers are dealing with, and has informed finalisation of the provisions of the bill. The main purpose of amending some of the uncommenced provisions of the Building Legislation Amendment (Quality of Construction) Act, in so far as they relate to the Environmental Planning and Assessment Act and Regulation, is to make the provisions as clear and as easy to interpret as is possible. Amendments have also been made to create linkages between the roles and responsibilities of certifiers, builders and councils so that each is aware of the other party's role, and to better define terms whose interpretation has proved problematic.

The Environmental Planning and Assessment Amendment (Quality of Construction) Bill amends the Environmental Planning and Assessment Act and the Environmental Planning and Assessment Regulation to improve the way that both councils and private accredited certifiers approve plans for buildings and subdivision, and inspect buildings that are under construction. The uncommenced provisions of the Building Legislation Amendment (Quality of Construction) Act that have been transferred across to the Environmental Planning and Assessment Amendment (Quality of Construction) Bill include provisions that will make it an offence for a person to influence an accredited certifier and for an accredited certifier to seek or accept any benefit by introducing new penalties of 10,000 penalty units, which is \$1.1 million, or two years imprisonment, or both. The provisions for the improper influence of certifiers establish two penalties—one for persons found guilty of trying to influence a certifier and one for certifiers who allow themselves to be influenced.

The transferred uncommenced provisions will also give the departmental auditors of the Department of Infrastructure, Planning and Natural Resources the authority to audit councils acting as certifying authorities, in addition to accredited certifiers, and will require a principal certifying authority to be appointed, and council to be informed of the appointment, prior to work commencing; require occupation certificates for single dwelling houses and associated structures, such as sheds, garages and swimming pools, and introducing penalties of 5 penalty units, which is \$550, for not obtaining an occupation certificate before occupying or using these buildings. The maximum penalty for occupying a building, apart from a dwelling house, without an occupation certificate, will be increased to \$110,000.

The provisions also increase the penalty for unsatisfactory professional conduct or professional misconduct by an accredited certifier from 300 to 1,000 penalty units, or from \$33,000 to \$110,000, and allow a certifier, other than the principal certifying authority, to issue compliance certificates on particular components of a development if they were involved in the preparation of plans and specifications for those components of a development. This reflects current industry practice whereby building designers inspect a building during its construction to ensure that it meets their design. The provisions also allow proceedings for offences under the Act to be commenced up to two years after the offence was alleged to have been committed, rather than up to six months after the alleged offence as is currently the case and require the principal certifying authority for residential building work to notify the council of the details of the head contractor's licence and insurance, or the details of the owner builder's permit, as the case may be.

The provisions also require a replacement principal certifying authority to notify the consent authority and the council, if it is not the consent authority, of their appointment within two days of the appointment and set the procedure for replacing a principal certifying authority with another principal certifying authority. As part of this bill, the provisions of the Local Government Act that have allowed councils to continue to accept self-certification will no longer be saved under the Environmental Planning and Assessment Act. Other provisions have been amended to achieve the introduction of mandatory critical stage inspections for each class of building and require records of inspections to be kept by the principal certifying authority for at least 15 years. Certifying authorities will be required to inspect buildings at certain critical stages of construction, such as commencement, framework, stormwater and completion, prior to the issue of an occupation certificate.

The amended provisions will also clearly define roles and responsibilities during the construction process, particularly the responsibilities of the person with the benefit of the development consent, the role and responsibilities of the principal certifying authority, and some responsibilities for the head contractor or owner-builder. Principal certifying authorities must satisfy themselves that the relevant conditions of development consents have been complied with and be satisfied that the buildings being constructed are the same buildings as those approved in the plans. To improve the functions of certifying authorities, the role of the principal certifying authority will be defined. This will ensure that there is no confusion between accredited certifiers and councils over who is responsible for a development site during construction. The principal certifying authority will need to be satisfied that the building or subdivision work has been approved, that the head contractor is licensed and insured, or that an owner-builder permit has been obtained.

The principal certifying authority will also need to be satisfied that the building is inspected at critical stages, that the finished building is the same as the approved plans, that an occupation certificate is issued for the building after the relevant conditions of consent have been complied with, and that the building is suitable for occupation in accordance with its class under the Building Code of Australia. The amended provisions specify that the builder may not appoint the principal certifying authority, unless the builder is also the landowner. This will reinforce the responsibility of the principal certifying authority to act in the public interest. This change addresses a concern of the Campbell committee that conflicts of interest can exist between builders and certifiers. The amended provisions also require signs to be placed on development sites showing the name and contact details for the principal certifying authority and head contractor, which will enable easy contact for people who wish to raise concerns about anything that is occurring on a development site.

The amended provisions will also make it clear that a notice of determination of a development application, an application for modification of a development consent, or an application for a complying development certificate must include a copy of any plans endorsed by the consent authority. This will prevent confusion and possible mistakes being made with council, the builder and the certifying authority relying on different sets of plans for the same development, and will require the classification of the building to appear on the construction certificate rather than on the development consent, except in cases where there will be no construction certificate. New provisions include those that require the principal certifying authority to notify the person with the benefit of the consent of the inspections, including any mandatory critical stage inspections

required during construction, and for the person with the benefit of the consent to notify the head contractor of those inspections. They will also require the head contractor or owner-builder to give the principal certifying authority at least 48 hours notice before an inspection is required to ensure that the inspections are carried out at the right time, and that an occupation certificate will be able to be issued when the development is complete.

The new provisions will also give accreditation bodies power to place conditions on a certifier's accreditation; allow complaints to be made about, and action to be taken against, accredited certifiers who continue to do the work of an accredited certifier after their accreditation has lapsed; clearly define the difference between interim and final occupation certificates; allow an applicant for a construction certificate to withdraw the application at any time before it is determined; and allow councils to reject development applications within seven days if they do not contain the information required by schedule 1 of the Environmental Planning and Assessment Amendment Regulation 2000. This will help to alleviate the problems that consent authorities experience in having to seek further information from applicants.

Together, the commenced provisions of the Building Legislation Amendment (Quality of Construction) Act that amend the Environmental Planning and Assessment Act and Regulation and the provisions of the bill will ensure that the role of certifying authorities are defined and the powers of the Director General of Planning are increased to allow better investigation of the conduct of accredited certifiers and councils. The link between the certification process and the development consent will be strengthened by augmenting the provisions that require the principal certifying authority to be appointed before the subdivision work or building work may start. The Director General of Planning will be able to take swift action against certifiers who do not meet their obligations. The director general will be able to suspend a certifier where there is sufficient evidence of improper conduct and where the matter has been referred to the Administrative Decisions Tribunal.

The director general has the power to fine certifiers who do not send documentation to councils within the specified times. In addition, the Department of Infrastructure, Planning and Natural Resources will have the power to audit certifiers and councils, which will help to create a more level playing field. The controls in relation to the construction certificates and occupation certificates will also be improved. The requirements for issuing occupation certificates will be more strongly linked to the requirements of the development consent. These amendments will contribute towards improvements in building construction quality through managing the certification and construction process and making both councils and accredited certifiers more accountable.

The Department of Infrastructure, Planning and Natural Resources is also developing proposals to implement other actions to address the recommendations of the Campbell inquiry. These recommendations include the establishment of a Building Professionals Board [BPB] to take over the role of accrediting and auditing certifiers who are currently accredited under four separate schemes administered by the relevant professional associations. It is anticipated that the BPB will be in existence to undertake some administrative functions from 1 January 2004. Together, the Environmental Planning and Assessment Amendment (Quality of Construction) Bill and the other initiatives that I have outlined today capture the essence of many of the recommendations of the Campbell inquiry and will improve the development and building certification systems in New South Wales for the benefit of consumers and other stakeholders. I commend the bill to the House.

Debate adjourned on motion by Ms Seaton.

DUTIES AMENDMENT (LAND RICH) BILL

Bill introduced and read a first time.

Second Reading

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [12.43 p.m.] on behalf of Mr Craig Knowles: I move:

That this bill be now read a second time.

The land rich provisions of the Duties Act were introduced into stamp duties legislation in 1986. The provisions were introduced to deal with techniques that had developed at the time to avoid payment of transfer duty on acquisitions of interests in real estate. Instead of transferring title from owner to owner, the land was acquired by a company or trust set up primarily to hold the land, and the shares in the company or units in the trust were transferred. The owners of the company or unit holders in the trust achieved the same ability to control the use of the land as they would have if they had purchased the land directly. However, by transferring interests

indirectly through the transfer of company shares or trust units, duty was reduced from up to 5.5 per cent to 0.6 per cent. Under the current land rich provisions, the following thresholds must be met before transfer duty becomes payable: first, the company or trust must have more than 80 per cent of its assets as land; secondly, of that land, the New South Wales land must be worth \$1 million or more; and, thirdly, an interest of more than 50 per cent must be being acquired.

The property industry has moved on since 1986. Changing business practices have resulted in the increased use of indirect holdings in land becoming a recognised method of investment in real estate rather than direct holdings. In addition, many large investors have become more sophisticated and deals more complex, avoiding the land rich provisions in an increasing number of cases. In recent years direct ownership of large commercial properties by one entity has become rare. The values of the deals are too great, and investors are more aware of the need to diversify their risk. In this environment unit trusts have emerged as the preferred investment vehicle for indirect investment in such real estate. They enable a number of investors to pool their resources and share the benefits of high-value properties without attracting duty. Unit trusts are also more flexible than companies as there is no fixed number of shares, so new investors can be more easily accommodated. The Commonwealth Grants Commission constantly assesses the revenue-raising capacity of New South Wales and penalises the State if it determines that New South Wales has above average capacity.

Last year New South Wales grants were cut by an extra \$26.2 million specifically because the Grants Commission found that we had above average capacity in transfer duty on unit trusts. That is, New South Wales is paying a penalty for revenue that it is not even raising. The cut was made by the Grants Commission because it considered Queensland, Western Australia and South Australia to be making greater efforts to collect revenue from this source and rewarded them accordingly. The New South Wales contribution to funding these rewards was \$26.2 million. It is bad enough that the Commonwealth Grants Commission routinely penalises New South Wales for revenue it does raise. In this case, the State is losing more than \$25 million for revenue the Commonwealth Grants Commission says we could be raising but are not.

In the 2003-04 budget the Government announced its intention to develop measures to protect the transfer duty revenue base. This bill implements that Government commitment and includes measures to bring the actual revenue-raising efforts of New South Wales into line with the Commonwealth Grants Commission's assessment of its capacity. In the preparation of this bill the Government has carefully studied the duty regimes applying in other jurisdictions to the acquisition of indirect interests in real estate. There has also been detailed consultation between Treasury and the property industry. A number of the issues raised by industry in relation to the initial proposals have been accepted by the Government and incorporated into this bill.

The measures contained in this bill will restore the integrity of the land rich provisions to ensure the equitable treatment of transactions which in substance relate to the transfer of interests in land. It should be noted that while the package included in this bill will not impact on business as severely as changes recently introduced in some other States, the impact of the changes in New South Wales will continue to be monitored. Should we identify further significant transactions and mechanisms that inappropriately escape the duty base, we will revisit the policy.

I turn now to the changes. One of the current tests that must be satisfied before transfer duty applies to the acquisition of shares in a company or units in a trust is that land must account for 80 per cent or more of the assets of the entity. Our experience has shown that this test is able to be manipulated, as the value of the other assets of the entity, particularly intangible assets like intellectual property, are difficult to verify. To reduce the scope for such manipulation, the percentage will be reduced to 60. However, following representations from Country Labor and the New South Wales Farmers Association, the Government has recognised that this change could impact adversely on the farming sector. Therefore, the Government has decided to maintain an 80 per cent land rich test for the imposition of transfer duty on the acquisition of trusts or companies whose activity is wholly or predominantly primary production. This concession will be contingent upon the land continuing to be used for primary production for at least five years after the date of acquisition.

The Government acknowledges the important contribution small businesses make in New South Wales. It recognises that many genuine small businesses are operated through companies and trusts, and it is not the Government's intention, in reducing the percentage of land in the land rich test, to capture these businesses. For this reason the Government proposes to double the threshold for the value of New South Wales land in the land rich test from \$1 million to \$2 million. By doubling the value of New South Wales land required to meet the land rich threshold of \$2 million, many purchasers of small businesses in New South Wales will now be eligible for a new concession potentially worth tens of thousands of dollars.

Last week a purchaser of a company or trust purchasing a fruit and vegetable shop for \$2.35 million, including land worth \$1.9 million, would have paid \$92,690 stamp duty. From today, the same small business purchaser will pay only \$14,100 duty on the shares or units in the entity operating the fruit and vegetable shop, a saving of \$78,590. Changes included in the bill will also help a small business person purchasing a company or trust operating a coffee shop for \$1.35 million, including land worth \$1.1 million; the total saving will amount to \$14,358. The next change introduced by the bill is to the "majority interest" test. Currently the land rich provisions apply only where an interest of greater than 50 per cent is acquired. Investor practices have changed since the majority interest provision was introduced. The objective of many major investors in unit trusts now is to acquire a sufficient holding to influence rather than control ownership. These investors typically acquire no more than 50 per cent of the units of a trust.

With regard to private unit trusts, the bill proposes to reduce the interest test to 20 per cent or more, an outcome that will ensure that acquisition of an indirect interest in land is consistent with the tax treatment of a transfer of a direct interest without imposing the significant compliance and administrative costs that would be associated if all acquisitions were taxed. The Government recognises that many households have funds invested in unit trusts. Accordingly the bill provides for concessional treatment for public unit trusts. Acquisition of units in a public unit trust that is land rich will not be subject to transfer duty. The definition of public unit trust in the bill includes trusts listed on the Australian Stock Exchange, other international exchanges and other trusts with at least 300 unit holders.

The definition of a "public unit trust" in this bill is more stringent than the current definition in the Duties Act, which provides the same concession to trusts with more than 50 unit holders. Experience has shown that this threshold is capable of being manipulated by essentially private trusts to satisfy the definition. Wholesale trusts form an important part of the funds management industry. In particular, they have an important role to play in pooling the resources of individual superannuation funds and large public unit trusts to enable investments in significant property projects. Several jurisdictions provide some form of concession for such wholesale trusts. This bill provides that a unit holder in a wholesale trust that is land rich will not be liable for transfer duty unless the unit holder acquires 50 per cent or more of the trust. This concession is the same as the concession provided in Western Australia, and similar to the concession available in Queensland.

This concession, combined with the concession for public unit trusts will provide scope for superannuation funds and public unit trusts to make significant investments of retirement savings without attracting transfer duty. While acquisitions of less than a 50 per cent interest in a unit trust are taxed in most jurisdictions and are proposed to be taxed in New South Wales, no jurisdiction taxes acquisitions of less than a 50 per cent interest in companies. Because New South Wales has only taxed acquisitions of more than 50 per cent, the practice has emerged over the past 20 years where, in order to avoid transfer duty, most acquisitions of land rich companies are of no more than 50 per cent of the shares. In recognition of that practice the bill proposes that acquisitions of 50 per cent or more in land rich companies will now be dutiable.

The following changes will apply equally to companies and unit trusts. The land rich provisions currently allow a holding to be traced through subsidiaries. This limitation has been exploited by acquiring an interest in a subsidiary to circumvent the tracing rule. It is acknowledged by industry that action to halt avoidance in this area is necessary and appropriate. Therefore, the tracing rule is therefore being tightened by this bill, which will allow tracing through holdings in other entities down to a 20 per cent interest. The bill also includes a number of improvements to the provisions by adopting the Queensland definition of "acquisition" to ensure that any method of acquiring an interest in land is brought within the provision. I table a summary of the bill for the assistance of honourable members and I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

BUSINESS OF THE HOUSE

Allocation of Time for Discussion

Mr CARL SCULLY: On behalf of the Premier I give notice to the House, pursuant to Standing Order 100, that the following business will be dealt with on Tuesday 18 November 2003:

Nature of Business	Stage to be dealt with	Specified time for completion of Business		Date
		In the House	In Committee	
Motor Accidents Legislation Amendment Bill	All remaining stages	9 pm	9 pm	18 November 2003
City Tattersall's Club Amendment Bill	All remaining stages	9 pm	9 pm	18 November 2003
State Revenue Legislation Further Amendment Bill	All remaining stages	9 pm	9 pm	18 November 2003
Workers Compensation Amendment (Insurance Reform) Bill	All remaining stages	9 pm	9 pm	18 November 2003
Statute Law Miscellaneous Provisions Bill (No 2)	All remaining stages	9 pm	9 pm	18 November 2003
Environmental Planning and Assessment Amendment (Quality of Construction) Bill	All remaining stages	9 pm	9 pm	18 November 2003
Natural Resources Commission Bill and cognate bills	All remaining stages	9 pm	9 pm	18 November 2003
Registered Clubs Amendment Bill	All remaining stages	9 pm	9 pm	18 November 2003
Duties Amendment (Land Rich) Bill	All remaining stages	9 pm	9 pm	18 November 2003
Civil Liability Amendment Bill	All remaining stages	9 pm	9 pm	18 November 2003
Transport Administration Amendment (Rail Agencies) Bill	All remaining stages	9 pm	9 pm	18 November 2003

ASSENT TO BILLS

Assent to the following bill reported:

Royal Blind Society (Corporate Conversion) Bill

SPECIAL ADJOURNMENT

Motion by Ms Alison Megarrity agreed to:

That the House at its rising this day do adjourn until Tuesday 18 November 2003 at 2.15 p.m.

PRINTING OF PAPERS

Motion by Ms Alison Megarrity agreed to:

That the following papers be printed:

Report of the Teacher Housing Authority of New South Wales for the year ended 30 June 2003
 Report of the Public Trustee for the year ended 30 June 2003
 Statement of Financial Framework of the Sydney Catchment Authority 2003-2004
 Report of the Zoological Parks Board for the year ended 30 June 2003
 Report of the Albury-Wodonga Development Corporation for the year ended 30 June 2003
 Report of Greyhound Racing NSW for the year ended 30 June 2003
 Report of the Casino Control Authority for the year ended 30 June 2003

PRIVATE MEMBERS' STATEMENTS

HOME BREWED INTERNATIONAL SHORT FILM FESTIVAL

Ms MARIANNE SALIBA (Illawarra) [12.58 p.m.]: In February I was invited by the Home Brewed International Short Film Festival to be a judge at its short film festival to be held in November at Dapto. It was one of the more pleasant activities that I have been involved in as the local member. I was sent a video containing 20 short films, which I viewed and judged. I was the community representative and the other judges included Andy Anderson, an actor, singer and screen writer; Kerry Rock, a producer with Potoroo Films; Kieran Flanagan, a creative director; Jennie George, the Federal member for Throsby, another community representative; and Dan Landon, an Entertainment Editor with the *Canberra Times*. In addition, three women judged the Granny's Choice: Marcia, Granny No. 1; Lorna, Granny No. 2; and Dorothy, Granny No. 3.

I was very impressed with the quality of the films. Of the 20 finalists, I had some difficulty selecting the one I believed was best. I very much thank the organisers of the event, who put in a lot of work to encourage the number of entries and make all the arrangements. The organisers—David and Melanie Jones and Daniel and Simone Carton—are constituents of mine and have a big plan to make this one of the largest film events in Australia. The prize for best film was \$5,000, which ranks as the second-highest cash prize for any film festival in Australia. The organisers intend to increase that over the next few years. They hope that within five years the festival will be the biggest in Australia, in prize money, entries and prestige.

As I said, the Home Brewed team are constituents and ratepayers in the Illawarra electorate. They are committed to enhancing the reputation of the Dapto area, where the event was held. It would not have happened without the support of the sponsors, and there were a number of them. They were Dapto Dogs, 198 FM, Video Easy at Dapto, AMF bowling alley, *Filmink*, a movie magazine, Greater Union, Bradley Nolan Photography, Cellarmasters and the Novotel. It was great to see those sponsors support this inaugural film festival. I look forward to their support again in the future. It will become a terrific event. As well as the \$5,000 that went to the winning entry, other prizes included a night's luxury accommodation for two at the Novotel, a Godfather trilogy DVD pack, champagne and wines from Cellarmasters, DVD players, \$100 and \$50 rental vouchers from Video Easy, 20 free movie tickets from Greater Union, a case of Crown Lager, premier white and dessert wines from Cellar Masters, and several other video and DVD packs.

It was difficult for me to choose which was the best film because they were all so great, but the winning entry was called *Cash Out* from Victoria. The Grannies' choice was a film called *Murbah Swamp Beer* from New South Wales. There were nine finalists from New South Wales and seven finalists from Victoria, and entries from South Australia, Queensland, New York and the United Kingdom. It was a fantastic event. I thank the organisers very much. I look forward to working with them to promote this event even better next year and making it even bigger. Activities like this go a long way to promoting the Illawarra as a positive place to live in and a positive place to be involved with.

BURRINJUCK-SOUTHERN HIGHLANDS RAIL SOLUTIONS COMMITTEE

Ms PETA SEATON (Southern Highlands) [1.03 p.m.]: I would like to tell the House of an initiative I am undertaking in the Southern Highlands to do with rail safety, rail services, and improving local rail services. I am doing this in conjunction with my colleague the honourable member for Burrinjuck, because we are extremely concerned about the salami slicer that Michael Costa is taking to CityRail and CountryLink services in the Southern Highlands, all the way from the Menangle area through to Goulburn and beyond. I am not alone in this concern. Many emails, phone calls and letters come to my office on a daily basis, and I hope that by my setting out these problems today the Minister for Transport Services in another place will agree to our proposal that the Government support the establishment of a local rail solutions committee. This is important, because unless the rail authorities are represented at the meetings there is no point in holding them.

We want to create a committee that includes representatives of local government, a good number of local representatives of transport users, rail users, stretching from the Wollondilly area through Wingecarribee and Mulwaree shires and into Goulburn. We want to make sure there is a sufficient number and range of rail users to voice the range of concerns about both CityRail and CountryLink, and we also want to include representatives of the State Rail Authority, CountryLink and CityRail. I understand that a precedent has been set in Queanbeyan and Tamworth. The proposal that the honourable member for Burrinjuck and I are putting to the

Minister is that it be extended to include CityRail services. CountryLink services are the only services available in the other places I mentioned, but we want to make it slightly different. We challenge the Minister today to agree to our proposal to set up a local Burrinjuck-Southern Highlands rail solutions committee.

We have done this because we have received endless concerns from commuters for many years. They intensified at the time of the Bargo train derailment and again throughout the Menangle bridge crisis, and they continue as we hear the Minister for Transport Services endorse the Parry report recommendations to ban through services from the Southern Highlands to Central Sydney. The Minister is supporting the Parry report recommendations to cut certain CountryLink and other services. We are really at crisis point. One commuter writes to me:

As the shadow Minister for Infrastructure and Planning is there anything we can do as a community and commuters to gain a higher media profile on this issue? It needs to be highlighted and then focussed on prior to the next election.

I could not agree with him more. We need some accountability from the Government. I want this rail solutions committee to sit around a table and hear all the rail authority representatives set out openly and honestly everything that Michael Costa is planning to do to change, cut back, or alter our local rail system, so that local commuters and rail users will have a chance to address each and every one of those issues robustly—the honourable member for Burrinjuck and I will be doing the same—and make sure the Government and rail representatives are in no doubt about what the impact would be locally from any cuts proposed by the Minister. We also want to make sure that the rail representatives hear all the problems that commuters face on a daily basis and, if there are positive things about the system, that they hear them too.

I commend Ian Napier, a local rail user who has taken the initiative to re-establish the Southern Highlands Commuter Association. Membership is free, and Ian Napier is trying to get as many people as possible to join. I will be relying very much on associations like that for advice to this new committee that we hope to set up, and I want to include Ian Napier and representatives from his association on that committee. I call on the Minister for Transport Services to agree to this proposal.

MAITLAND CITY ART GALLERY OPENING

Mr JOHN PRICE (Maitland) [1.08 p.m.]: Today I recognise the city of Maitland, and particularly Maitland City Council, for its courageous and great step forward by creating a new regional art gallery to service the city and that part of the Lower Hunter. Last Friday, 7 November, it was my privilege to perform the opening ceremony on behalf of the Premier, in recognition of the \$250,000 the State gave for that program. It is acknowledged also that council had to carry a resolution, take the step forward, put a substantial amount of money into the project, and buy the old TAFE building in High Street, Maitland.

It was a great night, with more than 560 people attending the open-air ceremony. I was completely overwhelmed not just with the crowd but also with everyone's attitude. It was a happy night with an intermingling of people from the arts community and the general public who saw the great advantage to be gained from improving the social amenity in Maitland and its surrounds. The old gallery used to be located in a heritage building called Brough House, in Church Street, next to Grossman House. Two identical townhouses were built. Grossman House, famous as the first boarding school for girls in Maitland, eventually became what is now known as Grossman High School, a coeducational school in Maitland. I hope that the National Trust will refurbish Brough House, a mirror image of Grossman House, just as it refurbished Grossman House.

The relocation of the art gallery is a significant project. The city looks forward to having a major art gallery in an historic building, which I believe was built in 1903. In due course the old TAFE site will be rearranged to accommodate a relocated city library, significant car parking facilities and workshops for people associated with the arts community. I believe it will include all facets of art and not just painting, drawing and photography. This has been a great opportunity for Maitland to demonstrate that it is an outstanding arts centre in regional New South Wales. I pay tribute to Maitland City Art Gallery founding director Mrs Margaret Sivyer. Margaret, who holds an Order of Australia Medal for her work in the community over the years, has been involved at senior levels of Rotary in the region and with the arts community.

Maitland City Art Gallery is one of six provincial art galleries. Margaret took the initiative and convened the first meeting of the organisation currently known as Regional Galleries of New South Wales Ltd. That organisation, which is still in existence, represents 28 regional and provincial art galleries and museums throughout New South Wales—a tremendous recognition of Margaret's great work over many years. She started the gallery in 1973—30 years ago—and it is still going strong. When Margaret arrived at the ceremony that

night she was given great recognition by the community. Financing art and associated industries in provincial areas is not a simple task. The bulk of it is done by volunteers supported, in most cases, by local government and with some support from the department.

I recognise the value and involvement of people in that sort of social recreation in the provinces. I appeal to the Government to give consideration to increasing its allocation to the arts, in particular those bodies located outside the metropolitan area. All provincial towns deserve to have facilities similar to those in Maitland but they are not all in a position to provide them. I congratulate Maitland City Council on its initiative and I thank the community for the support it has given. I look forward to further Government assistance. I thank the Premier for the contribution he made to arts just a few months ago.

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [1.13 p.m.]: I am sure that all honourable members would join me in congratulating Maitland City Council on the opening of a regional art gallery. The allocation of funds to arts activities is a big call for any local government and one that is sometimes subject to criticism. Sutherland Shire Council fought hard and with much determination to establish the Hazelhurst Regional Gallery and Arts Centre, and Liverpool council established the Casula Powerhouse Arts Centre. I am sure that all honourable members appreciate the effort and courage of Maitland City Council to take on the work that was mentioned earlier by the honourable member. I also acknowledge the quarter of a million dollar contribution to the arts by the State Government. I hope there is more to come. I join the honourable member in paying tribute to Ms Margaret Sivyver, OAM, for her many years of dedicated service in her community. The open-air ceremony appears to have been a wonderful occasion. I congratulate all those who were involved in this project and hope that the gallery continues to operate for many more years.

ORANGE ELECTORATE URBAN SPEED LIMIT REDUCTION

Mr RUSSELL TURNER (Orange) [1.15 p.m.]: I refer today to a petition that is circulating in Orange in response to this Government's recent speed limit reduction from 60 kilometres per hour to 50 kilometres per hour. That petition reads:

The Petition of residents of the City of Orange

Brings to the attention of the House their concern that highways and Arterial Roads throughout the City of Orange have been reduced to 50 kilometres per hour whereas these feeder roads should have been retained at their previous speed zones prior to the changeover to 50 kilometres per hour and precinct areas of Orange changed to 50 kilometres per hour.

Prior to the imposition of these speed limits the Roads and Traffic Authority put pressure on council to reduce the speed limit from 60 kilometres per hour to 50 kilometres per hour. On two occasions council declined its generous offer and voted to retain the 60 kilometres per hour speed limit. We already have 40 kilometres per hour speed zones around schools and in residential areas. Residents asked council to reduce the speed limit in those areas to 40 kilometres per hour and council responded to their requests by reducing the speed limit, thus making it safer for schoolchildren. On two occasions council voted against reducing the general speed limit to 50 kilometres per hour but those speed limits have now been imposed on us by this Government. It is a fait accompli and we can do very little about the general speed limit.

Most people have accepted the 50 kilometres per hour speed limit in residential and built-up areas but there is strong opposition to a speed limit of 60 kilometres per hour on arterial or main roads in Orange and in other areas. At Clifton Grove, the rural subdivision in which I live, a speed limit of 50 kilometres per hour has been imposed when some of those houses are half a kilometre apart. The Government has just imposed a blanket speed reduction regardless of whether it was acceptable or desirable. Lucknow, a small village located about three or four kilometres from Orange, has a 60 kilometre an hour speed limit through the town. However, there is a 100 kilometre an hour speed limit either side of Lucknow on the Great Western Highway—a straight highway that has no bends.

I wrote to the Minister and asked him to review the speed limits on arterial roads around Orange, just as he reviewed the speed limits on highways around Bathurst. Main roads running into Bathurst—for example, the Great Western Highway and the highway that runs across Denison Bridge—have retained their previous speed limits. There is no reason why the Minister should not favourably consider the petitions and requests of people in my electorate to return to the previous 60 kilometre an hour speed limit. The speed limit around Orange Base Hospital has been increased from 40 kilometres per hour to 50 kilometres per hour, again against the wishes of the council, the ratepayers and hospital staff. I call on the Minister to reduce the speed limit around the base

hospital to 40 kilometres per hour. I ask the Minister to bring commonsense back to the debate, give the same consideration he has given to Bathurst, and reintroduce the 60 kilometre an hour zone around the arterial roads of Orange.

DR HANAN ASHRAWI UNIVERSITY OF SYDNEY PEACE PRIZE

Mr PAUL LYNCH (Liverpool) [1.20 p.m.]: I draw to the attention of the House a matter of very great importance to constituents of mine: the presence in Australia of a very distinguished Palestinian, Dr Hanan Ashrawi, and the awarding to her of the Sydney Peace Prize. This was a matter of considerable interest to many of my constituents whom we eurocentrically refer to as having a Middle Eastern background. It was also of significance to those in my electorate committed to peace and justice. One of the members of the executive committee of the Sydney Peace Foundation is Abraham Quadan, a constituent and friend of mine. Several weeks ago, before the media frenzy, the Hinchinbrook Branch of the Australian Labor Party adopted a resolution congratulating the Premier of New South Wales on his agreement to present the peace prize.

I was personally delighted to be able to attend the peace prize dinner and award ceremony in this building on Thursday last week. I also enjoyed the company of Dr Ashrawi at a dinner last Saturday night, organised by Ali Kazak, the head of the General Palestinian Delegation to Australia. I place on record my regard for Ali and congratulate him on the work he has done not only for the visit by Dr Ashrawi but over a number of years. I had previously met Dr Ashrawi when she visited Australia in 1999. It is interesting to note that in 1999 also attending a Parliamentary Friends of Palestine dinner with Dr Ashrawi, which was held in this building, were the Hon. Jim Samios, then a member of the Liberal-National Coalition front bench, and Mr Ross Cameron, a senior Liberal member of Parliament. Their attendance at the time makes something of a mockery of the recent antics of the Leader of the Opposition and the honourable members for Vaucluse and Ku-ring-gai.

Dr Ashrawi was an outstanding choice to be awarded the Sydney Peace Prize. What has always struck me about her—and I had read much of her work before I met her—is her enormous moderation. On behalf of many of my constituents I congratulate Professor Stuart Rees on the skill and courage he displayed throughout the process. I also place on record my high regard for the position adopted by the Premier in correctly rejecting the lobbying directed against him. He has been absolutely correct on this issue and demonstrated significant political leadership. Those who ran a campaign against Dr Ashrawi have done no credit to themselves or to their cause. The politics of Palestine are complex enough without it being used in a partisan political manner in Australia. Some quite extravagant claims were made against Dr Ashrawi, some of which had to be withdrawn. A letter entitled "Did Not Say It" from the *Australian Jewish News* on Friday 17 October states:

In my column on Hanan Ashrawi (AJN 3/10/03), I stated that she described the Holocaust as "a deceitful myth" which the Jews had exploited to get sympathy. I was advised subsequently that Ashrawi did not make the statement, and despite strenuous efforts by myself and the AJN to correct the reference (which were successful in the Melbourne edition), the Sydney edition had gone to press.

I based the reference on a widely circulated article by American writer Steven Plaut that had been republished in a number of usually reliable sources. I regret the error.

The letter was signed by Sam Lipski. Likewise, Jewish Community Council of Victoria President Michael Lipshutz has now conceded that comments he made attacking Bob Carr should not have been said and that he regretted them. The style of some of the lobbying against the prize has been revealed by Kathryn Greiner and Stuart Rees and has been written about by, among others, Alan Ramsey. Of course, it is wrong and racist to treat the Jewish community as a monolithic block whose individual members all think alike. There is a range of opinions on these issues. The President of the New South Wales Jewish Board of Deputies, Stephen Rothman, has been publicly critical of the methods of approach of some of those lobbying against the prize. Barry Cohen, in the 31 October Sydney edition of the *Australian Jewish News*, referred to the stupidity of those who tried to stop the Hanan Ashrawi visit.

On stage during Dr Ashrawi's speech at the Seymour Centre was a bouquet of flowers from Jews Against the Occupation. On the other hand, Vic Alhadeff, editor of the *Australian Jewish News* admitted to the *Sydney Morning Herald* that he had called radio programs hosted by Mike Carlton, James Valentine and Phillip Clark, identifying himself only as Vic. According to the *Sydney Morning Herald* he has repented his attitude and conceded it would have been fairer to have fully identified himself. It seems that much of the most extreme rhetoric came from Melbourne. One of the Melbourne figures is the national chairman of the Australia-Israel and Israel Jewish Affairs Council [AIJAC], Mark Leibler. A headline in today's *Australian Jewish News* has Mr Leibler claiming that the campaign against Hanan Ashrawi was a success. I would like to see his definition of a failure.

Another Melbourne figure apparently significant in the campaign against Dr Ashrawi is Colin Rubenstein, the executive director of AIJAC. As late as the weekend after the award of the peace prize, he was still writing articles in the *Australian* continuing the campaign. I should point out that AIJAC is a private body and can lay no legitimate claim to being representative of any community. It has been referred to as having an undemocratic nature. Robert Goot noted in the *Australian Jewish News* that it has no representative capacity. Mr Rubenstein is also involved with the Liberal Party. I understand he sought preselection at one stage against one of the Kemp brothers. An article by Elizabeth Wynhausen in the *Australian* on 4 November points out Mr Rubenstein's connections to Tony Abbott. It is no surprise at all that Mr Rubenstein's was the first name on the protest Sydney Peace Prize petition to Bob Carr.

Perhaps Mr Rubenstein should have given better advice to the Liberal Party. Rather stupidly John Howard and Alexander Downer said Abu Mazen would have been a better choice to receive the Sydney Peace Prize. The AIJAC website, however, describes Abu Mazen as a Holocaust denier. Equally ill-advised was the Leader of the Opposition when he declared that as Premier he would not have presented the prize. I am always sceptical about what are sometimes described as Jewish conspiracies. The one conspiracy that is very clear here is by the Liberal Party.

GAMING MACHINE TAX

Mrs JUDY HOPWOOD (Hornsby) [1.25 p.m.]: I speak today on behalf of the clubs in my electorate and note the amount of community service they provide to the people of Hornsby of every age group. The clubs I speak for are Hornsby RSL, Club Berowra, Hornsby Bowling Club, Asquith Bowling Club, Asquith Rugby League Club and the Asquith Golf Club. There is also a bowling club on Dangar Island, which does not currently have poker machines but has the potential to have them. A document from Asquith Rugby League Club, entitled "Club Life to Die'—Don't Let This Happen!" states:

As reported in our local newspaper, *The Hornsby & Upper North Shore Advocate* on July 10 2003 by Fiona Ross-Edwards and Joanne Gardener the proposed poker machine "tax hike" from 17% to 40% could spell the end of community club life, as we know it.

Our General Manager of Asquith Leagues Club, Mr Ray Agostino, was reported to say, "The tax increase will have a dramatic and quick effect. I don't think the industry has faced a more serious imposition." He then continued, "There has been no opportunity for discussion and review as promised. Treasurer Michael Egan has lost sight and touch with the community. We support 15 teams and provide their jerseys, socks and everything required to put a player on the field."

We are not alone

Many clubs in the area have banded together to make a joint protest of this proposed tax increase.

Mr Mario Machado, Assistant Chief Executive Officer of Hornsby RSL, said:

There will be no Hornsby RSL in 2010. In fact, there will be no industry by 2010. In order for Hornsby RSL to survive, the club will have to eliminate activities such as snooker, table tennis and darts. For us to survive, we'll have to look at non-profitable aspects of the club. We'll have to reduce all of our facilities to a bare minimum which will be gaming and beverage. Clubs will also no longer have the funds to help the community in times of need. All the clubs will become gaming dens.

Norma Lutherburrow from Asquith Bowling Club said:

We're just holding our own to improve amenities.

Asquith Golf Club and Asquith Bowling Club said that they would have to concentrate solely on the upkeep of facilities. Berowra RSL said it would have to decrease sponsorship and donations and increase the cost of services. Asquith Rugby League Club, which this year is celebrating 50 years of existence, in 2002 alone donated \$120,000 in direct cash allocation or by in kind donation. This could become a thing of the past if the tax rise is implemented. Some of the organisations who benefited from the allocations were Careflight, the Sunnyfield Association, Ku-ring-gai Meals on Wheels, St Lucy's School, Community Health Services, Club Speranza, the Australian Red Cross, St Edmund's School, St Peter's Anglican Church, Hornsby Heights Public School, the Rotaract Club of St Ives and Berowra Public School, to name just a very few. A former director of Club Berowra, in a letter to the editor of the *Hornsby Bush Telegraph* on 25 September, said:

As a former Director of the *Club Berowra* I am writing about this proposed tax increase on poker machines with some insight into the real situation. Firstly the tax already being paid is on revenue and not on profit. This revenue is almost halved after wages, tax, depreciation and government instigated fees. The money is then used for all the other normal expenses of a business.

This tax has the potential to close two thirds of clubs in NSW in under 7 years. The impost at present is forcing clubs into amalgamation or insolvency. If *Club Berowra* goes, what difference will it make? \$8000 will be removed from junior soccer, rugby league, little athletics, netball ... Pensioners will need to travel to play bingo at the nearest surviving club. Bowlers will have to leave Berowra to play at the nearest surviving Bowling Club. 35 local people will be out of work.

That would be devastating for the area. According to Hornsby RSL, the imposition of the tax will deprive local communities of hundreds of millions of dollars. It will take an extra \$1.5 billion from clubs, and thus out of local communities. Hornsby RSL makes donations to many organisations, including Easy Care Gardening Unit, Mercy Family Centre, Starlight Foundation, Studio Artes, Australian Red Cross, Hornsby TAFE, Motor Neurone Disease Association, Hornsby Rural Fire Service, Share Our Language, Computer Pals for Seniors Hornsby Inc., Berowra Library, and the Royal Volunteer Coastal Patrol, to name but a few.

AFGHANI WOMEN STUDY

Mrs BARBARA PERRY (Auburn) [1.30 p.m.]: Today I draw the attention of the House to a matter of great personal interest and concern: the needs of Afghani women in Western Sydney. On 21 October I was invited to take part in the launch of "Afghani Women Speakout: A Community Study on the Health Needs of Afghani Women and Their Families In Bankstown and Surrounds". The event was well attended and featured a number of moving and impassioned moments, most notably captured by the speeches of Bankstown Mayor, Helen Westwood, and Paula Abood, one of the study's contributors. Media coverage of the Taliban Government in recent times has revealed but a fraction of the extent to which Afghani women were repressed, brutalised and in some cases even murdered.

Compounding the evils visited upon them by such a twisted regime, Afghani women have endured the full brunt of decades of war, poverty and famine. Indeed, as the tortured history of humanity bears testament, it is women and children who are victimised most by conflict and other such man-made catastrophes. Some Afghani women have been fortunate enough to be offered a safe haven in this country—although, tragically, many have been forced to undergo the painstaking processes of the asylum determination system only to be left to wait in limbo on a temporary visa. Honourable members will no doubt agree that the added anxiety, stress and sheer hardship of being left in such a state and denied much-needed services, all the while fearing imminent return to Afghanistan, would be agonising.

Despite the overthrow of the Taliban, Afghanistan remains a country fraught with danger and instability. Honourable members will also agree that it is beyond objectionable—indeed, it is shameful—that to this very day Australia remains the only country to have legislation permitting refugees under the 1951 refugee convention to remain in the limbo of temporary protection potentially forever. Thus the question of full citizenship is of central importance to the plight of Afghani women, and it is imperative that a humane approach is adopted not only for the sake of these women but also for our collective soul and identity as Australians.

For the women who are able to acquire the security of citizenship, significant obstacles to the realisation of a life somehow resembling normality remain. These include language, social acclimatisation and the resolution of health and psychological issues resulting from years of trauma and neglect, to name but a few. As indicated in the study, problems such as poverty, unemployment, poor dental health, homesickness and physical ailments persist. Mental health is also a pressing concern as many of these women and their children have been exposed to highly traumatic events and conditions, including sexual assault, prolonged years of war and civil violence and gross acts of inhumanity, such as torture.

Children, in particular, can be severely affected by such horrors, with resulting disturbances in their behaviour and a loss of ability to develop healthy, well-adjusted lives. In some cases the accumulation of past experiences and the struggles of the present create a breeding ground for antisocial and other undesirable activities. This is not, as some would suggest, a characteristic of one culture or another but rather a response to feelings of marginalisation, hopelessness and despair. As crucial as government policies are to combating such conditions, as a society we must become more compassionate and welcoming of such traumatised new immigrants. As befits such an important issue, the study brings to bear a due sense of compassion as well as a depth of insight with respect to assembling effective and well thought out strategies and solutions.

It envisages a joint partnership between the Bankstown Multicultural Network Inc, which is known as BAMN, the South Western Sydney Area Health Service, the New South Wales Service for the Treatment and

Rehabilitation of Torture and Trauma Survivors, the New South Wales Refugee Health Service and the Afghan Women's Network. I was pleased to note the well-balanced and holistic manner in which the recommendations are made—no area of psychological, physical or social need is left unaddressed. Thus I take this opportunity today to commend Loretta Viececi, Rukhshana Sawar, Pat Johnson, Paula Abood and Loukia Zinopoulous for their work in compiling the study. It is a work of true compassion and humanity and a well-researched document that will go a long way towards assisting professionals who work with Afghani women. I thank particularly the women's health unit of South Western Sydney Area Health Service for its financial and other support in preparing this report.

OVINE JOHNE'S DISEASE

Ms KATRINA HODGKINSON (Burrinjuck) [1.35 p.m.]: I have spoken many times in the House about the impact of ovine Johne's disease [OJD] on sheep producers in my electorate. Today I would like to give my broad support to the recommendations of former National Party member of Parliament Richard Bull about the current ovine Johne's disease program. The key recommendations of this report, which was released in September, are that the Gudair vaccine should be made readily available, with sales expanded to other outlets as subagents to the rural lands protection boards; that industry should take a lead role in managing the disease; that the future role of government should be educative and supportive rather than regulative; and that future trading should be based on a factual animal health declaration.

These recommendations are closely aligned with the many calls for reform that I have made in this House over the past 4½ years. I first spoke about OJD in this place on 15 September 1999, when I raised the personal and social costs of the control program. I said:

I have had best mates in my office shouting down each other, their faces white with anger. I have had husbands and wives in tears in my office because of this policy. The approach seems to be guilty until proven innocent. It is a denial of the fundamental natural justice we all take for granted ... Compensation is a central issue.

I remember those events clearly, especially the people who were in tears in my office. In his response the then Minister for Agriculture said of my representations:

... her views on ovine Johne's disease are not representative of the sheep or wool industry in general.

No-one was more pleased than I when the honourable member for Mount Druitt was stripped of his ministerial portfolio and relegated to the back bench. To give credit where it is due, I thank the new Minister for Agriculture and Fisheries for appointing Rick Bull to conduct the review and for his commonsense response to Rick Bull's recommendations.

I met recently with Reverend Roger Draffin, the Rector of St Clements Anglican Church in Yass. The human tragedy of the past ovine Johne's disease control program was foremost in his mind, and he wished to talk to me about a motion that had recently been passed by the Synod of the Anglican Parish of Canberra and Goulburn. Although a man of the cloth, Reverend Draffin is certainly no stranger to the realities of agricultural life. He was born and raised on a farm in East Africa. Before taking up his calling as an Anglican priest he managed seven dairy farms in the Midlands area of the United Kingdom and is familiar with the devastating social and economic effects of animal diseases, particularly foot-and-mouth disease.

Reverend Draffin told me that he understands the need to control virulent and economically damaging animal diseases. Yet his experience and wide consultation across his parish convinced him that ovine Johne's disease did not deserve the draconian regulatory regime that this Government imposed in 1998. The main points of the motion debated at the Synod are as follows. The Synod called for every clerical and lay leader in the Diocese of Canberra and Goulburn to make themselves aware of the economic and social impact of past government-inspired control measures regarding OJD and to make the Gospel relevant to those affected.

The Synod noted NSW Agriculture's recent decision to extend the use of the Gudair vaccine in control and management areas. It also called for the encouragement of Commonwealth and State Ministers of Agriculture to take a co-operative approach to the ongoing management of and research into OJD, and the development of practical management strategies. The motion also dealt with moves to encourage the State Government, as a matter of social justice, to provide financial compensation for economic loss caused to graziers resulting from the implementation of past flawed State Government control measures. It also called for representations to the State and Federal governments to encourage the deregulation of OJD, allowing the inherent skills of graziers and veterinarians to be used to enable the industry to live with the disease as it does with so many others.

The debate that followed the introduction of this motion drew speakers, both lay and clerical, from almost all rural areas of the diocese. Every speaker had a tale of family distress or breakdown, health problems brought about by stress, loss of livelihood or financial hardship caused by the OJD control program. Reverend Draffin told me of visiting farmers on their properties and having these weathered and stoic men burst into tears in front of him because of the stress brought about by the OJD control program. He said that some farmers told him they believed they were being persecuted and targeted and that because they lived in the bush they were forgotten. This is the social legacy of six years of the OJD control program in New South Wales, a program that NSW Agriculture's own figures show has failed to control the spread of OJD.

I have spoken before in this house about Graham Privett, a stud owner from the Yass area. Mr Privett's property was quarantined because of a disputed positive OJD test. As a result his property's income dropped by some \$150,000. The declaration of his property as OJD infected led to the loss of an export contract for the supply of 26 rams worth \$46,000. Those rams were slaughtered and subjected to autopsy on the orders of NSW Agriculture, and not one was found to be infected. Mr Privett did not receive one cent in compensation from the NSW Agriculture. Reverend Draffin said that we should simply wipe all the zones and say, "Sorry chaps, we've made a mistake." He and the Synod of the Diocese of Canberra and Goulburn believe that financial compensation should be paid out of the public purse to sheep producers forced to slaughter stock. I have called for just compensation for affected sheep producers before in this House. I renew that call and I support the call of the diocese for social justice for OJD-affected producers.

LAKE MACQUARIE CITY GALLERY

Mr JEFF HUNTER (Lake Macquarie) [1.40 p.m.]: Today I wish to speak about the Lake Macquarie art gallery. On 5 November I had the great pleasure to announce that the State Government had granted \$75,000 for the expansion of the gallery. Our art gallery is located on the shores of Lake Macquarie at Booragul and has fantastic panoramic views of the lake and the surrounding area. It is a very modern building but it lacks space. This \$75,000 will be used to assist in the construction of a desperately needed art education workshop. Construction of the workshop is estimated to cost about \$170,000 and work is scheduled to commence in March next year. It is hoped that it will be completed by the middle of 2004.

When he advised me of this funding the Premier and Minister for the Arts, the Hon. Bob Carr, said the grant was part of the Department of the Arts' 2004 capital infrastructure program. That \$1.4 million program covers 27 capital infrastructure projects in many regional areas during 2004. Those works will support local museums, galleries, theatres and cinemas across the State. When I made the announcement about the grant the Premier stated:

"It's part of our commitment to providing arts funding to rural and regional New South Wales."... Make no mistake—whether you live in the city or the country, in the north or in the south, we want to be sure you can enjoy the arts."

I thank the Premier for the funding he has provided to Lake Macquarie City Council for the expansion of the art gallery. Following the announcement I was pleased to visit the gallery with the Mayor John Kilpatrick and the gallery director, Debbie Abraham. We viewed the new plans and the workshop site. The \$170,000 workshop will be built on the side of the gallery adjacent to the entry ramp and foyer. The glass pavilion-like structure will be used for workshops and seminars and will be a fine addition to the gallery's facilities. Members of the media attended the gallery during the inspection visit and I was very pleased to see a photograph in this week's *Lake Macquarie News* of the mayor, the gallery director and me. The article is headed "Art education at gallery" and states:

An art education workshop will be built at Lake Macquarie Art Gallery. The State Government has handed over \$75,000 for the project.

"The gallery has many educational programs but it is extremely limited by the space available," said State Labor MP Jeff Hunter. "This grant will mean a bigger and better education program."

Construction of the \$170,000 art education workshop will commence early next year with Lake Macquarie council funding the remaining cost of the project.

"When built the workshop will mean better experiences for locals and visitors," Mr Hunter said.

This is an expansion of the existing art gallery, which was built not very long ago. However, the council displayed great foresight by planning a staged construction program. Stage one is the main gallery, which was officially opened by the former Governor-General Sir William Deane, and I was pleased to attend that opening. The workshop is stage two of the project and stage three will see a theatre built on the other side of the gallery.

The mayor was keen to advise me that the council will soon be applying to the State Government for further assistance to progress that project. Of course, I will lend my support to that application. The art gallery is a fantastic facility for Lake Macquarie City, which has close to 190,000 residents. I also congratulate the gallery on its success as a major prize winner in last week's State Tourism Awards. It is a fantastic facility for Lake Macquarie and I thank the Premier for the assistance he has provided.

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [1.45 p.m.]: I am pleased to hear about the \$70,000 grant to the honourable member's electorate. I am sure that it was due in part to his continued support for the arts in Lake Macquarie and the Hunter generally. The construction of an art education workshop is an investment in the continuation of the arts program in his electorate and an encouragement to future artists who may exhibit in the gallery one day. It is also heartening to hear about the Lake Macquarie City Council's commitment to investment in this type of program. We were pleased to hear earlier this morning from the honourable member for Maitland about Maitland City Council's commitment. It appears that the Hunter is emerging as the arts centre of New South Wales. I look forward to the completion of stage three of the Lake Macquarie art gallery project. I am sure the honourable member will continue to be vocal in support of this development, as he has been with regard to all important projects in his community.

PENNANT HILLS POLICE STATION

Mr ANDREW TINK (Epping) [1.47 p.m.]: I raise an issue that has caused great concern since 1997: the current manning of Pennant Hills police station. On 1 July 1997 the station was downgraded from a locally led and locally based police command to an outpost of the Eastwood police station and the Eastwood Local Area Command. The command area stretches from West Ryde to Dural, which is a significant north-south area that is intersected by a number of major roads such as Rutledge Street, Epping Road and Pennant Hills Road, which are often difficult to cross, especially during busy periods. The local area command is based at Eastwood police station at the southern end of the command.

The escalating crime wave in the northern area is a source of great concern, and it has been getting worse of late. My plea is for locally led and based police to be returned to Pennant Hills police station. The Parliamentary Secretary knows what I am talking about because this issue affects police stations across the State. The situation changed when Commissioner Ryan collapsed every second police patrol into commands that are twice as big. In recent days the situation at the northern end of the command has been appalling. A 46-year-old woman walking in Rawson Street, Epping was attacked by a man who snatched her bag, and a jewellery store in Beecroft was the subject of an armed robbery. The store was busy when the offender, who was armed with a small handgun, entered at 1.45 p.m., executed the robbery and escaped. The police do their best but the travel time from Eastwood to these locations is unreasonable.

If it were based at Pennant Hills there would be a local presence, response times would be much shorter and it would be a proactive local deterrent. A few weeks ago on a Saturday morning an armed robbery occurred at a second-hand jewellery store at Beecroft called the Treasure House when \$1 million worth of custom jewellery was taken at the time when there were many people in the area. In the past week there was an armed hold-up of a chemist shop in Bridge Street, the busiest part of Epping, at about 3.00 p.m. There was a potential for great violence, for things to go wrong and for someone to be killed. Not too long ago the Commonwealth Bank at Beecroft was robbed when a couple of people with sledgehammers literally smashed their way through the front reinforced glass windows and stole a large amount of money. From memory, it occurred at about 4.00 p.m. when schoolchildren from all over the northern suburbs were in Beecroft.

These are worrying and disturbing times right across the Sydney area so far as crime is concerned. That is particularly so in the northern part of the Eastwood Local Area Command. My plea is for the commander and, if necessary, the Minister for Police to rethink the current arrangement of simply having the highway patrol at Pennant Hills and return a local commander to Pennant Hills. A local commander does not have to be higher in rank than a Senior Sergeant but must have hands-on experience and leadership qualities. The commander would report to the local area commander at Eastwood. A group of local officers could also be based at Pennant Hills.

The people of Beecroft, Pennant Hills, Dural and Cherrybrook would then know that those officers were responsible for the northern part of the command. The honourable member for Hawkesbury, as a longstanding councillor on Hornsby council and a former mayor, is well aware of what I am saying and, without question, supports the idea of police returning to Pennant Hills police station. It is a question of making the best use of resources. It is plain that when there is a violent crime wave in the northern part of a command, that is where the police should be. They should be working from that police station, and my plea is for that to happen.

ST MATTHEWS CHURCH, WINDSOR, RESTORATION**DEATH OF MR LESLEY WHITE AND MR ROBERT MARTIN**

Mr STEVEN PRINGLE (Hawkesbury) [1.52 p.m.]: I draw the attention of honourable members to the recent completion of restoration works of the stables building of historic St Matthews Church, Windsor. Most honourable members of this House visiting or travelling through Windsor would be aware of majestic St Matthews—a classic nineteenth century Georgian church standing on a rise well above the flood plain below and providing a place of spiritual refuge—currently led by the Reverend Chris Burgess. At times the church was a physical refuge from the floods that so often affected the Hawkesbury region up until the early 1990s. St Matthews Church is synonymous with the development of early New South Wales. It was a personal initiative of Governor Lachlan Macquarie, who marked out the town of Windsor and, indeed, chose the church site.

On 11 October 1817, Macquarie symbolically deposited the rim of a Spanish dollar under the sandstone cornerstone to mark the commencement of construction and asked that "God Prosper St Matthew's Church". This has certainly happened and the place remains a centre of Christian outreach. Like St James Church and other landmarks in close proximity to Parliament House, St Matthews is a Francis Greenway masterpiece. Not only was he the architect, he personally directed the building of the new church, overseeing both the stonemasons and construction workers. Apart from the addition of the south porch, which was part of the original plan but not constructed until 1857, the church has remained virtually untouched since completion in 1821. St Matthew's is an important part of the National Estate and needs to be preserved for current and future generations.

Thanks to the Federal Government, through an Environment Australia Cultural Heritage Projects Program grant of \$82,000, the stables have been preserved by stabilising the western wall and ceilings, attending to the every-present rising damp, restoring the roof, restoring the joinery, painting and lime washing and eradicating termites. The stables are an important part of the church precinct, providing an intact and rare example of the earliest nineteenth century church, graveyard, rectory and stables in a single cultural landscape. The church is considered an architectural masterpiece. I commend all those involved with the restoration project, particularly the task force chairman, Mr Ron Soper, Lorna Campbell, Graham and Carol Ebb and my predecessor, the Hon. Kevin Rozzoli. The Federal member of Parliament, Mr Kerry Bartlett, tirelessly worked to achieve the funding to make the project possible, and I congratulate him on the outstanding result.

On an unrelated but equally important subject, I also draw the attention of the House to the sad loss of Lesley White and Robert Martin, stalwarts from the lower McDonald area, who were tragically killed in the McDonald River a few days ago. They were universally respected in the community, to which they made an enormous contribution in both time and money. They made an especially strong contribution through the Rural Fire Service as captain and senior deputy-captain, and their high standing was confirmed in part at their funeral on Wednesday, when more than 500 people paid their respects. The Rural Fire Service was strongly represented at the service. My deepest sympathies, and I am sure those of this House, are extended to their families and members of the Rural Fire Service. Their loss is a tragic one, and the entire community is much the poorer for their passing.

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [1.55 p.m.]: St Matthews Church is a significant New South Wales heritage icon. It is vital that such buildings, especially those designed by Francis Greenway, are conserved. Another reason to conserve the church is that it is most unusual for such a building to remain largely unaltered. I congratulate all those involved in the restoration. It does not surprise me that the Hon. Kevin Rozzoli has been part of the project. I thank the honourable member for Hawkesbury for bringing this matter to the attention of the House. I am sure all honourable members offer their condolences on the loss of Ms White and Mr Martin, who have contributed greatly to their community. The community is the sadder for their loss.

Private members' statements noted.

The House adjourned at 1.57 p.m. until Tuesday 18 November 2003 at 2.15 p.m.
