

# LEGISLATIVE ASSEMBLY

Wednesday 25 February 2004

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

**Mr Speaker** offered the Prayer.

## AUDITOR-GENERAL'S REPORT

**Mr Speaker** announced the receipt, pursuant to section 52A of the Public Finance and Audit Act 1983, of the report entitled "New South Wales Auditor-General's Report—Financial Audits—Volume One 2004".

**Ordered to be printed.**

## STRATA SCHEMES MANAGEMENT AMENDMENT BILL

### Second Reading

**Debate resumed from 4 December 2003.**

**Ms KATRINA HODGKINSON** (Burrinjuck) [10.00 a.m.]: The Opposition will not oppose the Strata Schemes Management Amendment Bill. However, during consultation stakeholders raised a number of concerns about several aspects of the bill and the way in which some of its provisions will impact on strata management practices. I will read onto the Parliamentary record a collection of the stakeholders' comments about the proposed legislation. I take the opportunity to thank the many stakeholders who were contacted for their response to the legislation, in particular, the Property Owners Association of New South Wales for its detailed submission and the Institute for Strata Title Management Ltd and the Retirement Village Residents Association for their respective submissions.

Strata living is an important feature of a considerable segment of the State's population. The Strata Titles Act and its successor, the Strata Schemes Management Act, were designed to deal with relatively small blocks of units for a group of residents who were able to manage the property, often assisted by a strata managing agent. Such residents are now called an "executive committee" in this bill. In recent years, the trend has developed for large high-rise blocks, not only in the city central business district and suburbs but also in regional cities and rural areas. The change in the scale of operations and the consequent problems associated with these blocks, which often contain several hundred units, have necessitated amendments to the Act. The amendments provide additional legal support and provisions to meet the new requirements of the blocks. The Opposition believes that institutional changes should be introduced to cope with the management of multiunit blocks. We predict that this bill is the beginning of a series of amendments that inevitably will be needed to provide for the requirements of this rapidly expanding property sector.

In 2001 approximately 13 per cent of private dwellings in Australia were flats or apartments and more than 75 per cent separate houses. The percentage of flats and apartments has doubled over the past 40 years. In 2000-01 nearly 33 per cent of all dwellings constructed were in the flat or apartment category. Statistics provided in a report following the Campbell inquiry estimated that the percentage of multiunit dwellings constructed in the Sydney metropolitan area compared to the construction of detached dwellings will continue at a proportion of 55 to 45 for the foreseeable future. I refer to "Living in Strata Developments", which is an issues paper that was distributed by the Government last May.

Some suburban areas will have a much higher proportion of multiunit dwelling construction than others. Because of the issue of available space, residential construction in the Sydney central business district will be 100 per cent multiunit. In the past 10 years the number of people living in inner Sydney has risen by 40 per cent, which is an extraordinary figure. In the last financial year banks have advanced \$43 billion in loans for investors around Australia, and 80 per cent of those loans were made for the construction of apartments. One-third of the 173,000 new dwellings that are estimated to be built to the end of 2003 will be under strata title. Therefore, the Government, given its knowledge of this information, has a responsibility to promote regional development in this State and to expand residential programs into rural and regional areas. It should provide

incentives for industry to relocate and provide greater assistance to people who want to start their own businesses in rural areas away from the Sydney-Newcastle-Wollongong areas. There has never been greater proof that the Government is failing in its responsibility in the regional development portfolio than the statistics to which I have just referred.

I now speak to the specific aspects of the Strata Schemes Management Amendment Bill. The bill seeks to provide a mechanism whereby larger schemes can be treated differently to smaller schemes. The inclusion of such a provision recognises the great difference between managing a city apartment block and a suburban block of six to ten units. The bill defines any scheme with 100 or more blocks as a large scheme and is intended to enable the owners corporation to tailor its scheme to its particular requirements. The Opposition notes, however, that parking lots and utility lots, such as storage rooms, will not be counted when calculating the 100 lots. The intention of the bill is to provide a large scheme with sufficient flexibility to alter its administrative arrangements for ease of management. Further, this provision is in recognition of the greater accountability of owners corporation funds that are required by large schemes.

The bill intends that regulations contain provisions that will prescribe different processes and requirements in matters such as the conduct of meetings, the functions of office bearers, the management of finances and the operational powers of the executive committee. While a great deal of the changes to the administration of large schemes will be handled by regulation, some matters have been addressed in the bill. For example, the bill provides that the financial accounts of large schemes will be subject to an audit on an annual basis by a suitably qualified person. In addition, owners corporations will need to obtain two quotations for large items of expenditure. An executive committee for a large scheme will be limited to spending no more than 10 per cent above any approved budget item. All unit owners are required to be notified personally of upcoming executive committee meetings and to be notified of any decisions made by the executive committee at such meetings. The practice of conveying the notification of decisions made at meetings by placing them on the noticeboard will no longer be regarded as sufficient. Further, proxy votes to be used at a meeting of the owners corporation will need to be submitted to the secretary at least 24 hours before the meeting takes place.

As to the 10-year sinking fund, the bill seeks to introduce changes to the way sinking funds are managed by owners corporations. It requires owners corporations to adopt a structured approach to their sinking fund reserves. At present if inadequate owners corporation funds have been set aside and the maintenance of the strata scheme has been neglected, a large one-off levy may be imposed upon all unit owners. The bill will make it a mandatory requirement for all new schemes to implement 10-year sinking fund plans that will need to be reviewed at 5-yearly intervals. Also, 10-year maintenance and expenditure plans with associated budgeting will be required of all new strata schemes. This provision is designed to make an owners corporation face up to the likely capital expenditure that a scheme will incur over the ensuing decade and to plan the sinking fund budget accordingly. The bill also provides owners corporations with the option of drawing on the expertise of professionals to formulate a 10-year sinking fund plan. Although the sinking fund provisions will apply only to new schemes, they may be extended to existing schemes by regulation if deemed appropriate.

The bill seeks to establish a procedure to be followed prior to the commencement of any form of legal action by an executive committee. It has been argued that owners should be made aware of the cost of legal action and its likelihood of success prior to the commencement of such action. The commencement of legal action by an executive committee on strata scheme matters is at times an area of disagreement among owners. The bill requires that if an executive committee is contemplating taking any type of legal action all owners are to be provided with a written estimate of the cost of the action in accordance with the Legal Profession Act. The bill further provides that a meeting of the owners corporation must be called prior to taking action to afford owners the opportunity of expressing a view on the matter. These provisions will cover not only the initiation of legal proceedings but also the obtaining of legal advice.

The bill seeks effectively to prevent executive committees from undertaking legal action on their own initiative to ensure that the decisions taken will not be subject to claims that the committee has not acted in the interests of all owners. In addition, owners corporations will be required to consider whether any restrictions are to be placed on the decision-making powers of executive committees at an annual general meeting for the ensuing year. This provision is designed to ensure that an executive committee will only perform the functions the owners corporation has mandated. The bill also clarifies the situation of a disagreement between the owners corporation and its executive committee. The owners corporation will be regarded as the superior body and may override a decision of the executive committee in the event of a dispute between the two tiers of management.

The bill contains a further provision that confirms the right of an owners corporation to dismiss its executive committee by special resolution, should circumstances deem that necessary. In relation to fire safety,

the bill clearly recognises the importance of having the necessary fire safety measures in place in strata buildings and the need to provide adequate access to fire authorities for the purposes of inspection. The bill is clear that the owners corporation is responsible for ensuring access to buildings. In future an owners corporation will be subject to a penalty for not complying; however, it will be extended a defence to prosecution in the event that residents fail to grant access inside individual units for the purposes of a fire safety inspection.

In relation to the transfer of strata managers, the bill provides that a strata managing agent appointed by the owners corporation cannot transfer the management responsibilities to another agent without gaining the prior consent of the owners corporation concerned. That provision is an extension of the one already enacted concerning the transfer of caretakers. In relation to the transfer of documentation, the bill stipulates the degree of documentation to be handed over by the original owner at the first annual general meeting of an owners corporation and increases the penalties for failure to comply with this requirement. In relation to national competition policy amendments, the bill contains a series of amendments arising out of the recommendations from the national competition policy review of the Strata Schemes Management Act 1996.

The bill seeks to clarify the power of an owners corporation to add to, alter or erect new structures on common property. A standard five-year retention period will apply to all owners corporation records. Owners corporation office-bearers will no longer be permitted to merely issue notices to residents to comply with the by-laws of a strata scheme without the formal support of an owners corporation meeting or executive committee meeting. Individual lot owners will be able to provide verbal consent to conveyancing searches of owners corporation records. Insurance taken out by an owners corporation will need to be with an approved insurer. However, I would appreciate the Minister, in her reply, indicating the accurate definition of "an approved insurer" as proposed under this bill.

In relation to the delegation of owners corporations, at present an owners corporation can delegate its functions only to a licensed strata managing agent while others can and do assist an owners corporation in carrying out its tasks and duties. Only strata managing agents are empowered to make decisions on behalf of an owners corporation. The bill seeks to remove any residual uncertainty in this area. It specifies the types of matters that can be given only to a strata managing agent to carry out critical operational functions of an owners corporation, in the areas of budgeting, fixing of levies, managing finances, insurance, conduct of meetings, handling of correspondence and keeping necessary records. Other and less important tasks will be carried out by others. The circumstances in which a strata managing agent can be appointed by an adjudicator, or the Consumer, Trader and Tenancy Tribunal, is to be widened. This will put beyond any doubt that the compulsory appointment of a managing agent is justified, in the event that in the course of considering an application on an unrelated issue such appointment is revealed as necessary.

In relation to mediation, the bill seeks to make a series of changes to the mediation provisions contained in the legislation. It widens the discretionary power of the registrar to waive the need for mediation. In circumstances where mediation is deemed pointless or counter-productive, the registrar can direct the parties to adjudication. The bill also provides for a ratification order by an adjudicator once the parties have come to a mediated settlement; in effect, this makes the settlement a binding one. However, such ratification can arise only in the event that the parties agree to it at the conclusion of the mediation session. In relation to by-laws, while the by-laws of an individual strata scheme are often tailored to accommodate the circumstances peculiar to that scheme, it is not intended that they be used as a means of fundamentally altering what the general law provides.

It has been suggested that in the past certain owners corporations have attempted to utilise by-laws in a way not intended by the legislation. The bill makes it clear that by-laws are not to be used as a means of going beyond the provisions of the Strata Schemes Management Act. Exclusive use by-laws refer to those by-laws that give individual owners sole access to or use of a portion of common property. An exclusive use by-law can be passed only if 75 per cent of an owners corporation votes in favour of it. The bill requires that a vendor must disclose to a purchaser whether any such exclusive use by-law has been registered with the strata scheme. In relation to strata retirement villages, between 40 and 50 of the more than 700 retirement villages operate in New South Wales as strata schemes, while both the Retirement Villages Act and the Strata Schemes Management Act operate in tandem in respect of those villages. The overlap of the two sets of laws requires careful consideration by older members of the community who are considering moving into a strata retirement village. The bill requires that prospective residents of strata retirement villages must be provided with the necessary information about strata levies payable and all relevant strata information to assist in making their choice of village.

In relation to exclusion from dispute resolution, the bill contains a regulation-making power to exclude certain strata schemes from the dispute resolution mechanisms available under the Act, should that measure

need to be taken. It has been suggested that a dispute resolution process that is mainly designed to resolve issues concerning residential buildings is not necessarily the most appropriate means of addressing an issue confronting large commercial strata schemes and that that situation may be more appropriately met by using conventional mechanisms. I note the Minister conceded that the bill contains extensive regulation-making powers that could well draw the interest of the Legislation Review Committee. I trust the Minister will keep true to her word and ensure that consultation takes place with relevant interest groups before gazettal of the regulations.

I note further that the Minister has foreshadowed the release of a follow-up issue paper on matters pertaining to the Strata Schemes Management Act. I am sure that stakeholders will await the release of that paper with considerable interest. It is intended that the issues paper will contain a number of issues upon which those with an interest in strata management have yet to reach agreement. That includes the extension of a new sinking fund provision to schemes already in existence, further restrictions on the use of proxy votes and a limit on the maximum number of persons permitted to occupy residential units.

I turn now to specific aspects of the bill, which were raised during the Opposition's consultation period. However, I first record my thanks to Messrs Sam Maresh, James Mugambi and Peter Berry, for their briefings to me in relation to the bill. I have received a very detailed and comprehensive submission from the Property Owners Association of New South Wales in relation to the Strata Schemes Management Amendment Bill. I will detail some of the concerns of the association. I refer to schedule 1 [4], the appointment of a strata managing agent. The function of the strata managing agent is generally the sale of the management rights to another agent for the sale of the business. There is concern over the meaning of the words "transferred to another person". The words should be "transferred to another licensed strata management agent". It is essential to ensure that the transfer is to another licence holder, not just another person. While that condition is included in other sections of the Act, it also should be emphasised in this schedule.

Another concern is that no time limit has been set on the new appointment listed in that new section. Does this mean that the transfer is for the unexpired term of a contract of the agent selling the management rights? It would be preferable if the term of the new agent were for one year, after which it would be subject to renewal between the contracting parties on terms agreed between them. In relation to schedule 1 [8], how an owners corporation can enforce the by-laws, new subsection (3) states that limitations on issuing a notice to enforce a by-law do not apply to a strata managing agent, if it has been delegated to the strata managing agent.

This provision seems to supersede a ruling of the adjudicator and the tribunal that a strata managing agent must have the authority or instructions in each particular case of the owners corporation or of the executive committee before issuing such notices. Strata managers have complained that the need to secure approval in each individual case is cumbersome and time consuming. The tribunal ruling is made to ensure that the notice represents the will of the committee or corporation and is not made because one particular person has made a complaint application about the activities of another person. A compromise between the two points of view might be that the managing agent may issue the initial notice to comply without the approval of the corporation or the executive committee. However, if any follow-up action is deemed necessary it should have the approval of the corporation or the executive committee.

I have discussed with the department at some length schedule 1 [11], which inserts section 65A, which is headed "Owners corporation may make or authorise changes to common property". I will put on record the concerns of the Property Owners Association. I trust that the Minister in her reply will address the issues I am about to raise. The proposed changes in section 65A change the manner in which changes to common property may be made or sanctioned. The changes facilitate the alienation of common property by some owners while at the same time may impose a responsibility, possibly unwittingly, on the owners corporation for maintaining responsibility for repairing or maintaining the areas of common property that were alienated.

At present there are two methods by which an owners corporation may authorise changes to common property. The first is by special resolution under bylaw 5 passed at a general meeting of the corporation. This resolution may contain conditions on which authorisation is given, for example, obligation to maintain the property in good repair and so on. The second is by passing a bylaw under section 52 that specifies the condition under which certain action is authorised, in particular that the maintenance, repair or replacement will be the responsibility of the owner concerned. Such a bylaw needs to be registered on the title of the property so that the terms will be clearly known and be binding on successive owners. If the resolution made in the two ways mentioned does not state that the owner is going to be responsible for the maintenance or repair then this responsibility remains, by default, with the corporation, despite the changes, alterations, et cetera made by the owner.

The proposed section 65A seems to be designed to codify the rather fluid situation whether an owners corporation should act under bylaw 5 or prepare and register a bylaw. Except in simple cases such as the use of car parking spaces, a bylaw should be prepared setting out the exact conditions or terms and it should be duly registered for the information of future owners. Upon closer inspection, I believe that in proposed section 65A (2), line 16 "may specify" should be changed to "should specify" the responsibility of who will be responsible for ongoing maintenance of common property under reference and should be clearly stated in any bylaw resolution in order to avoid future problems. This is necessary in view of proposed section 65A (3), according to which, if the special resolution does not specify who is responsible for the ongoing maintenance, repair, et cetera of the common property concerned, then this responsibility remains with the owners corporation. If an owner receives permission to install an airconditioning unit or blinds to the outside of the building it should be obvious that the owner concerned should be responsible for the ongoing maintenance of the equipment. There is no logic or justification why, after the owner has alienated common property for private purposes, responsibility for that particular maintenance should still remain with the owners corporation. Other owners should not have to contribute to the maintenance of a facility installed by and for the benefit of one owner.

The Property Owners Association has also raised several areas of concern relating to section 65A (4). In lines 28 to 30 it is stated that before making a bylaw an owners corporation must obtain the consent in writing from the owner concerned for the provision of maintaining that part of the common property and the objects installed. The association says that this is a back to front provision. If an owner requested permission to install certain equipment on common property then the owners corporation may consent, subject to certain conditions. If the owner concerned does not agree to the conditions the concession may not be granted and the subject is closed. It is not and should not be the for the owners corporation to seek the agreement of the owner who received the concession for that person to undertake the maintenance. The corporation has the right to set the conditions. If the owner does not agree then the concession may not be granted.

The association also raises the following important matters missing from the proposed section 65A. First, the legal costs of drafting and registering the bylaw on the title should be the responsibility of the owners seeking the use of common property. Second, the association also asks for clarification of the legal position regarding what action an owners corporation may take when an owner alters common property or installs equipment on common property without seeking the approval of the owners corporation. Third, if an owner undertakes alterations to common property without permission and no action is taken to stop this, thereby giving tacit consent, the maintenance responsibility should stay with the person making the alterations. This is a very important point as this situation does often arise, particularly where many owners are non-resident and may not be aware of any alterations or changes but could incur the expense of maintenance by default.

In relation to section 65B, which is headed "Owners corporation may grant licence to use common property", the Property Owners Association points out that bylaws may be granted or used but the bill fails to mention that licences should be registered to define the legal position. The association also has concerns in relation to access and fire safety inspections. However, I am comfortable with the proposal under the bill. The association supports the amendment in relation to 10-year sinking fund plans. The Opposition is also pleased to support it. Schedule 1 [15] inserts Division 3, which is headed "Restrictions on spending". Section 80B only large corporations are required to obtain at least two quotes but this provision should probably apply to all corporations irrespective of size, as it may not be practical to obtain quotes for small jobs. For instance, it may not be necessary to obtain a quote for jobs costing less than \$300. The Minister might address this issue in her reply. Schedule 1 [20] inserts section 108, which is headed "Inspection of records of owners corporation".

Concerns have been expressed to the Opposition about the deletion of the words "in writing" from section 108 (1). The Property Owners Association says that strata records, details of owners, mortgage details if applicable, financial statements, procedures of meetings, et cetera are confidential documents and it is essential that only authorised persons should have access to them. It is possible that the deletion of the words "in writing" from section 108 could lead to a person without specific authorisation having full access to all strata records. The association goes on to say that if the intention was to broaden the authorisation from just being in writing to other forms of notification, such as fax or email, the wording could be changed and instead of deleting "in writing", the present wording should be retained with the addition of "by fax, or by email". Authorisation could also be broadened to allow authorisation by the vendor's solicitor as well as by the vendor.

Strata lot owners in large developments have put to the Government that appropriate advice and information that should be available to owners in the minutes of meetings or by other means is often withheld with the misinformation that if the details get out, the resale value of their investment will be lowered. These committees often undertake decisions in the secrecy of subcommittees that are not required to provide an

account of their decisions and the decision of the chairman often overrules the majority. There is obviously a real need to increase the transparency in relation to minutes of owners corporation meetings. The Opposition supports that amendment. Section 123 relates to what action can be taken if there is a dispute. The Property Owners Association says that it is not clear under new subsection (2) why any particular class or classes of strata schemes may be excluded by regulation from the provisions of this legislation. We believe that the whole subclause should be deleted. New section 131 is headed "Agreements and arrangements arising from mediation sessions. The association supports the introduction of mediation to try to resolve disputes by mutual agreement between the parties. Statistics showed that a high percentage of applications are resolved during mediation, so the cases do not need to go to adjudication.

That body is concerned about the provisions in new subsection (2B) but it agrees with the provisions in new subsection (2A). In relation to new subsection (2B), when mediation is successful and a consent order is requested, the consent of both parties is required by the adjudicator before he or she can issue an order containing the terms of the agreement. I believe that section will be addressed by way of an additional amendment that will be moved by the Government, so I will not address it any further at the moment.

Item [31] inserts new section 183B (4), which refers to the qualifications of persons to be appointed. That new subsection states that strata managers should be suitably qualified. In the case of corporations, limits should be placed on the number of certificate holders or trainees who can work under the supervision of a licensed strata manager. That number should be limited to five to ensure that licensed holders can properly supervise the management of strata properties contracted under their care. I ask the Minister to address that issue when she responds to debate on this bill. I have also received comments from the Institute of Strata Title Management Ltd which, in a nutshell, states:

In its current format the Bill will make the Strata Schemes Management Act unworkable as no reasonable consumer will want to volunteer to be elected to an executive committee of an owners corporation.

The Retirement Village Residents Association states:

The Government has to some extent "borrowed" some of the ideas which went into the Retirement Villages Act 1999. Where that Act has failed is mainly the lack of quality of management and the failure of management to study the provisions of the legislation and abide by it. Will not the same problem recur in strata units whether they be large or small?

The Retirement Villages Residents Association then states:

... there must be some mandatory education scheme to ensure that the Act is properly complied with by residents and strata corporations alike.

The legislation is only going to make the task of administering the plans so much harder.

It then states:

Personally, I have little faith in the Consumer Trader and Tenancy Tribunal because the members have little practical knowledge of retirement village living and they rely mainly on interpretations of the law. I find it difficult to believe the management of the strata schemes and the residents will have little knowledge either unless there is a comprehensive plain english book given to each resident and then a series of meetings of all residents until they are all reasonably conversant with the proposals.

That is a pretty fair request. Plain English instructions should be given, in particular to those people who live in retirement villages. In late June last year I met with Frank Archibald who came to Parliament House to discuss strata issues with me. There is a level of concern in the wider metropolitan area—and, I am sure, in country areas—about the property sector, the Labor Party and the level of political donations from the building and property sector to the Labor Party. I have raised that issue as it is one that is constantly raised with me. We are talking about strata issues so that is what Frank Archibald came to see me about. He is also concerned about self-certification and the lack of corporate governance, as exercised by \$2 companies building assets that exceed \$100 million. Some of those \$2 companies are spending huge amounts of money. That issue does not come within the provisions of the bill at this time, but I have raised it as it was raised with me in relation to strata matters.

Amendments should be made to one of the most important issues facing people living in strata developments today. I have raised the many concerns that have been raised with me as part of the Opposition's extensive consultation process with organisations and interest groups in relation to matters such as these. I thank all those people for taking the trouble of reading the legislation and the Minister's second reading speech and for participating in debates that led to the introduction of this amendment bill. I thank those people living in strata

developments who put forward submissions to the 2003 discussion paper and all those people who continue to express their concerns to the Opposition. I am pleased to have been able to represent them in this place today. I hope that the Minister, in her reply, will address the many issues that I have raised in the House.

**Ms ANGELA D'AMORE** (Drummoyne) [10.35 a.m.]: I support the Carr Government's comprehensive Strata Schemes Management Amendment Bill. Strata schemes have become such an entrenched feature of urban life that it is hard to imagine a community without the variety of apartment buildings, townhouse developments and villas that we see in our suburban and regional areas today. While some may lament that fact, it is beyond doubt that the age of a sprawling family home and big backyard is over for much of the population, and medium-density and high-density living arrangements are much more likely choices.

Strata living, whether it be in a city high-rise tower or a two-lot dual-occupancy type of development in a suburban street, means that the interests and expectations of others living close by are involved. While it would be wonderful if every strata scheme were perfectly harmonious, with all owners sharing the same attitudes and agreeing on plans for the present and the future, such a scenario is a pipedream. It is obvious that any group of people will have different opinions on how things should be run, on the priority issues that are to be looked at in the current environment and what should be the goals for the future. It is thus essential, in my view, that there be some legislative framework for strata schemes to operate as smoothly as possible.

We have had strata development laws in New South Wales for 40 years, and we have had strata management laws for 30 years. Generally, they have worked pretty well. However, regulation can always be made more effective and I believe that is what will arise from the provisions of this bill. Of particular interest are the revised sinking fund provisions in the bill. I am sure that many honourable members can verify the fact that some strata scheme buildings have not been adequately maintained. The neglected appearance and unsatisfactory state of repair of some older apartment buildings is a blight on our communities. Any steps that can be taken to avoid such situations arising are to be welcomed. The problem with some owners corporations is that they do not put aside enough funds or plan ahead thoughtfully enough to deal with long-term maintenance and repair costs.

The bill aims to ensure that strata buildings in the future will not be placed in the same situation. For the first time the bill will require owners corporations to prepare specific 10-year sinking fund plans so that adequate financial reserves can be built up in readiness for the necessary major capital expenditure on buildings that will inevitably arise with the passage of time. Many strata schemes already adopt such practices as a matter of course. The aim of the bill is to encourage owners corporations to plan ahead so that they are not left in situations in which everyone is hit with a large one-off levy to fund a sudden and urgent building expense. I am sure that most people would prefer to put a little extra aside each quarter over a period of years than suddenly have to find thousands of dollars to meet their contribution to the cost of essential building or equipment.

The concept of the 10-year sinking fund plans that are provided for in the bill will enable some forward planning. People will be able to work out when the painting will have to be done and they will be able to estimate when the plant and equipment will have to be replaced rather than leaving those things until they are confronted with the problem. I feel especially for pensioners who own their strata units having to rake up a large special levy because insufficient reserves have been built up over the years. I am sure that these new sinking fund provisions will provide a better mechanism. For those reasons alone the bill deserves to be supported. I commend the bill to the House.

**Mrs JUDY HOPWOOD** (Hornsby) [10.40 a.m.]: I join the honourable member for Burrinjuck in addressing the Strata Schemes Management Amendment Bill, which amends the Strata Schemes Management Act. It makes miscellaneous amendments in respect of the functions of owners corporations, special requirements for the management of large strata schemes and other matters relating to the management of strata schemes. As has been said, the Opposition will not oppose the bill. However, qualifications and comments have been made and I wish to add to them by providing feedback from residents of The Grange in my electorate.

The Strata Schemes Management Act 1996 was amended in late 2002 to take account of the national competition policy review of the legislation. Further proposed amendments to the Act arising from the national competition policy review were not implemented at the time. An issues paper released by the Carr Government in May 2003 discussed many of those issues in addition to a number of other matters. This bill provides a mechanism for large strata schemes of 100 or more lots to be treated differently, especially in calculating large lots. Parking, storage and utilities lots will not be counted. As it stands, all developments are treated the same regardless of whether they involve two units or 1,000 units.

Amendments are also to be made to the way in which sinking funds are to be managed. A structured approach must be applied to sinking fund reserves, and it will be mandatory for all new funds to implement 10-year sinking fund plans, which must be reviewed at least every five years and will be required to include a 10-year maintenance plan with associated budgeting. All insurances must be taken out with an approved insurer. The bill gives greater discretion to the Registrar of the Consumer, Trader and Tenancy Tribunal to refer matters to adjudicators or to the tribunal. The bill also amends the Retirement Villages Act 1999, the Retirement Villages Regulation 2000 and the Conveyancing (Sale of Land) Regulation 2000.

Financial accounts are to be audited annually by suitably qualified persons. At least two quotations will have to be obtained for larger items of expenditure. The executive committee will be limited to spending no more than 10 per cent above any approved budget item. Personal notice to all unit owners will be required for upcoming executive committee meetings, as will notification of decisions of the executive committee. Proxy votes must be submitted to the secretary at least 24 hours prior to a meeting. If any form of legal action is being contemplated, the estimated cost is to be provided to all owners in writing in accordance with the Legal Profession Act. A meeting of the owners corporation must be held prior to the commencement of any action. That also applies to the obtaining of legal advice.

A new mandatory item is to be added to the annual general meeting agenda to consider any restrictions that will apply to the executive committee decision-making powers for the following year. It is the duty of the owners corporation to ensure adequate access for appropriate authorities to inspect and confirm that necessary fire safety measures are in place. The bill also prevents the functions of a strata management agent being transferred to another person without the approval of the owners corporation. It is made clear that the owners corporation may make by-laws granting a licence to an owner of a lot to use common property in a particular manner or for a particular purpose.

The bill also amends the Retirement Villages Act 1999 to require information about living in a strata scheme to be given to a prospective resident of a retirement village that is subject to a strata scheme. It amends the Retirement Villages Regulation 2000 to require the current strata contributions for a lot in a retirement village that is subject to a strata scheme to be included in the disclosure statement required to be given to a prospective purchaser of a lot. The requirement to prepare long-term plans to cover sinking fund expenditure has been welcomed by stakeholders. The Government has acknowledged that a great deal of the legislation covering management of strata schemes is to be implemented by regulation. While welcoming many of the changes, stakeholders are concerned about the restrictions on expenditure and legal action imposed on executive committees.

I refer honourable members to three residents who live at The Grange at Waitara in my electorate. Peter Schell has written to me drawing my attention to several aspects of the Act relating to strata scheme management. He states:

I have lived happily at the Grange, Waitara for over 13 years & served on the Executive Committee for five years & then undertook a number of assignments at the behest of the later Committee.

The Grange was designed for 'over 55's' living & offers an excellent level of life style. We number approximately 235 people & live in 176 totally self contained units. It should be noted that the Owners also own the amenities. In other words, there is no outside ownership & so no profits need to be generated for third parties. We own the Grange, lock stock & barrel!

I understand the Government is to call on amendments to the NSW Strata Schemes Management Legislation & so I would like to draw you attention to one or two aspects of the present Act which cause some discomfort to me & a number of my fellow Owners.

The points Mr Schell makes have not been effectively addressed in the bill. He continues:

**1. Owners only to be eligible to be elected to the Executive Committee**

The Act requires an establishment such as ours to be run by 'The Body Corporate' who may or may not appoint either a qualified Strata Agent &/or an Executive Committee to run the day to day activities. The Grange opted for the Executive Committee system of governance.

However this concept has been corrupted & non owners have caused themselves to be elected by utilizing the authority detailed in Schedule 3, 'Constitution of Executive Committee of the Owners Corporation etc' Part 1, clause 2...

The legislation states that a person is not eligible for election as a member of an executive committee unless the person is nominated for election by an owner who is not a candidate for election. That provision has been abused and The Grange is now in the difficult position of having two non-resident executive committee



members voting on matters affecting the day-to-day running of the village and its long-term financial affairs. Mr Schell recommends that the relevant provision be deleted.

He also states that voting for executive committee membership should be anonymous. As the legislation stands, owners are required to identify themselves when they vote in executive committee elections. That opens up the possibility of victimisation if those handling the completed ballot papers are of a vindictive inclination. Mr Schell believes that the identity disclosure is antidemocratic and goes against the principle of a free vote, particularly on such sensitive issues as voting for or against neighbours with whom one must fraternise during continuing residency. Mr Schell recommends the deletion of the requirement for owners to identify themselves when voting in executive committee elections. Mr Schell also comments on proxy voting. He states:

The present Act allows for an almost unlimited number of proxy votes providing the requisite number of owners are present at the meeting.

He believes that that could lead to a gerrymander. He also advocates a limit on proxies. I hope that the Minister will address those concerns in her reply. I also have a letter from B. J. Hannon who states:

- The Grange is a 100% resident owner lifestyle village...
- Lifestyle Villages need vision statements and implementation plans in addition to guidelines applicable to other Strata Developments.
- Management gives insufficient priority to residents activities and interests.
- The Manager and Treasurer are not resident owners and sit on the Executive Committee of seven and have voting rights. They need only the votes of two residents to carry a motion...
- Voting for the Executive Committee is not by secret ballot.
- Some residents collect hands full of proxies without limit and unduly influence the voting.

A third letter was sent by Adrian Ebert, who also lives at The Grange. He expressed concern about a recent annual general meeting and describes briefly what took place:

Our employed manager, non owner, put up a list of seven candidates for the Owners Corporate Committee which included himself and our employed non owner Treasurer and five owner residents. I put up a list of seven owner/residents...

However, between 30 and 40 proxy votes were collected, which ensured that Mr Ebert's campaign was unsuccessful. He states that the proxy votes were used to support the manager's list. He was not happy with the result. Mr Ebert continued:

There we were owning all the units as well as the body corporate but without control.

Over the past year many owner/residents have sent letters to the Owners Corporate Committee with requests and complaints etc. which have not been tabled and only a few replied to. Accounting matters have also been very obscure and if we queried items we were classed as troublemakers.

In the case of large strata schemes, Mr Ebert favours the Queensland concept of the standard module, upon which I hope the Minister will comment. Mr Ebert writes:

Large Strata schemes have a lot more complex problems — For example, at The Grange we have a staff of 22, restaurant/dining room, tennis court, bowling green, croquet green, extensive gardens, hydro/therapy etc — All this increases the volume of management, financial controls and reporting.

Mr Ebert also favours electing members by secret ballot. He believes the use of proxies should be restricted to 5 per cent of the total vote, that the committee should comprise owners only and that non-owners should have no voting rights. He also states:

Managers with contracts cannot transfer responsibility for management without the approval of the owners corporation committee ... I believe that the strata rules covering management and accounting are very weak and need strengthening. I recommend for example that those used by local government councils be adopted.

I thank those three residents for sending me their comments. The Minister responded to those issues by stating:

There is no proposal at this stage to limit the number of proxies that any one person may hold. This is in recognition of the fact that some owners corporations would find it difficult to obtain a quorum for meetings without proxies being taken into account.

She also states:

Secret ballots for election of executive committees are not provided for in the current legislation and there are no plans at present to require them.

I would welcome further comments from the Minister about that matter. I am glad that an additional discussion paper will be developed and released in early 2004 to gain public input on a number of unresolved strata and related issues. I hope that the Minister will take account both of the further submissions that will be made in the course of that process and of my comments about residents in my electorate.

**Ms KRISTINA KENEALLY** (Heffron) [10.51 a.m.]: I have a particular interest in the Strata Schemes Management Amendment Bill as it deals with an issue in my electorate of Heffron that has been of great concern to me. I have been dealing with complaints raised by constituents regarding the activities of a developer that amount to what I believe is the improper manipulation of by-law making powers under the strata laws. It has emerged that a developer in my electorate is registering exclusive-use by-laws for parking spaces on common property so that only the purchasers of certain residential lots can use those particular spaces. While on the surface this might not seem such a serious matter, it is serious when one considers that the spaces allocated are apparently ones that the local council has designated as visitors' car spaces under the development approval. Even worse, some of the spaces were meant to be disabled persons' parking.

Under the bill developers will be required when selling strata units to disclose any exclusive-use by-laws that are already in place. This pleases me greatly. People who bought down the track into the scheme in my electorate to which I have referred were led to believe that adequate car spaces would be available for their relatives and friends but found out later that the spaces had already been allocated for the exclusive use of some of the owners. These exclusive-use arrangements were not brought to their attention. I believe purchasers have been misled and I am glad that the matters are presently under investigation by the Office of Fair Trading.

Leaving aside what may arise after possible action is considered by the appropriate authorities, the owners corporation in that building is currently divided. The owners who have exclusive use of the common area visitors' spaces do not want to give them up—they have paid handsomely for the privilege—and those who do not have exclusive use are resentful that the spaces they thought would be available for their visitors have already been hived off. Furthermore, cars that the council thought would be parked off street will now be parked on already congested public streets. This is clearly an unsatisfactory situation, and I am glad that this bill will reduce the likelihood of such a situation arising again.

The bill includes an amendment to the Conveyancing (Sale of Land) Regulation, which will require such exclusive-use by-laws to be items that must be attached to contracts for the purchase of strata title properties. Therefore, people will know, without having to ferret around and discover it for themselves, whether the developer has registered any exclusive-use by-laws that will benefit only some of the owners. Hopefully, prudent legal advice will result in their considering whether they should proceed with the sale. Developers must not be allowed to get away with misleading both local government authorities and individual purchasers in the way that some have in the past regarding the exclusive use of parking spaces located on strata scheme common property. I fully support the bill for all of its provisions but particularly for the way that it addresses this patently clear injustice. I urge all honourable members to back the improvements to the strata schemes management laws that this bill provides. The bill contains a range of positive and worthwhile amendments that all members should support.

**Ms GLADYS BEREJIKLIAN** (Willoughby) [10.55 a.m.]: I wish to speak to the Strata Schemes Management Amendment Bill as large strata scheme developments are becoming a common sight on the Chatswood skyline in the city of Willoughby. As noted in the discussion paper "Living in Strata Developments", released by the Government in 2003, in 2001 approximately 13 per cent of private dwellings in Australia were flats or apartments whereas more than 75 per cent were separate houses. The percentage of flats and apartments has doubled over the past 40 years. In 2000-01 almost 33 per cent of all dwellings constructed were in the flats and apartments category, and there is every indication that this trend will continue.

Therefore, like other Opposition members, I support the Strata Schemes Management Amendment Bill. It seeks to amend the Strata Schemes Management Act 1996 to make specific provisions for the management of large strata schemes, defined as those containing 100 or more lots. As I have said, such schemes are growing at a rate of knots in communities within the electorate of Willoughby. The bill also seeks to clarify provisions relating to the exercise and delegation of functions by owners corporations and their powers to add to or alter common property. It also seeks to enable officers authorised to carry out fire safety inspections of buildings to deal with the owners corporation for the building rather than individual lot owners.

The bill requires owners corporations to obtain approval at a general meeting prior to seeking legal advice or taking legal advice when owners corporation expenditure is involved. It requires all insurance to be taken out with an approved insurer and requires all new strata schemes to prepare plans for a 10-year sinking fund. Existing schemes may be required to provide such plans at some point in the future. The consent of owners corporations will also be required before a strata managing agent can transfer the management of a scheme to another agent. The bill's requirement for the preparation of long-term plans to cover sinking fund expenditure has been particularly welcomed by most stakeholders. I commend the shadow Minister for fair trading, the honourable member for Burrinjuck, for her consultation with relevant stakeholders in relation to this bill.

As I said at the outset, there has been an ongoing debate within the Willoughby community in recent times about the proliferation of large strata scheme developments. There is a strong community expectation that such developments will be dealt with appropriately in the interests not only of residents who choose to live in strata scheme developments but of the residential amenity of those who live in close proximity to them. This bill will go some way towards allaying community concerns about the management of large strata schemes. I reiterate that the management of strata schemes, particularly those that contain 100 or more lots, is a huge issue in my electorate. Many community members oppose the location of further large strata scheme developments in Chatswood.

However, it is likely that existing schemes will remain and that new ones will be developed, especially as the State Government's registration of interests regarding the development of the Chatswood interchange includes in its terms of reference the construction of three additional residential towers in that community. There is a strong community expectation that such strata schemes will be regulated to ensure the amenity of both residents of strata developments and those who live in close proximity to them. I look forward to reading the further comment paper which the Minister for Fair Trading has undertaken to release later in the year, to ensure that the implementation of the bill produces the desired outcomes in accordance with community expectations. On that basis I commend the bill to the House.

**Mr JOSEPH TRIPODI** (Fairfield—Parliamentary Secretary) [11.00 a.m.]: It is with great pleasure that I speak in support of this detailed package of amendments and improvements to the New South Wales strata management laws contained in the Strata Schemes Management Amendment Bill. New South Wales has led the way in the development and streamlining of strata laws since they first came into being in the early 1960s. We can all take pride in the fact that New South Wales strata management legislation has been the catalyst for the development of similar laws in other Australian States and Territories and, indeed, in other countries.

The bill contains a raft of improvements that will be appreciated by the vast majority of people in the strata schemes environment. It is estimated that around a quarter of the population of New South Wales are connected with strata schemes in some way, through ownership of a strata unit or occupation as a tenant. Many others work in or operate businesses within a strata scheme. Thus a significant portion of the community has a day-to-day link with the operations of a strata scheme. I am sure the legislative refinements will be of benefit to this large body of people.

It was inevitable that strata schemes would grow larger and more complex with the passage of time, and the bill takes account of this. I am pleased that steps have been taken to provide special provisions for schemes of 100 lots or more. Figures provided by the Department of Lands indicate that about 0.6 per cent of the total number of schemes registered since 1961 fall within this large category. However, modern city schemes developed in recent years are more likely to be in the large category. The government issues paper released last year entitled "Living in Strata Developments in 2003" quotes statistics showing that 9 of the 65 schemes registered in the city of Sydney during 2002 were in the 100-lot-plus category.

These large schemes are substantial enterprises. They are, in effect, self-sufficient communities within the larger community. The bill takes account of the impact of decisions made within large schemes that affect many individual owners, and it modifies the powers of large scheme owners corporations and their executive committees. The provision that the annual financial accounts of large schemes will have to be properly audited each year is a sensible and appropriate amendment that is difficult to argue against. Any similar size enterprise in other spheres of activity would automatically be subject to an audit of its finances, and I am sure that any prudent strata owners corporation would agree with the new provision. We are talking here of annual budgets of hundreds of thousands, and sometimes millions, of dollars. This new provision for mandatory auditing of the finances of large schemes merely confirms what is sensible management and accounting practice and appropriate consumer protection for individual owners within the scheme.

The next important modification to the management of large schemes, regarding the obtaining of at least two quotes for larger items of expenditure, should also be widely supported. Again, it is wise business practice and a judicious risk minimisation procedure to consider more than one price before entering into a binding arrangement. Under the bill, large scheme owners corporations will merely be asked to obtain at least two quotes for items involving high expenditure. This will not affect emergency expenditure such as a burst sewer pipe, the replacement of glass in the building foyer in the event of late-night vandalism, or the restoration of the electricity supply after a fire in the basement. However, the provisions will apply to more discretionary expenditure, such as the repainting of common hallways, the recarpeting of staircases, the landscaping of gardens, and maintenance of the swimming pool.

The level of expenditure above which at least two quotes must be obtained has not yet been set, and I understand that this will be settled after the Office of Fair Trading has consulted widely on the issue. I am confident that a figure can be settled upon that will enable large scheme owners corporations to carry out their routine business without unnecessary restriction, and at the same time ensure that major expenditure is not entered into lightly. The other main effect of the bill's provisions on large schemes relates to the decision-making powers of executive committees. I am sure most people would agree that any large organisation needs an executive body to deal with much of the routine and less controversial business. Strata owners corporations are no different, especially those responsible for the administration of our very large schemes. It would not be feasible for the whole body of people constituting a strata scheme to have to be called together for every decision, no matter how minor. It is essential that an efficient and responsive executive committee be in place.

However, executive committees cannot take their powers lightly; after all, they represent the interests of all the owners. While most strata executive committees do their best to carry out their tasks responsibly, I understand that some concern has arisen about the activities of a minority of them. As a result, some limitations are to be placed on them, and I believe that these are fair changes. Executives handling the affairs of large schemes will be restricted to spending no more than 10 per cent above any budgeted item. This will ensure that overenthusiastic executive committee members do not commit owners to open-ended expenditure that has not been approved by the full body of people making up the scheme.

Another important change is that notice of future executive committee meetings will have to be given personally to all owners. It will no longer be acceptable for a notice to be simply pinned on a notice board that is hidden away somewhere in the building. This is a sound measure to ensure that everyone is fully aware of the types of matters that are before the executive. A further specific provision of the bill will ensure that legal action cannot be launched by any executive committee, regardless of whether the scheme is large, without reference to all owners in the scheme. All owners will thus be kept in the loop and be made aware of the costs and time frame involved in any legal proceedings undertaken on their behalf. This sensible initiative will minimise disputes arising within schemes over concerns that expensive legal action is being taken by elected office bearers without adequate consultation with the unit owners who will have to pay for it. The bill contains a welcome package of improvements to the strata laws, and it should be supported by all members.

I wish to expand upon the need for annual financial accounts to be properly audited. Obviously, people who purchase units under strata schemes purchase a package; in other words, they purchase not only an asset but also the prospect of liabilities in the future. The auditing of annual financial accounts gives both buyers and sellers security and certainty about what they are getting involved in. They are provided with information that has integrity, to allow them to make an informed decision before purchasing the asset and accepting the liabilities that could be associated with it. The improvement to that level of transparency provided in the bill is crucial for people making major decisions about purchasing such important assets. I commend the Government for its initiative of improving the integrity of that information so that purchasers can make more informed decisions before proceeding to take on such a level of debt.

**Mr STEVEN PRINGLE** (Hawkesbury) [11.08 a.m.]: The Strata Schemes Management Amendment Bill is very important for the electorate of Hawkesbury, and it is long overdue. As honourable members would be aware, last week the Minister for Infrastructure and Planning signalled changes to legislation that would replace the infamous State Environmental Planning Policy No. 5 [SEPP5] legislation, which is causing a great deal of distress to many residents throughout Sydney. One of the sleepers in the Strata Schemes Management Amendment Bill is that it assists in the establishment of large developments in rural areas. It will now be much easier to establish large, strata-style developments in Hawkesbury, which is a semi-rural electorate.

The requirement to prepare long-term plans to cover sinking fund expenditure is welcomed by most stakeholders. Large-scale developments involve issues such as the expensive maintenance of lifts, and adequate

allowance must be made for depreciation and other issues. Landscaping also often involves large amounts of expenditure. I certainly look forward to the implementation of this bill. The amendments and the concerns which the Opposition has already raised are very important, and I hope the Minister will address them all and agree to the amendments so that the legislation is workable in all parts of Sydney, not just in the inner-city areas. I commend the shadow Minister for her efforts in bringing to the attention of the House the importance of these amendments. But, yet again, the Government is slow to act both on SEPP5 and on this legislation.

**Mrs KARYN PALUZZANO** (Penrith) [11.10 a.m.]: I speak in strong support of this bill, which contains a wide range of improvements to the strata management and related laws. I believe these improvements will have a positive effect on the operation of schemes, whether large, medium or small in size. It is well known that 10 new strata schemes are registered each working day in New South Wales. That equates to around 500 additional strata units coming into being each week, or 26,000 each year. The popularity of strata development and strata ownership shows no signs of waning in this State. Today as I travelled on the intercity train from Penrith, as I usually do, I noticed the amount of small to medium developments in Doonside, Blacktown, Parramatta and Strathfield.

Keeping in mind those strata schemes coming on line, it is interesting to examine the statistics provided by the Department of Lands, which may counter some of the outlandish statements that have been made by members on the other side of the House. These statistics show that of the 60,000 schemes in New South Wales about 27 per cent are 2-lot schemes, 24 per cent are 3 to 5 lots, and 24 per cent are 6 to 10 lots. It can be seen that 15 per cent are 11-to-20-lot schemes, 7 per cent are 21 to 50 lots, and just over 1 per cent are between 51 and 100 lots in size. Just 0.6 per cent of all the strata schemes in New South Wales are over 100 lots in size. I know that members on the other side of the House can do the calculations on what 0.6 per cent of 60,000 is.

So despite valid concerns over some of the issues arising in the larger schemes, it can be seen that the vast majority of schemes are at the smaller end of the scale, and it is these average suburban schemes that will reap many of the benefits of the legislative reforms. I can confirm that Penrith has many within the 24 per cent of the 3-to-5 lot schemes, the 24 per cent of the 6-to-10 lot schemes, and the 15 per cent of the 11-to-20 lot schemes. One of the provisions of this bill is to ensure that the management arrangements applying to a strata scheme cannot be transferred from one licensed managing agent to another without the agreement of the owners corporation concerned.

I understand that instances have arisen in which a strata scheme has engaged a managing agent of its choice only to find at a later date that the agent sells his or her management role to a competitor. The owners corporation suddenly finds that the management arrangements for its building are in the hands of a manager it deliberately avoided employing. I am pleased that steps have been taken to ensure that the owners corporation itself has to agree to such a change in management arrangements rather than have the decision made for it. This is a completely appropriate refinement to the law.

Another commendable improvement to the legislation is the requirement for an expanded list of documentation that strata developers must hand over to owners corporations at the first annual general meeting. Often owners corporations have been given insufficient information by developers at the time of taking over their own affairs. Plans, drawings, warranties, compliance certificates and other important documentation is sometimes missing, and this has stifled the owners corporation in taking responsibility for the day-to-day running of the scheme. The bill takes some decisive steps in overcoming this problem. Additional documentation will be required to be handed over by the developer and the penalty for failing to do so has been substantially increased. I am sure this will encourage recalcitrant developers to toe the line in this area of their responsibilities.

I also support the sinking fund improvements. I believe that in time the wisdom behind these changes will become more obvious. The need to plan ahead for at least the next 10 years during the life of the strata scheme will become more accepted, and the benefits to both existing and future owners will be clearly seen. Owners will get a better price for their homes when they decide to sell should the sinking fund be adequately resourced, and purchasers will be more confident that the scheme they have bought into can handle the maintenance expenses that will inevitably arise in the future. The fact that the 10-year sinking fund plans need to be reviewed at least every five years is a good provision to ensure that there is constant review of the situation. The fact that owners corporations can use experts to assist them in putting their 10-year plan together is another positive step.

I am sure that we will see better-maintained strata buildings in the decades ahead as a result of these provisions. If we could project ourselves forward to 2044 or 2054 we would see that people of that era will appreciate the foresight of the Parliament in bringing these revised sinking fund obligations into being. I am sure that this bill can be supported by all members in full confidence that it will further improve the administration of New South Wales strata schemes in the immediate future and in the longer term. I commend the bill to the House.

**Mr WAYNE MERTON** (Baulkham Hills) [11.16 a.m.]: The Opposition does not oppose this bill. I believe the legislation incorporates a number of good ideas and it certainly will assist in the administration of strata legislation in New South Wales. Notwithstanding the completely unfounded criticism of the honourable member for Penrith, the Opposition is quite realistic concerning this legislation. In the past 40 years since strata title has been in existence in New South Wales there have been enormous changes in the concept itself, in the types of buildings that are involved and, naturally, in the size of the developments. Strata title has come a long way from what were, in most instances, six to eight units built in a block: now there are multi-unit complexes. This legislation makes a number of improvements to the administration of the bigger lots.

As the honourable member for Fairfield quite correctly said, strata title is a very big investment. Purchasers of strata titles assume inherent risks, whether the building is new or old. In the case of second-hand buildings there is the question of existing liabilities of the previous owner effectively being passed on to the purchaser. The purchaser assumes any existing liabilities, not only in respect of the particular unit that he or she is buying but indeed of the building as a whole. In other words, if a purchaser is buying a unit on the ground floor and there is a problem on the 58th floor—for example, external cracking of the wall or the roof is leaking in unit 50 on that floor—the purchaser assumes a responsibility, as a member of the owners corporation, to make good that damage.

When purchasers buy a strata title they have to make sure they are aware of the history of the building, its financial status, and what funds are held in reserve to meet such contingencies. Purchasers also must be aware of the cost of levies so that all the incidental expenses of running the building are met. They should know exactly what their liabilities are. Financial statements and documents should be audited. It is essential that there is absolute transparency and that purchasers can ensure, with some degree of accuracy, that there is enough money in a sinking fund to meet any contingencies or problems that might arise in respect of that building. The maintenance of the outside of buildings is the responsibility of the owners corporation, whereas individual owners are responsible for such things as leaking taps and tiles falling off walls.

I shall not canvass all aspects of the bill because other members have already done so. However, I wish to make some reference to common property, which is an issue that has caused considerable friction, anxiety and distress. For many years it has been a requirement that a decision to grant exclusive access to common property must be a unanimous decision of all owners. For instance, if exclusive use of common property was sought by the owner of one unit in a block of four or six units, the owners of all the other units must agree to that exclusive use. If any one of the owners did not consent, exclusive access would be denied.

Many years ago when I was a young solicitor I was involved in a case concerning a block of four townhouses on the northern beaches. Each of the townhouses had a basement constructed underneath it. The owners of three of the four units had title to their basements but for some reason the basement under the fourth unit remained common property. The owner of that unit, whom I represented, did not have exclusive possession of the basement under the unit. The owners of the other units would not agree to him being granted exclusive access to that basement area. I represented the owner of the unit when the matter was dealt with by the Strata Titles Commission. Unfortunately, the commission did not have the power to intervene because the dispute related to title as opposed to problems relating to strata titles legislation.

The bill will give the owners corporation the power to grant exclusive use by way of by-law involving a special resolution which stipulates that 75 per cent of the owners corporation must vote in favour of the resolution. As only one owner withheld consent in the case I mentioned, my client would have been granted exclusive access. Strata title legislation is complex because many people with different agendas and different perspectives on life are thrown together as part of the owners corporation, and often they do not agree. However, when dealing with common property, reason should prevail. Certainly, the job of strata title agent is not one that I would relish. I notice the smiles on the faces of departmental officers, including my friend Peter Berry, so I assume the same problems still exist.

The bill is a worthwhile and sensible measure. I seek an assurance from the Minister that the by-law with respect to common property will be confined to a licence rather than the owners corporation having the power to grant a long-term lease of common property, which would have a detrimental effect on the value of the real estate. The granting of a lease for 50 years or 99 years could interfere with further redevelopment of the site. I congratulate the shadow Minister on her extensive research and consultation with community groups on this bill. She has been extremely diligent and industrious. I ask the Minister in reply to clarify the matter that I raised. With those few comments I reiterate that the Opposition does not oppose the bill. It contains some very worthwhile measures and I congratulate the department and those responsible, in particular, the Minister.

**Mr NEVILLE NEWELL** (Tweed—Parliamentary Secretary) [11.27 a.m.]: I join colleagues on both sides of the House in supporting the bill. It is part of an ongoing review of the Act, which has seen the introduction of worthwhile changes. The bill aims to address problems relating to strata titles and larger strata schemes, which are increasing dramatically with ongoing development within the housing industry. I accept that the responsibilities of managers are onerous and that an increasing number of larger schemes are more lucrative than was previously the case. Therefore, more stringent regulation is required to ensure that those schemes are not abused. The bill seeks to amend the Strata Management Act 1996 to implement a number of proposals in relation to the management of strata schemes arising from an overall review of the Act in connection with competition policy reforms. Although I shall be brief, I intend to raise ongoing concerns with the Act. Because of the changing nature of larger strata schemes, we still need to address thoroughly the lucrative nature of management rights and management positions, and how to protect owners from likely abuse.

In the first instance the legislation provides for an audit of the budgets of strata managing agents. However, even if an agent is working within an audited budget, there is still the possibility of abuse. The legislation further provides that at least two quotes must be obtained when an agent wants to vary a budget item by more than 10 per cent. An auditor cannot examine the nature of a budget to ensure that work is done or examine a quote to ensure that the nature of the work on the quote is fair value. An auditor is not required to make an assessment of that; the executive officers and the managing agent do the assessment.

Simply relying on audits as part of the system will not necessarily result in a good outcome for all the people in a strata management scheme. I am not saying that we can design legislation that will keep everyone happy; it would probably be difficult to do so. At the same time we must be mindful of the fact that this legislation can only go so far to protect people. In relation to the executive and managing agents, and their work, I would still like to have the Strata Schemes Management Act amended to limit the number of proxy votes held by a manager or agent which can be utilised at an annual general meeting or a general meeting. That is similar to the Queensland model. I have raised this matter with Ministers on previous occasions.

Even if we were to go to the Queensland model, there would be shortcomings in limiting the number of proxies that can be held by a managing agent. I am sure someone could work out how to get suitable like-minded people to use the proxies to vote on issues raised at a general meeting. However, I suppose a managing agent could disperse the proxies amongst other people and still get around what is essentially a real problem in some strata schemes, that is, they are open to abuse. In limiting the number of proxies of absentee landlords that can be utilised, I am sure the legislation could be suitably arranged to meet the requirements of people in strata schemes, as is the case in the Queensland model.

Another issue I raise—I thought the honourable member for Baulkham Hills would touch on this, but instead he gave us another legal history lesson—relates to common property and owners who either rent or sublease their units. Those who rent or sublease units are required to lodge a bond with the Rental Bond Board. However, that bond only covers damage to private property, not common property. I have heard of a number of instances when the bond has been refunded to a tenant leaving a strata scheme before the owner has assessed any damage to common property. In such cases the bond could not be used to cover the damage to common property and the owner or corporation has had to pay to fix the damage that they believed could have been attributed to the person subletting the unit.

I suggest that some time down the track we will need to consider the possibility of providing for a rental bond to be split between the owner and the owners corporation to ensure that the damage to common property is covered by the bond. My electorate of Tweed is in close proximity to Queensland, where the number of proxies held by a managing agent is limited. Honourable members will not be surprised to hear that when the Queensland Government introduced legislation to limit the number of proxies that could be held by managing agents and to control the budgets of owners corporations a number of agents moved across the border and expanded their operations in New South Wales because lucrative management rights and management positions were available and they could have more control over their budgets.

The Government must continue to review this legislation. I commend the Minister for the work that has been done on this bill, which will go a long way towards providing a better environment in which to operate strata schemes and a better position for owners, especially those who wish to sublet their units. This bill picks up many matters that arose during the review of the Act, in which the Minister had a great interest. I commend the Minister for the changes she has brought about in this bill, which I commend to the House.

**Mr ANTHONY ROBERTS** (Lane Cove) [11.36 a.m.]: It is with pleasure that I speak on the Strata Schemes Management Amendment Bill. The Strata Schemes Management Act 1996 was amended in late 2000 to take account of the national competition policy [NCP] review of that legislation. Further proposed

amendments to the Act arising from the NCP report were not implemented at the time. An issues paper released by the Government in May 2003 discussed many of these proposed amendments, in addition to a number of other matters. I shall refer to that document later. As stated, the bill seeks to amend the Act to make specific provisions for the management of large strata schemes, defined as those containing 100 or more lots. I shall refer to that matter later as well. The bill seeks to clarify provisions related to the exercise and delegation of functions by owners corporations and their powers to add to or alter common property.

The bill also seeks to enable fire safety inspectors of buildings to deal with the owners corporation instead of individual lot owners. It requires owners corporations to obtain approval at a general meeting prior to seeking legal advice or taking legal action when owners corporation expenditure is involved. It requires all insurance to be taken out with an approved insurer, and requires all new strata schemes to prepare 10-year sinking fund plans. Existing schemes may be required to provide such plans at some point in the future. The consent of owners corporations will also be required before strata managing agents can transfer the management of a scheme to another agent. I refer to the Government discussion paper, "Living in Strata Developments in 2003", in particular the modern trend towards urban consolidation and medium to high-density living. The document states:

In 2001, approximately 13% of private dwellings in Australia were flats or apartments, whereas over 75% were separate houses. The percentage of flats and apartments has doubled over the last 40 years. In 2000-2001, nearly 33% of all dwellings constructed were in the flat and apartment category. It seems likely that this trend will continue.

In the Report of the Campbell Inquiry, statistics were provided which estimated that the percentage of multi-unit dwellings constructed in the Sydney metropolitan area compared to detached dwellings will continue at 55:45 proportions for the foreseeable future. Some suburban areas will have a much higher proportion of multi-unit dwellings construction and, because of the obvious issue of available space, residential construction in the Sydney CBD will be 100% multi-unit. There has been an increase of 40% in people living in inner Sydney in the last 10 years.

In the last financial year banks advanced \$43 billion in loans for investors around Australia and 80% of those loans were made for apartments. One third of the 173,000 new dwellings estimated to be built up to the end of 2003 will be under strata title.

This refers directly to unit buildings containing 100 or more lots. I note with some degree of caution the wise words of the Hon. Joe Hockey, MP, Federal Minister and member for North Sydney. In relation to the disgraceful takeover of South Sydney council, he said that there will be a development corridor from the city through to Botany. The Liberal candidate for the position of mayor of Sydney, Shayne Mallard, will fight strongly against that.

I am concerned about the proliferation of large unit dwellings. In 20 to 30 years' time, as these buildings fall into disrepair, the government will have to deal with ghettos, a problem experienced in the United Kingdom some years ago. The bill goes some way towards avoiding these ghettos. We hear awful stories about high-rise developments that are shoddily built, fail to meet fire control regulations, and have faulty lifts and high maintenance costs. The Government must protect consumers and citizens from poor developments. I commend Joe Hockey for his statements and I wish the Liberal candidate for the mayoralty of Sydney the very best in his fight against overdevelopment.

**Mr ACTING-SPEAKER (Mr Paul Lynch):** Order! I suggest that the honourable member for Lane Cove return to the leave of the bill, which does not have anything to do with council elections.

**Mr ANTHONY ROBERTS:** I draw to the attention of the House—and I have drawn it to the attention of the Minister for Fair Trading in the past—the fine work of a constituent of mine, Mrs Jacqueline Qualtrough, in setting up the Strata Executive and Owners Services web site at [www.seos.com.au](http://www.seos.com.au). On her web site she states that hundreds of people in Sydney purchase units every day. However, many of them do not understand or are not told about the significant liabilities and difficulties involved in entering into a strata contract and dealing with strata laws. The services provided by the web site to executive committee members, existing owners and prospective owners are fantastic. I recommend the site to all members of Parliament.

The site deals with various matters, such as articles of strata in South Australia, articles of unit titles in the Northern Territory, the by-laws of the States of Australia, councils and the jargon used by departments. The site provides information on various topics under the headings of audits, buying strata, caretakers, committees, common property and disputes and mediation. I am sure the material under the heading topic "Fascinating Facts NSW" would be of interest to all honourable members. Other topics are finance, insurance, levies, meetings of the executive committee, meetings of the owners corporation, dealing with the owners corporation, proxy votes, real estate managers, renovations, strata lawyers, strata managing agents and tradespersons. The Internet is a



wonderful instrument where everything is at your fingertips. This site provides an essential service to interested parties. On the feedback page of this site an owner investor wrote:

I wish I had known more about the liability of strata ownership prior to purchasing. It would have changed my decision about the kind of unit I bought. Thanks seos.

An owner resident stated:

Like many owners I had little knowledge of the strata laws or my personal legal liability before experiencing conflict within the strata plan. Because of the financial implications, I made it my business to gain more knowledge and take a pro-active role. I would recommend any potential purchaser to join seos and gain the essential knowledge prior to any commitment.

Mrs Qualtrough provides this not-for-profit web site because, having experienced difficulties with the strata laws in New South Wales, she decided that someone had to spread the information. On the feedback page a strata managing agent wrote:

A large proportion of our time is spent trying to resolve issues between owners. If owners were more informed, and realised their obligations, our job would be made easier. We welcome the introduction of seos which can only help to raise the bar for us all.

An owner wrote:

We have had internal conflict for many years—mainly about funding—

That sounds like the Labor caucus—

and are still in the middle of resolving issues, but feel that we now see a resolution in sight.

A first home unit owner stated:

I am astounded by the lack of information and education offered to owners prior to purchase. I stepped into a strata unit as my first opportunity of home ownership and had—like many others—saved hard to get my piece of Aussie bricks and mortar. My bank manager did not tell me, my lawyer didn't, the real estate agent gave no input. I am now struggling to keep financially viable and hold on to my dream. Obviously there is a great need for you seos. Wish I had met you before I made a commitment—and thanks for your help.

A long-term owner resident wrote:

Until finding you, I had never taken any interest in the running of my Strata Plan. I am now the Treasurer and wish I had looked after my financial interests better in the past. Now I realise how important it is to be pro-active and take part in all decisions.

I commend all of the dedicated committee members who play a role in strata management and strata plans. These volunteers, who often perform a thankless task, spend a great deal of time and effort on maintaining their unit blocks and the value of their properties. I welcome the requirement in the bill for the preparation of long-term plans for sinking funds expenditure. It is a big step forward and I am sure the provision will be welcomed in the community. I am concerned about the restrictions imposed on executive committees as to expenditure on legal action. I believe that provision needs to be looked at. As previous speakers have said, while the bill is long overdue, a great part of it will be welcomed by the general community. I commend our shadow Minister for Fair Trading, the honourable member for Burrinjuck, for her hard work. I also commend my colleagues who have contributed to this debate. On behalf of my constituents I look forward to the Minister addressing the concerns that have been raised by the Opposition and to the implementation of Opposition amendments.

**Mr BRYCE GAUDRY** (Newcastle—Parliamentary Secretary) [11.46 a.m.]: I join members on both sides of the House in commending the Minister for Fair Trading and her department for their proactive approach to strata management and for the introduction of this bill. The history of this matter has been laid out by previous speakers. Every year more and more people live in strata accommodation and have to deal with the complexities of strata unit ownership. In many cases, they have to deal with the relationship between the body corporate and the managing agent.

I particularly want to refer to a matter that I brought to the attention of the Minister in February, that is, the management of strata units in tourism areas and particularly in Newcastle, where strata units are frequently being used as serviced apartments, often without the knowledge of owners and the body corporate. Bearing in mind the increase in strata and high-rise apartment developments in Newcastle, most of them with fewer than 100 apartments but nevertheless of a significant size, I ask the Government to deal with that issue. I commend

the provision in the bill under which developers must provide the body corporate with a full range of documentation about the strata management of the building. I believe that will include all development approval issues, and restrictions on the use of accommodation in a particular strata block.

There is also the issue of fire safety. I lay out for the House one case that clearly shows the problems that body corporate owners can have. Many are aged. They have used their retirement money and moved from a freestanding cottage. They have invested in a major strata lot and, lacking management skills and not understanding fully the complexities of the strata legislation, they have passed the management of the corporation to a management agent. What has happened in the case I will detail is interesting. I refer to 215 Darby Street, Cooks Hill. This former wool store was converted by a developer into a series of luxurious apartments. A considerable atrium has been left in the centre of that massive wool store, providing a nice common area but one that is expensive to maintain.

Many of the owners were retirees looking forward to a quiet and contemplative lifestyle close to all the benefits of the city. Several of the units in the block have been purchased by investors and agents are letting them out for short periods of one to three days as serviced apartments. That has resulted in the resident owners being confronted with the following issues, the sorts of issues that would be dealt with by a body corporate. Some of the apartments have been leased out to football teams. The players have used the atrium, the common area, for games of football, including soccer, and at one stage, I am advised, naked football. Of course, this was quite confronting to the aged residents.

People occupying the serviced apartments, which they treat as motel rooms, are likely to leave accumulated rubbish behind in the common area. If they damage common areas that becomes the responsibility of the body corporate, which adds to costs. That results in a rapid attrition of the sinking fund. People moving into serviced apartments or motels often do not have the culinary skills that a homeowner might have. In several instances in this block the fire alarms have been set off, resulting in mandatory callouts by the security firm involved in the care and maintenance of the building and by the fire brigade. That is another substantial cost for the body corporate. The apartments are key locked and a key is necessary to gain entry to the complex. I understand that 20 to 30 security keys have been lost, which has resulted in the apartments having to be rekeyed. Once again, that involves substantial cost to the body corporate. The Department of Community Services leased one of the apartments for the secure keeping of a juvenile over a period. That is commendable. But, as I said, the residents of many of the apartments are retirees.

I commend the bill for clarifying the provisions relating to the exercise and delegation of functions by the body corporate. It clearly points out that the developer is responsible for passing across to the body corporate knowledge of a whole range of issues that many people seem to be unaware of. The bill also sets out the responsibilities of the managing agent and in particular the process for transfer of responsibilities from the managing agent to another party. The example I have given highlights common issues faced by people living in strata title units, particularly in the new and large developments in our cities. The amendments will strengthen the Strata Schemes Management Act. I commend the bill to the House and look forward to the Minister's response to the issues I have raised.

**Ms VIRGINIA JUDGE** (Strathfield) [11.55 a.m.]: I support the Strata Schemes Management Amendment Bill. I congratulate the Minister, her staff and her department on being proactive and progressive in bringing such a timely bill before the House. The figures by the Australian Bureau of Statistics for the 2001 census show the choices people are making in housing styles. I have the great honour and privilege of representing the electorate of Strathfield, which is in the inner west of metropolitan Sydney. The figures for Strathfield are interesting. The number of separate houses, semi-detached, row or terrace houses, or townhouses of one storey totalled 1,536. The total dwellings in blocks of two or more storeys was 1,217, making a total of 2,753. The flats, units or apartments in a one-storey or two-storey block totalled 4,187, households in three-storey blocks totalled 6,084 and in a block of four or more storeys the total was 2,538, with 180 dwellings attached to houses.

That is a total of 12,989 dwellings occupied by people who have chosen to move from the traditional A. V. Jennings style of home on a quarter-acre block with a picket fence. Living in a block of units is quite a different style of housing choice. For some time now the State Government has been trying to encourage councils, through developing urban strategies and being proactive, to provide a greater variety of housing choice. Families have changed. In my parents day, when I was growing up, the traditional family had two, three or four children, with perhaps an extended family including grandparents.

**Mr Thomas George:** And a baked dinner on Sunday.

**Ms VIRGINIA JUDGE:** It was great to have the good old baked chicken on Sunday night. The nature of the family unit has changed dramatically in the past 10 to 15 years. Today in the news there is talk of the ageing of the population. We need to provide suitable accommodation to fit people's housing choices. However, we need to ensure that when people move into a different style of accommodation there are appropriate strategies to protect the conditions in which they live, whether they are owner occupiers or tenants. That is why the bill is so important. I will address two aspects briefly. One is the provision that enables officers who are authorised to carry out certain fire safety inspections of buildings and premises subject to a strata scheme to deal with the owners corporation for the building or premises instead of individual lot owners. That is important. When a large number of people live in close proximity to each other, unfortunately, there is a greater risk of fire. Anything we can do to ensure that the tenants or owner occupiers are protected in every way possible is a progressive step.

Referring again to the statistics, the largest group comprises the 6,084 dwellings in blocks of three storeys. I presume that would be the traditional two storeys with garages underneath. The more modern style of units tend to have cars garaged underground. But the older style of units were built over the past 30 years in Ashfield, which is part of my electorate. It is one of the most densely populated suburbs not only in Sydney but probably in the whole of the country. We must ensure that we do whatever we can to protect unit residents who might be vulnerable to someone forgetting to turn off a stove and causing a fire. Those things happen, but this bill goes some way to addressing the issue.

The other important provision in the bill relates to requiring new owners to establish a 10-year sinking fund and enables the corporation to extend those requirements to some or all existing owners. This amendment establishes a 10-year plan that must be reviewed after five years. It covers the rainy-day scenario. Many pensioners or self-funded retirees live in blocks of units and mishaps occur. During my time as a councillor I have met residents dealing with large mature trees that are causing problems. Roots get into plumbing systems and tenants or owner occupiers are suddenly faced with a huge bill not only for removal of the tree but also for repair of plumbing systems, which can cost thousands of dollars.

Roots can also lift footpaths, and elderly citizens trip on the uneven pavement and hurt themselves. A fall like that can cause a person in his or her twilight years to end up in hospital requiring a hip replacement. Roots can lift fences and cause other serious damage. Many unit developers use cement rendering on the outside of the buildings and, of course, at some stage it will need to be repainted. Adequate funds must be set aside for that type of rainy-day event. If something happens, the money should be there so that the owners do not have to dig into their pensions or savings to ensure that they can live in safety and security. The bill has many great provisions, but it was important to emphasise these provisions. I commend the bill to the House.

**Ms REBA MEAGHER** (Cabramatta—Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [12.04 p.m.], in reply: I thank all honourable members for their contributions to the debate on this important piece of legislation. I particularly thank the honourable member for Burrinjuck for raising the concerns of various stakeholders with whom she has met. I assure her that the Property Owners' Association of New South Wales' submission was considered in the preparation of the bill and its views were taken into account. I assure the honourable member that the Institute of Strata Title Management has approached me directly with its concern, which I have addressed in writing. The Retirement Village Association has raised a number of valid concerns. However, this debate is not the forum in which to raise those issues.

I remind all honourable members that only yesterday I introduced a bill to bring forward the statutory five-year review of the Retirement Villages Act 1999, which will provide an opportunity to deal with many of their concerns using a comprehensive and holistic approach. On the specific request for a plain English guide to strata issues, I am pleased to advise that the Office of Fair Trading distributes a plain English guide called "Living in Strata", which provides vital information on lot owners' rights and responsibilities, important steps to take, and contact numbers to initiate dispute resolution. However, I undertake that the office will have discussions with the Retirement Village Association regarding the distribution of that guide.

The honourable member for Burrinjuck has requested answers to three specific questions. First, I assure her that the reference to an approved insurer means an insurer approved by Australian Prudential Regulation Authority. Second, I remind the honourable member that the competency of managing agents was significantly enhanced under the Property, Stock and Business Agents Act, which requires agents to undertake continuing professional education. Finally, the honourable member raised concerns, as did others, relating to the alteration of common property. The bill takes a step to minimise these situations arising in the future by removing longstanding uncertainties over the issue. The owners' corporation will have a clear power to allow alterations,

but must make a by-law to clarify who is responsible for ongoing maintenance. Presumably, most owners' corporations would want to ensure that the unit owner has responsibility for ongoing maintenance of the altered common property.

Once a by-law is made and registered, any subsequent owner is also bound by the by-law. The incentive provided under the bill for the owners' corporation to get it right is that if it does not register a by-law it will become liable for the upkeep of the altered common property. The existing dispute mechanisms can be utilised in the case of any dispute over responsibility for maintenance. The honourable member for Baulkham Hills raised specific questions about the assignment of the use of common property. I assure him that if it is a long-term intention, a by-law is required to be registered. However, if the use is for a short term, a licence can be issued by the body corporate for that short-term use of common property.

The honourable member for Hornsby asked me to respond to a number of questions relating to secret ballots and proxy voting. Given that both issues are subject to community and stakeholder consultations with the release of the next discussion paper, it would be pre-emptive and inappropriate to provide definitive statements about the future of those provisions. As requested by previous speakers, I reiterate my earlier commitment to ensure that community stakeholders are consulted broadly in the development of the regulations that will accompany this bill and future discussion papers. I foreshadow two amendments following the tabling of the bill and comments made by interested parties.

The first amendment provides a dispute-resolution mechanism for disputes regarding decisions of owners' corporations with regard to altering common property or granting licences for the use of common property. The adjudicator will be given the power to make orders to settle such disputes or to rectify complaints on such matters. The second amendment is designed to streamline the mediation process for strata disputes. It will prevent an adjudicator requiring mediation of a matter if the Registrar of the Consumer, Trader and Tenancy Tribunal has already decided that mediation is not appropriate. The third amendment is the same as the second amendment except that it prevents the tribunal requiring mediation of a matter after it has already been decided by the registrar that the mediation is not appropriate. I commend the honourable members who contributed to this debate. It has obviously generated a great deal of interest, which is an indication of the importance of this legislation. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 to 4 agreed to.**

**Ms REBA MEAGHER** (Cabramatta—Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [12.09 p.m.], by leave: I move Government amendments Nos 1, 2 and 3 in globo:

No. 1 Page 13, schedule 1. Insert after line 17:

**[26] Section 138 General power of Adjudicator to make orders to settle disputes or rectify complaints**

Insert ", 65A or 65B" after "62 (3)" in section 138 (3) (c).

No. 2 Page 14, schedule 1. Insert after line 19:

**[29] Section 163 Dismissal of application on certain grounds**

Omit section 163 (1).

**[30] Section 163 (2)**

Insert "for an order under this Part" after "application" where firstly occurring.

No. 3 Page 16, schedule 1. Insert after line 27:

**[32] Section 185 Dismissal of application on certain grounds**

Omit section 185 (1).

**[33] Section 185 (2)**

Insert "for an order under this Part" after "application" where firstly occurring.

Since the bill was introduced on 4 December last year there has been an opportunity for interested parties to examine the proposed new provisions in some detail. A few small items have become evident, and these Government amendments will ensure that the new initiatives operate as intended. The first amendment arises as a consequence of the provision that removes uncertainty about the power of owners corporations to alter or add to common property, or to allow lot owners to do so. The bill makes it clear that owners corporations have such power over common property. Item [11] of schedule 1 adds new section 65A to the Strata Management Act to address the matter. However, as a consequence of this clarifying provision it has become apparent that there will need to be an accompanying provision that allows for a dispute about alteration of common property to be handled within the existing mediation and adjudication process. Alteration of common property or addition to common property in a strata building may not meet with everyone's approval, and it is clear that there should be an ability for such a dispute to be dealt with.

Amendment No. 1 will ensure that a minority owner who does not agree with the decision to allow alteration of, or addition to, common property has a means by which they can pursue a dispute over this new power of the owners corporation. The amendment also allows for disputes arising from the new provision set out in new section 65B, which gives a power to owners corporations to grant a licence for use of common property to a lot owner, to be dealt with by an adjudicator. An example might be that a licence is given to a restaurant in a commercial strata scheme to use a paved area of common property for outside dining. The amendment will ensure that owners corporations will have adequate powers to consider common property additions and licences over common property but that there will also be an accompanying dispute resolution process should the powers be exercised inappropriately.

Amendment No. 2 will have the effect of removing an adjudicator's power to refer a matter back to mediation after a registrar of the Consumer, Trader and Tenancy Tribunal has already decided that mediation is not appropriate. Amendments contained in the bill are intended to streamline the mediation process for strata disputes. The registrar has been given more discretion to decide whether the parties in dispute should first be required to go through an attempt at mediation. It was intended that once the registrar had assessed the matter and made the decision on the need for mediation, the matter would proceed directly to adjudication. It was not intended that adjudicators would have a power of review over the registrar's decision. However, unless the Government amendment is made, the possibility continues that an adjudicator could cause delays to the resolution process by disagreeing with the registrar and sending the parties back to mediation before commencing to hear the matter. Additional time and expense could arise, a matter that was not contemplated when the revised mediation provisions were drafted.

Section 163 (1) of the Strata Schemes Management Act will be deleted by the Government amendment, and section 163 (2) will be adjusted accordingly. Amendment No. 3 is the same as amendment No. 2, except that it applies to matters before the Consumer, Trader and Tenancy Tribunal rather than a strata schemes adjudicator. The tribunal will also not be able to review the decision of the registrar in instances in which the registrar decides that mediation is not appropriate in connection with a particular dispute. Once the registrar has decided that prior mediation is not necessary, the matter will proceed directly to the tribunal for hearing and determination.

**Ms KATRINA HODGKINSON** (Burrinjuck) [12.14 p.m.]: The Opposition was made aware yesterday of the Government's three minor amendments to the bill. Following further discussions with the department I am satisfied that the first amendment came about as a result of the Law Society reviewing the bill. The general power of the adjudicator to make orders to settle disputes or rectify complaints is acceptable to the Opposition. I understand that Government amendments Nos 2 and 3 will streamline mediation disputes, which can only be of benefit to consumers. Therefore the Opposition in this place will not oppose the Government amendments. However, due to the brief period we have had to consider the amendments and the fact that the Opposition has not had the opportunity to consult with other stakeholders who have previously been consulted on the bill, the Opposition reserves its right to further consider the amendments in another place.

**Amendments agreed to.**

**Schedule 1 as amended agreed to.**

**Schedule 2 agreed to.**

**Bill reported from Committee with amendments.**

**RETIREMENT VILLAGES AMENDMENT BILL**

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

**Second Reading**

**Ms REBA MEAGHER** (Cabramatta—Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [12.17 p.m.]: I move:

That this bill be now read a second time.

This bill introduces reforms to the regulation of the retirement village industry in New South Wales. Retirement villages play an important role in the housing choices for our seniors. They enable retirees to live with people of a similar age group in a safe community environment, enjoying a range of facilities and activities. More than 700 retirement villages currently operate in New South Wales, accommodating around 40,000 residents, or approximately 3 per cent of the New South Wales aged population. This figure is expected to climb as the baby boomers reach retirement age and are attracted to the lifestyle offered by retirement villages. It is important that the legislation keeps pace with developments in the industry, and continues to provide adequate protection for consumers and clarity and certainty for village operators.

The Government introduced the Retirement Villages Act in 1999 following extensive consultation and a review of the regulatory environment at the time, which consisted mainly of an industry code of practice. The Act represented the most significant reform to the regulation of the industry since retirement villages first began in New South Wales in the 1950s. Certain reforms to update and improve the Act are now being proposed for introduction. The main purpose of the bill is to address a number of legislative interpretations in recent judicial decisions and to bring forward the statutory review of the Act.

I turn now to the specific detail of the bill, which aims to bring forward the statutory review of the Act. Currently, under section 208, a review of the Act is required to be undertaken five years from the date of assent. The Act was assented to on 3 December 1999, meaning that the review would not be scheduled until the first half of 2005. Since I became Minister I have met with a wide range of interest groups involved with the retirement village industry. Many are happy that the Act was introduced and the substantial improvements to the industry that have taken place since 1999. However, changes are now required to provide greater protection to residents and those contemplating moving into a retirement village. It is argued that there are certain unfair and inequitable practices within the industry that should be further addressed.

The complexity of contracts, the standard of village management, excessive fee increases, and who should be responsible for the cost of repairs are some of the issues raised more frequently by consumers. All those involved in the industry agree that it would be beneficial for the review to be brought forward. Bringing the review forward would provide residents, village operators and other interested parties the opportunity to comment on the legislation as soon as possible. The Government intends to amend the Act to bring forward the review to commence upon assent being given to this package of amendments. A report on the outcome of the review is to be tabled within 12 months from that date.

Another measure contained in the bill is designed to overcome a potential anomaly in the legislation. Within the retirement village industry there are a small number of villages that operate on a leasehold basis, where residents enter into a lease for 99 years or 199 years, which is registered on the title of the property. In some villages, when the resident dies or vacates, the existing lease is surrendered and a new lease entered into with the incoming resident. However, at other villages the contract gives the resident the right to assign the remaining portion of the lease to the new resident.

A problem has been identified with those residents with assignable leases. Under the current legislation, when a resident dies or moves out the contract of the resident is terminated. The concern is that termination of the contract may nullify assignment rights, as it is argued that there is nothing left to assign. Usually, under the terms of such a contract, payment to the outgoing resident or to their estate is dependent on the assignment of the lease. If the lease cannot be assigned there is a potential for residents in these situations to lose significant amounts of money. Termination of the contract also means that the resident could have their interest removed from the title of the property. This could jeopardise the important protection afforded by the registration of the resident's interest.

The Government is proposing to amend the legislation to clarify this issue. The amendment will make it clear that a resident who has a lease with a right to assign can continue to exercise that right. Such a contract

will no longer be terminated on death or vacation of a resident but will continue on until the end of the original lease. Only the outgoing resident's right to occupy the premises will terminate upon the assignment of the lease. The existing powers of the Consumer, Trader and Tenancy Tribunal to terminate an assignable lease in certain situations will not be affected by this amendment. The amendment does not give any greater rights to residents in respect to assignment. It does not mean that other residents who have contracts under which they have no right to assign will be able to do so.

This proposal only has relevance to a relatively small sector of the industry. In a practical sense leases have continued to be assigned since the Act began, but there has been doubt as to the legality of this practice. The amendment that the Government is now proposing will remove any uncertainty and restore the original intention of the parties when entering into an assignable lease. Following a decision of the Supreme Court, the Government is also seeking to clarify the rights of residents who own their premises within the village to let or sublet. The court decision may jeopardise this important right.

Under the Act, residents who are owners are given the right to let or sublet the premises on a temporary basis for up to three years. Units in retirement villages can be difficult to sell. Being able to rent out the unit allows the former resident, or their estate, to receive rent to help pay ongoing costs until the unit is sold. This measure assists in expanding the supply of suitable and affordable rental housing for seniors. However, in the Supreme Court an operator challenged the right of an estate to sublet the premises on the basis that it had not delivered up vacant possession and handed the keys back to the operator. The estate argued that returning the keys would remove its ability to provide possession to their tenant. It needed the keys in order to sublet. The court found in favour of the operator. It is important to note that the court itself, in making the decision, commented that it had come to the conclusion with reluctance, as the interpretation contended for by the defendants was one that more generally accords with the policy and intent of the legislation.

The Government intends to amend the Act to restore the original intent of the provision. The bill will make it clear that a resident, a former resident or the estate of a deceased resident can let or sublet without first having to hand back possession to the operator. The amendment will change the definition of "permanently vacated" to ensure that all residents who are owners under the Act permanently vacate upon the death of the resident or when they move out. Delivering up possession to the operator and handing back the keys will no longer be required in these circumstances. This will ensure that residents who are owners, and the estates of such residents, will continue to be able to exercise their intended right to let or sublet the premises.

The bill addresses another issue raised by consumer groups following another judicial decision. It relates to the circumstances in which an operator may seek the consent of residents to amend the statement of approved expenditure, commonly known as the budget, agreed upon before the start of each financial year at each village. Under the current Act an amendment may only be sought if unforeseen requirements for expenditure arise. This was meant to give operators some leeway if unique or exceptional circumstances arose which could not have been reasonably foreseen when the expenditure statement was being put together. For example, if the award rates for village staff change unexpectedly there may be insufficient funds in the wages budget.

An overly broad definition was applied in the tribunal as to what constitutes unforeseen circumstances. The tribunal found that if an individual operator simply underestimated the cost of certain items or forgot about the need for expenditure in certain areas, an amendment to the expenditure statement could be approved by the tribunal against the wishes of a resident. This was even if a prudent operator would have been reasonably expected to foresee the expenditure need. Some of the "unforeseen" expenditure related to stockpiling parts, pay increases, extra stationery, accountancy fees and additional painting costs. The case was further compounded by the fact that the operator in question did not even seek the consent of residents to the changes first. They just spent the extra money, which created a larger budget deficit and sought the approval of the tribunal once the year was over.

The original intention of the legislation was to institute transparent and accountable processes and to curb the inclination of some operators to overspend on discretionary items. The Government proposes to amend the legislation to clarify and strengthen this original intention of the Act. The bill will ensure that the consent of residents is sought for any proposed variation to an approved expenditure statement. If the residents agree with the need for the change then it can be implemented. If the residents do not consent then the operator will be required to either accept the decision or appeal to the tribunal. In considering such an application the tribunal will only be able to overrule the decision of the residents if it is satisfied that there is an urgent need for the extra expenditure and that it was not reasonably foreseeable.

The bill will also address a degree of uncertainty and confusion as to which residents are "owners". The Act distinguishes between residents who are owners and those who are non-owners in a number of key areas. Caps apply on how long ongoing charges can be levied on a non-owner and on the timing of refund payments. Residents who are owners have the right to set the asking price and appoint a selling agent of their choosing. It is important that the line between non-owners and owners be clear and unambiguous. To be entirely accurate, such a determination would require a detailed examination of the provisions of an individual resident's contract by a legal practitioner. This is a costly and time-consuming exercise, which most residents do not undertake. They often accept the view of the operator as to which category they fall into, which may not be correct. A resident who mistakenly acts as a non-owner misses out on setting the asking price and appointing an outside agent. Likewise, a resident who mistakenly acts as an owner may have their refund unnecessarily delayed by many months.

Most residents of retirement villages have a simple licence or rental agreement under which the operator retains ownership of all the village property. An outgoing resident of these villages commonly only gets back the amount of money they paid upon entry, less certain fees and charges and without any interest. Regardless of how long they reside in the village the outgoing resident receives little or nothing of any capital gains. There is no justification to classify such residents as owners. The bill will remove the current definition of "owner" in section 150 (1) and replace it with a new one. The new definition will clarify which residents are non-owners and which are owners.

Residents will remain owners if they have purchased the premises, such as in a strata scheme or company title village. If they have not, four conditions will need to be met before they will be considered to be owners. Firstly, the residence contract will need to be in the form of a lease. Secondly, the lease will need to be for a period of at least 50 years or in the form of a lifetime lease. It is common within the retirement village industry for such leases to be for 99 years or 199 years. Thirdly, the lease will need to be registered on the title under the provisions of the Real Property Act 1900. Fourthly, the lease will need to contain a provision entitling the resident to 50 per cent or more of any capital gain. This percentage is a minimum standard within the leasehold sector of the industry. If any of these requirements are not met, the residents will be considered not to be owners.

The bill also proposes to reduce the period during which a resident who passes away or moves out remains liable to pay recurrent charges for personal services. Personal services are those optional services provided to a resident on an individual basis and includes the provision of meals, laundry services and the cleaning of the resident's premises. Residents of retirement villages who receive personal services commonly pay for the services as part of their overall weekly, fortnightly or monthly payment to the operator. Due to the high cost of providing personal services those who receive them pay considerably more in charges than residents of self-care units. It is not uncommon for residents receiving personal services to pay up to \$2,000 per month or more. Under the current Act charges for personal services must cease no later than 28 days after the resident has died or moved out.

Many operators, particularly those in the not-for-profit sector, already have a practice of not billing for personal services for residents who move out or pass away. These operators agree that charging residents, or the estates of deceased residents, for personal services that are no longer being supplied or received is an unfair and unjust practice. The Government agrees with this position. The Government intends to amend the Act to provide that in a situation where a resident has passed away or moved out, all charges for personal services cease immediately, that is, from the date the resident moves out or from when the operator is notified of the resident's death. This amendment will remove a financial burden from those residents who leave or the estates of deceased residents.

As Australia's five million baby boomers reach retirement age and are attracted to the lifestyle offered by retirement villages more people will be affected by this legislation. With an evolving industry it is important that we ensure our legislative framework continues to meet its aims of protecting some of the most vulnerable members of our community. The Retirement Villages Amendment Bill introduces reforms to enhance protection for consumers who live in retirement villages and provide greater clarity and certainty in the legislation. The five specific changes to the Act being proposed are important reforms and will be of benefit to both operators and residents. Bringing the review forward will enable any other issues in the industry to be considered as soon as possible. I commend the bill to the House.

**Debate adjourned on motion by Ms Katrina Hodgkinson.**



**THE SYNOD OF EASTERN AUSTRALIA PROPERTY AMENDMENT BILL****Second Reading****Debate resumed from 18 February.**

**Mr THOMAS GEORGE** (Lismore) [12.33 p.m.]: I state at the outset that the Opposition will not oppose the bill, which bill seeks to amend The Synod of Eastern Australia Property Act 1918 to provide for the office-bearers of The Synod of Eastern Australia Property Trust to be indemnified out of trust property against expenses and liabilities that they incur in connection with exercising or performing their powers, authorities, duties or functions. The Synod of Eastern Australia is the governing body of the Presbyterian Church of Eastern Australia. The church was formed in 1846 when three ministers and three elders withdrew from what is now the Presbyterian Church in New South Wales.

The church comprises 12 charges or parishes in New South Wales, Queensland, Victoria and Tasmania. Approximately 850 people regularly attend church services throughout Australia. There are seven charges in New South Wales—in Sydney, Grafton, Wauchope, Taree, Maclean, Raymond Terrace and Mount Druitt. Approximately 500 people regularly attend church services in New South Wales. An Act was passed in 1918 that established a property trust for the church. However, the Act did not make provision to reimburse the trustees for moneys expended on behalf of the trust or to indemnify the trustees for activities carried out on behalf of the trust. On 8 May 2003 the synod of the church agreed to request the Government to amend the Act to address the issues of liability and remuneration of the trustees.

This bill will insert section 2A into the Act to enable trustees to be indemnified out of trust property. The provision is similar to the indemnification provision used in other church property trust legislation. An example of such a provision is section 23 of the Methodist Church of Samoa in Australia Property Trust Act 1998. This bill continues the longstanding government policy to assist churches to organise their financial and property affairs by sponsoring legislation in relation to corporate property trusts.

**Mr ALAN ASHTON** (East Hills) [12.36 p.m.]: I appreciate the Opposition's support for the bill as indicated by the honourable member for Lismore, The Nationals Whip. Although this may appear to be a minor amendment that affects few people, as part of our democratic process it is necessary that we pass legislation to assist The Synod of Eastern Australia with respect to its trustees. The purpose of the bill is to amend The Synod of Eastern Australia Property Act 1918. Given that almost 100 years has passed since the introduction of that Act, it is appropriate that it be amended. In the past it has been difficult to identify who may be the office-bearers of small organisations and how they could be indemnified to properly carry out their duties as trustees.

**Mr Paul Gibson:** Since 1982.

**Mr ALAN ASHTON:** No, 1918; it goes back a fair while. The Synod of Eastern Australia Property Trust will be indemnified out of trust property against expenses and liabilities that they incur in connection with the exercise or performance of their powers, authorities, duties or functions. The Synod of Eastern Australia is the governing body of the Presbyterian Church of Eastern Australia. That organisation was formed in 1846 when several ministers and elders of that church withdrew from what is now the Presbyterian Church in New South Wales. I understand that there are 12 parishes in New South Wales, Queensland, Victoria and Tasmania, hence the term "Eastern Australia".

It is interesting that only 850 people regularly attend church services throughout Australia. Approximately 500 people regularly attend services in Sydney and the country areas of Grafton, Wauchope, Taree, Maclean, Raymond Terrace and Mount Druitt—something that should interest the honourable member for Mount Druitt. An Act was passed in 1918 that established a property trust for the church, but that Act did not make provision to reimburse the trustees for moneys expended on behalf of the trust or to indemnify the trustees for activities carried out on behalf of the trust.

As the honourable member for Lismore said, in 2003 it was agreed that a request be put to the Government to amend the Act to address these issues, and that is what is being done with this bill. The insertion of new section 2A into the Act will enable the trustees to be indemnified out of trust property. The provision is similar to the indemnification provision used in other church property trust legislation that I understand the Parliament has passed in recent years concerning other churches and the disbursement of moneys to trustees. One example is section 23 of the Methodist Church of Samoa in Australia Property Trust Act 1998. I commend the bill to the House, and I thank the Opposition for its support.

**Mr BOB DEBUS** (Blue Mountains—Attorney General, and Minister for the Environment) [12.40 p.m.], in reply: I thank honourable members who have contributed to this debate. They have exhaustively explained the circumstances in which the bill has been introduced into the House. The bill provides for office-bearers of The Synod of the Eastern Australian Property Trust to be indemnified out of trust property against expenses and liabilities they incur in connection with the exercise of their powers.

It is worth observing that this bill is consistent with the Government's longstanding policy of assisting churches to organise their financial and property affairs through the establishment of legislation in respect of corporate property trusts. It is also the Government's policy to introduce legislation relating to church property trusts if there is a consensus within the particular congregation about the nature of the bill or statute to be passed, and that is so in this case. Therefore, I have great pleasure in commending the bill to the House.

**Motion agreed to.**

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

### **ANIMAL DISEASES LEGISLATION AMENDMENT (CIVIL LIABILITY) BILL**

#### **Second Reading**

**Debate resumed from 18 February.**

**Mr THOMAS GEORGE** (Lismore) [12.42 p.m.]: I lead for the Opposition on the Animal Diseases Legislation Amendment (Civil Liability) Bill. I indicate from the outset that the Opposition reserves the right to move amendments in another place. As a past president of the stock and station agency industry, I point out that this bill will provide protection from civil liability for individuals required to disclose information in accordance with the Stock Diseases Act 1923 and the Exotic Diseases of Animals Act 1991. Stock and station agents have raised concerns about their exposure to liability arising from the disclosure of information in accordance with the requirements of the Stock Diseases Act 1923. The proposed amendments are identical in effect and apply to both Acts, wherein they protect persons required to provide information under the Acts from any personal action, liability, claim or demand.

This bill is well and truly overdue. In order to comply with the legislation, stock and station agents must, when requested to do so, disclose to an inspector what could sometimes be considered confidential information. This could be done by answering a question or by giving a notice, other document or record in accordance with the Act. Stock and station agents are often called upon to do that. This bill will facilitate that by ensuring that individuals required to provide information under the Acts are adequately protected from civil liability. However, the Minister in another place does not seem to want to brief the shadow Minister. I place that on the record again because this bill is important to the stock and station agency industry. I call on the Minister in another place to brief the shadow Minister on such important bills.

**Ms LINDA BURNEY** (Canterbury) [12.45 p.m.]: As stated, the object of this bill is to amend the Exotic Diseases of Animals Act 1991 and the Stock Diseases Act 1923 to provide persons who disclose information that they are required to disclose under those Acts with protection from civil liability for such disclosures. This bill has come about from concerns raised primarily by stock and station agents and their exposure to civil liability, and it was done through a very consultative process. A vital part of any animal disease control strategy is to determine the source of the infection and the extent to which it may have spread. This process needs to start from the property where the disease originated and be able to trace the subsequent movement of all animals affected. Without this intelligence it is impossible to control an infectious disease rapidly and effectively. It was the fast transmission of this information that allowed Australia to successfully eradicate endemic diseases such as tuberculosis and brucellosis. It also allowed for the successful eradication of avian influenza from New South Wales when the disease occurred in 1997.

In essence, this legislation will have some far-reaching effects. Luckily, we have not seen avian influenza in Australia since then. Having systems that are able to respond quickly to emergency animal diseases is vital if we are to safeguard our valuable agricultural industries. These industries are critical not only to both the State and national economies but also to the health of rural and regional communities throughout New South Wales. For example, the 25,000 New South Wales sheep producers have 36 per cent of the national flock, with a farm gate value of \$1.4 billion. When one hears such figures one understands the importance of this legislation. The 26,500 beef and dairy farmers contribute more than \$4 billion, on a value-added basis, to the New South Wales economy.

The recent discovery of a case of bovine spongiform encephalopathy [BSE] in America shows why we need to have a system that can rapidly identify the source of any disease and quickly implement action to guard against its spread. I recall that during the mad cow disease or BSE outbreak in the United Kingdom a couple of years ago there was enormous discussion and public debate in Australia about quarantining and ways to keep the disease out of Australia because it would have such a disastrous effect not only on individuals but also on the economy.

A single case of BSE cost the American cattle industry an estimated \$1.7 billion in annual American beef shipments. Isolating the source of any outbreak as quickly as possible is absolutely crucial. Without the capacity for such a swift response, our beef and dairy industries could lose millions of dollars—and this loss will only grow for every hour of delay. To protect against the spread of disease we need to have a regulatory framework that promotes compliance and removes doubt. That is exactly what this bill is about. To give effect to our protection systems, inspectors under the Stock Diseases Act 1923 and the Exotic Diseases of Animals Act 1991 need to urgently find out the name of the owner of any infected animal and the details of its property of origin; hence the introduction of this legislation in terms of registration.

We cannot afford to let questions of confidentiality delay this process. Any delays in obtaining this information could mean that the disease will spread and the cost will rise. In the worst-case scenario the disease may spread to the extent that it will become impossible to eradicate, which could cause long-term damage to the health of our animal industries and irreparable damage to our trading position. This legislation has international as well as national and State implications. However, people will be less forthcoming with critical information if they are under constant threat of legal action.

Currently there is some doubt as to whether a person who is asked to comply with the demands of an inspector under the Stock Diseases Act 1923 and the Exotic Diseases of Animals Act 1991 could be in breach of obligations under the Privacy Act. While section 9A of the Stock Diseases Act 1923 provides protection to a person from civil liability when notifying New South Wales Agriculture or the Rural Lands Protection Board of diseases, no such protection extends to other sections of the Stock Diseases Act 1923 or the Exotic Diseases of Animals Act 1991 where information is required to be given.

The need for the introduction of this bill has arisen as a direct result of concerns raised by stock and station agents about their exposure to civil liability. Their concerns were based on wanting to comply with all relevant notification procedures under the Stock Diseases Act 1923, but at the same time not wanting to be in breach of any aspect of privacy legislation. As I said previously, this bill amends the Exotic Diseases of Animals Act 1991 and the Stock Diseases Act 1923 to provide persons who disclose information protection from civil liability.

While I appreciate that this former protection is not a complete panacea, it is an important step in a larger process. Combined with other initiatives, such as the national livestock identification system, the bill forms a very important part of a regulatory regime that encourages compliance, rather than defiance. This bill is important in dealing with international concerns about animal disease, such as the bovine spongiform encephalopathy outbreak in England, the recent scare in America and, although it does not relate to chickens, the bird flu in Asia. They are just some examples of why this type of protection and interlocutory regime are important in this area.

**Mr PAUL GIBSON** (Blacktown) [12.52 p.m.]: Like the honourable member for Canterbury, I too am a country person. Not only was I born and bred in the country, I was also a stock and station agent. I assure the House that stock and station agents have sought the introduction of this type of bill for a long time, even going back to the days when I was an agent. It was always on our minds that information we gave to authorities could come back and bite us through personal liability claims. Today if we are to make sure that we are free from diseases such as mad cow disease and other exotic diseases, it is important that stock and station agents and others can freely give information. Subsection (1) of section 75A, which relates to exclusion personal liability for information required to be provided under the Act, states:

If a person is required under this Act to provide any information, the provision of that information by the person does not subject the person personally to any action, liability, claim or demand.

As I said, the stock and station agents have sought such a provision for a long time. This bill gives them that guarantee and makes sure that any information provided to authorities is given freely and without threat of personal liability against the agent. I commend the bill to the House.

**Mr DARYL MAGUIRE** (Wagga Wagga) [12.54 p.m.]: I am pleased to see this legislation finally delivered to the Parliament. As the honourable member for Lismore said, the Opposition reserves the right to move amendments in the other place. The bill has been introduced as a result of concerns expressed by stock and station agents to members of Parliament about their vulnerability and exposure to civil liability actions, particularly when the ovine Johne's disease [OJD] crisis was sweeping rural and regional New South Wales. As a result of approaches made to me by local stock and station agents Hamilton Luff Burton and Co., I made representations to the then Minister for Agriculture the honourable member for Mount Druitt. Minister Amery wrote to me on 27 Nov 2002 that in an attempt to address the issues I had raised about section 7A of the Stock Diseases Act 1923 a minute with the purpose of amending the Stock Diseases Act was being prepared for submission to Cabinet.

I am sure that all honourable members will recall that at that time the scourge of OJD and its management practices by the Department of Agriculture were headline topics in the *Land* newspaper. The OJD crisis created media interest in regional newspapers, and even in major metropolitan newspapers, about the way in which OJD was being managed by the Government and the concerns of farmers and rural community members about the implementation of government policy. That was in 2002 and finally in 2004 the legislation has hit the deck. Stock and station agents were concerned that if they were required by the rangers to divulge transactions or stock movements that had occurred they would be liable to be sued. Jack Burton of Hamilton Luff Burton and Co. sent me an opinion he had obtained from a barrister of their exposure to such liability. The then Minister wrote that his advice was they were adequately covered for legal disclosure under the Commonwealth privacy legislation. The stock and station agents, because of the legal opinion they had received, were not prepared to act on the reassurances by the Minister.

The amendments in the bill are long overdue and should have been introduced much sooner. As honourable members know, the debacle surrounding the OJD issue has been neutralised in some ways by the introduction of the new regime. That new regime was brought about by the disgust of landholders and stock and station agents with the management of the disease. They protested and once again created media interest, both regional and national, about the unjust way that OJD was being managed. I congratulate those people on standing up and being counted. The Government has been too slow in introducing the amendments. If it had acted earlier, when the stock and station agents needed the protection of the provisions in this bill, that would have enabled the rangers to carry out their work satisfactorily. They had been directed by the department to carry out the government policies but were being frustrated in their efforts. That is an example of the overall poor management of OJD.

I reiterate that, although the Opposition has foreshadowed that amendments will be moved in the other place, this legislation is long overdue. Stock and station agents have been between a rock and a hard place. They were required by the Government to divulge information about stock movements, yet they were subject to possible civil liability suits. They were entitled to this protection long ago.

**Mrs KARYN PALUZZANO** (Penrith) [1.00 p.m.]: I support the proposed amendments contained in the Animal Diseases Legislation Amendment (Civil Liability) Bill. Both the Stock Diseases Act 1923 and the Exotic Diseases of Animals Act 1991 are critical pieces of legislation that determine how endemic and exotic diseases are controlled in this country. Endemic diseases are those that occur in Australia such as ovine Johne's disease or footrot in sheep. Exotic diseases are those that do not occur in Australia such as foot and mouth disease and bovine spongiform encephalopathy [BSE], or mad cow disease as it is more commonly known.

The fact that we are free of these exotic diseases has allowed Australia to reap billions of dollars in trade benefits from our livestock industries. In fact, the New South Wales livestock industry had a gross value of \$8.8 billion in 2000-01, and Australia wide that value was \$33.6 billion. The proposed amendments will help us maintain the integrity of our livestock industries. They have been designed to alleviate any concern that stock and station agents may have about the potential for civil liability claims if they disclose information that might otherwise be considered confidential. In this regard I refer specifically to information about ownership, movement, health conditions or identifying marks of diseased or potentially diseased animals.

The importance of having an unencumbered supply of information to the bodies responsible for disease surveillance such as rural lands protection boards and NSW Agriculture cannot be overstated. If the individuals concerned have any concerns that they may be held responsible for civil actions in the future they might delay handing over vital information or not hand it over at all. These delays or refusals, even if only for a few hours, could result in major damage to an industry. Provisions already exist to protect stock and station agents in other legislation administered by NSW Agriculture. Section 12E (2) of the Stock (Chemical Residues) Act 1975 gives

express protection to people who are required to give information. Similarly, in section 9 of the Stock Diseases Act express protection is also given in some situations. No problems have been brought to my attention as a result of those provisions. In fact, the only comments have been highly supportive.

The amendments proposed in the bill will expressly protect all who are required to give information. In fact, it was the stock and station agents who requested these changes to ensure their members are fully protected when disclosing information. People required to provide information for disease prevention or control reasons must not hold any doubts as to whether they are protected from civil liability for the disclosure of that information. Failing to offer that assurance would undermine the very system on which all our producers depend. New South Wales and Australia have some of the most developed animal disease response strategies in the world. But they depend upon robust systems, quick response times and the co-operation of all parties concerned. If, for example, a flock of infected sheep were to be sold through a saleyard the diseased animals could well end up on many different properties across a number of different States. Whole new areas could become infected if movements of the infected sheep were allowed to continue.

It is vitally important that all stock from the original flock are traced and inspected and that the disease is contained. Any delays in this process could allow the disease to spread, potentially uncontrollably. Disease control inspectors employed by the State's 48 rural lands protection boards and NSW Agriculture must have unhindered access to ownership and tracing information to contain the spread of any potential disease. For this control to occur a free flow of information must be forthcoming from the stock venders, stock carriers, stock and station agents and others involved in the industry. While these people already have a legal obligation to supply the information, the bill will provide industry with the protection that it needs from any claims for breaches of confidentiality.

The outbreak of foot and mouth disease in the United Kingdom and Europe several years ago is testament to the need to rapidly control a disease outbreak. In that case the foot and mouth virus spread by animal movements across large parts of the United Kingdom and then into Europe. The outbreak cost billions of dollars and major heartbreak to thousands of producers and communities. Whilst the spread of infection is not as rapid, a similar picture occurred with BSE, again in the United Kingdom. Quality information and rapid tracing are the hallmarks for a successful eradication program. Fortunately, Australia remains free of foot and mouth disease and BSE. Indeed, it is this disease-free status that provides Australian producers with a trading advantage over many of our international competitors. But it is important that we ensure that no unnecessary impediments exist in New South Wales to the rapid collection of tracing information should we ever be unfortunate enough to encounter these diseases in Australia. It is, therefore, most important that the bill be passed to rectify the perception of any possible civil liability by the very people we rely upon to make our animal disease response work. I commend the bill to the House.

**Mr BOB DEBUS** (Blue Mountains—Attorney General, and Minister for the Environment) [1.06 p.m.], in reply: I thank the members who have contributed to the debate. I think it unnecessary for me to again assert the benefits of the passage of a bill of this nature: most recently the honourable member for Penrith has done that more than adequately. I restrict myself to reminding the honourable member for Wagga Wagga that there have been no cases of civil action arising in this context. It is important to keep the matter in balance and to understand the exact purpose of the bill. That in turn will offer sufficient explanation for why the bill has arrived in the House now and not, for instance, before Christmas. Nevertheless, it is an important initiative and one that is obviously supported thoroughly by both sides of the Chamber. I commend the bill to the House.

**Motion agreed to.**

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

*[Mr Deputy-Speaker left the chair at 1.08 p.m. The House resumed at 2.15 p.m.]*

#### **DISTINGUISHED VISITORS**

**Mr SPEAKER:** I acknowledge the presence in the public gallery of the Hon. Barrie Unsworth, former Premier of New South Wales, and his guests, Mr William Mao and Mr Guiting Liu. I also acknowledge the presence in the public gallery and Mr Gordon Salier, President of the New South Wales Law Society, and his wife, Toni.

## PETITIONS

### **Parkes High School Airconditioning**

Petition requesting the provision of airconditioners at Parkes High School, received from **Mr Tony McGrane**.

### **Stamp Duty Reduction Legislation**

Petitions supporting the Duties Amendment (Stamp Duty Reduction) Bill 2003, received from **Mr Greg Aplin, Mr Barry O'Farrell, Mr Steven Pringle, Mr Michael Richardson and Mr Anthony Roberts**.

### **Gaming Machine Tax**

Petitions opposing the decision to increase poker machine tax, received from **Mr Greg Aplin, Mr Wayne Merton, Mr Steven Pringle, Mr Michael Richardson, Mr Andrew Stoner, Mr Andrew Tink and Mr John Turner**.

### **White City Site Rezoning Proposal**

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

### **Water Police Pymont Site**

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

### **Kosciuszko National Park Management Plan**

Petitions opposing the formulation of the Kosciuszko National Park Management Plan without community consultation, received from **Mr Ian Armstrong, Mr Steve Cansdell, Ms Katrina Hodgkinson, Mr Donald Page, Mr Adrian Piccoli, Mr John Turner and Mr Russell Turner**.

### **Freedom of Religion**

Petition praying that the House reject the Anti-Discrimination (Removal of Exemptions) Bill, and retain the existing exemptions applying to religious bodies in the Anti-Discrimination Act, received from **Mr Paul Gibson**.

### **Brothels Closure Legislation**

Petition supporting the Community Protection (Closure of Illegal Brothels) Bill, received from **Mr Andrew Tink**.

### **Windsor Road Traffic Arrangements**

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

### **Old Northern Road Upgrade**

Petition requesting the construction of overtaking lanes on Old Northern Road between Glenmore and Wisemans Ferry, received from **Mr Steven Pringle**.

### **Mental Health Services**

Petition requesting urgent increased funding for mental health services, received from **Ms Clover Moore**.

**Belmont Community Midwifery Program**

Petition requesting the implementation of a community midwifery program at Belmont, received from **Mr Milton Orkopoulos**.

**CountryLink Rail Services**

Petitions opposing the abolition of CountryLink rail services and their replacement with buses in rural and regional New South Wales, received from **Mr Greg Aplin** and **Mr John Turner**.

**Newcastle Rail Services**

Petitions requesting the retention of Newcastle rail services, received from **Mr Bryce Gaudry**, **Mr Matthew Morris** and **Mr Milton Orkopoulos**.

**Casino to Murwillumbah Branch Rail Line**

Petitions requesting the extension of the Casino to Murwillumbah branch line to south-east Queensland, received from **Mr Thomas George** and **Mr Donald Page**.

**Hornsby Shire Rail Parking Facilities**

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

**Public Transport**

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

**Bus Service 311**

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

**Isolated Patients Travel and Accommodation Assistance Scheme**

Petition objecting to the criteria for country cancer patients to qualify for the Isolated Patients Travel and Accommodation Assistance Scheme, received from **Mr Andrew Stoner**.

**Companion Animals Legislation**

Petition requesting amendments to the Companion Animals Act 1998, received from **Ms Clover Moore**.

**Social Program Policy Subsidy**

Petition requesting that the social program policy subsidy be extended to residents in the Hawkesbury local government area, received from **Mr Steven Pringle**.

**Circus Animals**

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

**Sow Stall Ban**

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

**Cat and Dog Meat Sales**

Petition requesting legislation banning the sale of cat and dog meat for human or animal consumption, received from **Ms Clover Moore**.

### **Alcohol Wet Centres**

Petition requesting the establishment of wet centres in the inner city to provide a safe place for chronic drinkers, received from **Ms Clover Moore**.

## **BUSINESS OF THE HOUSE**

### **Reordering of General Business**

**Mr ANDREW FRASER** (Coffs Harbour) [2.30 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Local Council Amalgamations] have precedence on Thursday 26 February 2004.

This Government does not have a mandate for forced amalgamations in New South Wales. The Premier and the backbench of the Labor Party—as did the honourable member for Monaro and other members—went to an election telling people there would be no forced amalgamations. When the Government makes promises such as that it goes to show that no Labor promise is worth the paper it is written on or the air that it is given. Any process that is before the people today for forced amalgamations is a process that does not have the support of this Parliament, or of the people of New South Wales, and it needs to be openly and accurately discussed.

We only need to look at the fact that this morning at some ungodly hour, yet again the Governor was roused from her sleep to make yet another proclamation to forcibly amalgamate four councils in the Clarence Valley. It is an insult to the hardworking councillors who are democratically elected by the people of the Clarence Valley to those local government areas for them to be summarily sacked by this Government early this morning. We should also consider the legalities of the forced amalgamation of the Sydney City Council and the South Sydney City Council. The proclamation in effect divides those two local government areas into separate areas for the purposes of an election, but it does not divide them on the basis that they are now the City of Sydney.

How can people of the old City of Sydney area vote under one set of conditions and people of the old South Sydney city area vote under another set of conditions when the proclamation made by the Governor on 6 February clearly states that they are now one local government area? It cannot be declared that this area is the City of Sydney and yet at the same time declare that there will be two different systems operating for the election on 27th March. We need to know why the Minister did not respond to correspondence on 10 February from the Chief Executive of the chamber of commerce raising this matter with him and questioning the legalities of it.

We need the matter to be debated in this House, not just for the people of Sydney and South Sydney but for all the people across regional New South Wales. We need to know whether the Premier and the Minister agree with the comments of the honourable member for Bathurst that this whole process has been badly handled. We need to see whether the honourable member for Bathurst will vote on a motion such as this when he has said repeatedly in his electorate that he does not support forced amalgamations. [*Time expired.*]

**Mr CARL SCULLY** (Smithfield—Minister for Roads, and Minister for Housing) [2.33 p.m.]: The motion for re-ordering business is agreed to.

**Motion agreed to.**

## **STANDING ETHICS COMMITTEE**

### **Report**

**Mr John Price**, as Chairman, tabled the report entitled "Study Tour to the National Conference of State Legislatures in San Francisco, USA—19-26 July 2003".

**Ordered to be printed.**



**MINISTRY**

**Mr BOB CARR:** I advise honourable members that during the absence of the Minister for Health I will answer all questions relating to his portfolio.

**QUESTIONS WITHOUT NOTICE**

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**HEALTH CARE COMPLAINTS COMMISSION INVESTIGATIONS OFFICER MR BRETT SALMON**

**Mr JOHN BROGDEN:** My question is addressed to the Premier. Given that the Premier sacked Amanda Adrian, the Health Care Complaints Commission [HCCC] Commissioner, for incompetence, will he now dismiss Brett Salmon, an HCCC Investigations Officer, who said to a man seeking an investigation into his mother's death at Royal Prince Alfred Hospital last year, "What do you think I would do, wipe my bum with it?"

**Mr BOB CARR:** Any such allegation is very, very serious and I will see that the allegation is properly investigated. We want public servants, especially those who work for review agencies, such as the Health Care Complaints Commission [HCCC], the ICAC, or the Ombudsman or the Auditor-General, to have a proper approach to complainants. If that is true, it is intolerable. I will certainly seek advice on it. The need to seek advice is underscored by this man making untrue allegations about the health system again and again. I do not say that in any way to detract from the importance of the allegation that has been made against a public servant, and I will have it properly and fully investigated, as it deserves to be.

**ASBESTOS-RELATED DISEASES**

**Ms KRISTINA KENEALLY:** My question without notice is directed to the Premier. What is the Government's response to community concerns about asbestos-related illnesses in New South Wales?

**Mr BOB CARR:** No-one who was a member of this House in 1990, or any member of the community who witnessed this, could forget the sight of Sir David Martin, a very popular Governor of New South Wales, drawing for breath on an oxygen mask whilst driving from Government House along Macquarie Street on what was the final journey of a life ended painfully and prematurely by mesothelioma. It is a disease he picked up in the navy from the asbestos in the pipes of naval vessels.

Jack Ferguson, a former Deputy Premier of New South Wales, also died from mesothelioma in December 2002. I discussed this with a group today and it was Rodney Cavalier who reminded me that Jack had acquired the disease, which ended his life only in 2002, from six months of working in an asbestos factory at Homebush as a 14-year-old. Thousands of Australian workers were exposed to these diseases until asbestos was finally banned in 1984. Workers were condemned to excruciating deaths and I am sure many members of the House have met such workers and their families.

The use of asbestos was very widespread in Australia, which has the highest rate of asbestos-related disease in the world. The vast majority of victims are in this State. Not only that, but also most of the companies that manufactured and sold it were based in this State, including James Hardie and related companies. In 2001 James Hardie established the Medical Research and Compensation Foundation, separate from James Hardie and run by independent trustees. It provided the foundation with assets of \$293 million to meet the firm's future dust disease liabilities. This effectively quarantined its asbestos liabilities in that foundation.

James Hardie then went on to quit Australia and incorporated itself in The Netherlands. In its 2001 annual report James Hardie claimed that the foundation "resolved its future asbestos liability for the mutual benefit of claimants and shareholders". This approach was quite different from other asbestos manufacturers such as CSR, which have continued to operate in New South Wales and directly meet their liabilities. At that time the Government greeted the establishment of the foundation as a positive move. But in October last year the foundation announced an expected shortfall of around \$800 million in meeting its future liabilities, claiming that the initial funds made available by James Hardie, now relocated and incorporated in The Netherlands, were inadequate. That means insurers and employers may be forced to meet the shortfall.

In some cases plaintiffs may not get any compensation at all. The foundation is concerned that the true state of James Hardie's asbestos liabilities has not been disclosed. The foundation has sought help from James Hardie to get to the bottom of these matters, as has the New South Wales Government, but to date neither the

Government nor the foundation has received a satisfactory answer. James Hardie maintains that it acted on legal and actuarial advice in calculating that \$293 million figure. It also claims that it owes a duty to current shareholders that prevents it from making additional funds available.

The Government takes this matter very seriously and that is why, to determine the truth of the matter, we will ask Her Excellency the Governor to establish a special commission of inquiry to resolve these allegations and to report back by 30 June this year. The main purpose of inquiry will be to gather sufficient information to properly assess the circumstances surrounding the establishment of the foundation. We want to find out what James Hardie knew back in 2001 about the extent of its liabilities and whether the firm underestimated the amount of money it set aside for dust disease claims. The special commission of inquiry will provide all parties with an opportunity to present their cases and clarify whether the foundation's claims are valid. I look forward to being able to offer sick and dying workers and their families some clear answers.

### **GOULBURN BASE HOSPITAL FACILITIES**

**Mr ANDREW STONER:** My question is directed to the Premier. Given that Goulburn Base Hospital recently ran out of basic supplies when underpaid creditors withdrew their services and that patients had to be stitched up by torchlight because the hospital generator ran out of fuel, why is the Premier advertising for a speechwriter on a salary of more than \$82,000 when this money would buy 137,000 bandages or fuel to run the generator for 10,000 hours?

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

**Mr BOB CARR:** I am reminded that yesterday the Minister for Health, as a supplementary answer, gave a comprehensive reply to that question.

### **POLICE TECHNOLOGY UPGRADE**

**Mr STEVE WHAN:** My question without notice is directed to the Minister for Police. What is the latest information on the latest technology for police, particularly in rural and regional New South Wales?

**Mr JOHN WATKINS:** Fast, accurate criminal identification is one of the most vital tools in modern policing. As more criminals seek to hide their true identities and criminal histories behind aliases and fake identities, police need to stay one jump ahead. One thing that enables police to do that is new technology—live scan fingerprinting and photo track facial imaging. This technology is helping put crooks behind bars. I am pleased to advise that we have hit an important milestone in the rollout of this new technology. As at today more than 100 photo track facial imaging machines have been installed across New South Wales and we now have 89 live scan machines connecting police stations to a database of 2.5 million palm and fingerprints. The next few months will see a raft of new rural and regional centres connected to this new crime-fighting technology. As a result of this major law enforcement investment, investigations into thousands of unsolved crimes are moving ahead.

The Government has set aside \$8.9 million to install live scan machines across New South Wales. Machines have recently been installed at City Central, Bega and Young police stations. This financial year 21 additional machines will be rolled out and in 2004-05 they will be mostly in country areas of the State. Live scan uses electronic and laser technology to directly scan finger and palm prints. It replaces the old inkpads and roller technology, which has been used in police stations since 1902. These new live scan machines use lasers to scan almost perfect images of fingerprints or palm prints and match them against the database in minutes, exposing fake identities, criminal histories and often violent offenders who pose a risk to arresting police.

The database contains 2.5 million prints, 1.2 million here in New South Wales. They have been matched to 2,127 cases on the national unsolved crime database, meaning that investigations in those cases can now proceed. The true identities of 6,000 offenders have been unmasked. These are offenders who have lied to police but who have had their true identities revealed by live scan. Also, 958—almost 1,000—outstanding warrants have been served for a variety of offences from stealing to armed robbery, all because of the new live scan technology. From May the next stage of the rollout will begin, with new machines at Macksville, Singleton, Cowra, Gunnedah, Leeton, Narrandera, Tumut, Dareton, Forbes and Narrabri. With respect to photo track technology, the Carr Government has committed \$4.97 million to provide 110 photo track machines to high-volume police stations covering all local area commands across New South Wales.

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

**Mr JOHN WATKINS:** I can advise the House that we have almost completed that rollout and we are ahead of schedule. Indeed, I am advised that the 103rd machine is being installed at Port Kembla police station today. This means that local police are able to share their mug shot files instantly with their colleagues across the State and that police can quickly assess photos to assist in their investigations. The database uses facial recognition to link suspects to offenders and to produce photo identification line-ups of likely suspects. Files can be shown to witnesses, victims and other investigating police. It greatly assists police in solving crime, in particular, those crimes committed by repeat offenders. Today I can inform the House that more than 150,000 images have been captured by photo track and that almost 90 per cent of all offenders are being entered into the system, with more than 650,000 images available to police on the photo track system. In the future photo track will use facial recognition technology to match the faces of offenders from crime scene footage or surveillance tapes.

Photo track was installed this month at Inverell, Tenterfield, Byron Bay and Murwillumbah, and over the next six months our stations at Orange, Chatswood, Boggabilla, Muswellbrook, Gunnedah, Wilcannia and Coonamble will have it connected. Together, photo track and live scan are providing high-tech crime fighting across the State, city and country. They are helping us turn the tables further on criminals. This cutting edge technology, combined with the relentless work of our fine police officers, is ensuring that criminals are left with no place to hide.

### POLICE NUMBERS

**Mr PETER DEBNAM:** My question is addressed to the Premier. Why did the Premier mislead the House yesterday when he said that "there is no Government plan to reduce police numbers", when the Minister for Police confirmed yesterday evening that he has a strategy with Treasury to, as he says, "cull the ranks of the service"?

**Mr BOB CARR:** There is a very significant ballot taking place in the Federal electorate division of Wentworth on Saturday night, and it is not the presidency of the Paddington society. It has a great deal of implications—but enough distractions. Let us get back to the police budget.

**Mr Andrew Tink:** Point of order: My point of order is relevance. The question was about police numbers and misleading the House, not Wentworth numbers.

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

*[Interruption]*

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

**Mr BOB CARR:** I hope that police numbers called out from Rose Bay and other stations in the eastern suburbs will be enough to handle the fallout from the ballot on Saturday night. Indeed, I will talk to the commissioner.

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

**Mr BOB CARR:** The honourable member for Willoughby should not get bitter and nasty. I will talk to the police commissioner to ensure that all hands will be on deck on Saturday night in case anything untoward happens with the ballot box. That is why we must have precisely the sort of contingency that justifies our allocating sums for record police numbers in New South Wales.

**Mr Peter Debnam:** Point of order: My point of order is relevance. The Premier has gone on long enough for me to understand where he is going. My question is about the strategy to cut police numbers; it is not about Wentworth. If the Government can supply those sorts of numbers for Wentworth, what about for Redfern?

**Mr SPEAKER:** Order! The question related to police numbers, and that is what the Premier is dealing with. There is no point of order.

**Mr BOB CARR:** On Saturday night it will be all hands on deck in case there is any chaos spilling over into the otherwise quiet streets of the Federal electoral division of Wentworth. By the way, if Turnbull loses, there are implications for the honourable member for Vacluse. Did honourable members read what the *Daily*

*Telegraph* reported in July? It stated that Federal and State Liberals are plotting to install Malcolm Turnbull as the next member for Vacluse. Only a short time ago the *Australian Financial Review*—honourable members should listen to this because it relates directly to the issue of maintaining order on the streets with adequate police numbers.

[*Interruption*]

I am trying to address the question of police numbers but the honourable member for Epping continues to interrupt me.

**Mr Andrew Tink:** Point of order: My point of order is relevance. If the Premier wants to talk about preselections he might talk about the Liverpool preselection in 1989. He might talk about Mr Latham's balance in the booth and the police investigation into that. Do not talk about Wentworth! The Premier should talk about Liverpool if he wants to talk about a hotly contested preselection that should be investigated. He should also get back to talking about his plan to reduce police numbers.

**Mr SPEAKER:** Order! The honourable member for Epping will resume his seat. I am sure the Premier will reply directly to the question.

**Mr BOB CARR:** On the question of police numbers, yesterday the Opposition did not mention that its so-called Treasury documentation had been overtaken by a letter from the Treasurer, which stated, "I confirm that I am willing to provide additional recurrent budget support to police to meet the costs of the surplus police officers this year." We may need all the surplus police officers on Saturday night. Remember the warnings of the *Australian Financial Review* a month ago! It stated, "Turnbull promised the president of the Point Piper branch, Jason Falinski, that he would help him wrestle the State Liberal seat of Vacluse from Peter Debnam in return for his support" If there is a grubby deal the ICAC, not the police, will investigate.

**Mr Peter Debnam:** Point of order: My point of order is that the Premier is trying to mislead the public. This Treasury letter acknowledges the Premier's strategy. I have both the police Minister's letter and Michael Egan's letter.

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

#### PRIVATE HEALTH INSURANCE REBATE

**Ms ANGELA D'AMORE:** My question without notice is directed to the Premier. What is the latest information on the private health rebate and its impact on New South Wales hospitals?

**Mr BOB CARR:** As honourable members would be aware, in 1999 the Federal Government introduced a 30 per cent tax rebate on private health insurance premiums, including a punitive age weighting to force people over 30 into private health funds. It costs \$2.4 billion a year—around one-quarter of the New South Wales health budget. John Howard touted this rebate as a way of reducing pressure on our public hospital system. That was the theory. It has been very different in practice. A study by Professor Ian Macaulay of Canberra university, commissioned by the Australian Health Care Association and released last week, found that, first, the increase in private hospital activity is much less than the rise in participation in private health insurance; second, the increased funding flowing to private hospitals is less than the Federal Government spends on the rebate because much of the cost of the rebate has gone to people who were already insured; and, third, the rebate does nothing to help public hospitals, which treat the vast bulk of patients with complex needs and chronic illnesses.

The report also found that a significant proportion of the rebate goes to administration, ancillaries and gap payments, not front-line health care. In fact, health funds soak up \$718 million a year in administration costs. For that amount of money we could admit an extra 215,000 people into public hospitals. For all these reasons, Professor Macaulay concluded that it would be more efficient to give the rebate money directly to private hospitals because as it stands only half the funds passing through private health funds end up in private hospitals.

The problem with the rebate is that it has increased private health fund membership but it has not led to a commensurate rise in the use of private hospitals. Privately insured patients are still using the public system free of charge. In fact, 40 per cent of them simply do not use their insurance when they are treated in a public

hospital. When private patients do use public hospitals the fees they pay are effectively capped—a subsidy that exceeds \$250 million a year in this State alone. Of those who do use private hospitals, it is for procedures that are easy and profitable. The average procedure performed in a private hospital is only 60 per cent of the complexity of procedures performed in the public system.

For example, our public hospitals perform 86 per cent of appendicitis surgeries, and of more than 80 private hospitals in New South Wales only 3 have emergency departments. In other words, the private sector cherry picks the best bits and is underwritten by the 30 per cent rebate while public hospitals battle to look after the rest. I add that the public hospital system performs almost all of the training of our medical work force. To add insult to injury, the Commonwealth has repeatedly approved premium increases in the order of 8 per cent, which is well above the increases that it provides for the public health system. Honourable members would remember the battle between Premiers and Chief Ministers with the Prime Minister and his health Minister to try to get a rate of increase under the agreement to match the real rate of increase of health costs. We got nothing like it. It is clear that the rebate system is not working. My side of politics does not want to abolish the rebate, but we do want it to work.

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

**Mr BOB CARR:** I cannot hear these timorous little interjections that splutter across the Chamber. They should speak up if they have something to say.

**Mr SPEAKER:** Order! The honourable member for Willoughby will come to order.

**Mr BOB CARR:** I still cannot hear her. We need to encourage patients to use private health insurance in order to reduce the load on public hospitals, for example, by allowing Commonwealth subsidies to be paid direct to the hospital or the patient, rather than to a health insurance company. We also need insurance companies to provide no-gap products for all surgical procedures, and we need to remove the caps on fees charged to private patients using public hospitals. In short, we need an end to the inefficient shambles that private health cover has become under the Howard Government and get much better value for the taxpayer out of the \$2.4 billion being spent this year on the 30 per cent rebate.

### LOCAL COUNCIL AMALGAMATIONS

**Mr ANDREW FRASER:** My question without notice is directed to the Premier. Given that the Government has today ignored the protests of several North Coast communities and has forced the amalgamation of their councils, and particularly given the public comments of the honourable member for Bathurst that community consultation had been "badly handled" and that he opposes forced amalgamations, will the Premier guarantee the people of the Central West that they will not have their councils dissolved?

**Mr BOB CARR:** We are led to believe by the honourable member for Coffs Harbour that up in the Clarence Valley there is a tidal wave of opposition.

**Mr Andrew Stoner:** There is.

**Mr SPEAKER:** Order! The Premier has the call.

**Mr BOB CARR:** The Leader of The Nationals interjected loudly. No wonder the *Land* newspaper, which is published on Thursday, was moved to say in an editorial about the State Nationals:

Too many of these elected representatives sent from the bush seem more interested in attacking each other or are too stupid to make a significant contribution.

In case there is some confusion about whom they were referring to, the Leader of The Nationals sent a letter to the editor of the *Land* saying he was not stupid.

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

**Mr BOB CARR:** The *Land* says that too many representatives from the country are too stupid to make a significant contribution.

**Mr Ian Armstrong:** Country Labor.

**Mr BOB CARR:** Country Labor did not write a letter to the *Land*. The Leader of The Nationals wrote a letter to the *Land* saying "not me". I will distribute the letter. I am sure all the scholars here will want to read it. In the letter he said, "If we are failing, perhaps it is our reluctance to sing our own praises." We will decline that karaoke opportunity. To test this occasional Nationals' propaganda about a tidal wave of opposition to these boundary adjustment proposals in the Clarence, I went up there on Saturday. I advertised my presence and alerted the local member. I landed at Ballina and drove through the region for 1½ hours.

**Mr Andrew Fraser:** Did you get out of your car?

**Mr BOB CARR:** Yes, I got out of the car.

**Mr Steve Cansdell:** Point of order: The Premier has misled the public. I was not informed of him coming, I read it in the newspaper.

**Mr BOB CARR:** That is why I distribute my itinerary to the newspapers. The honourable member for Clarence has just confirmed that the entire region knew I was going there. If ever there was an invitation for people motivated by hatred and anger about council amalgamation policy to come out with placards, that was it.

**Mr Andrew Stoner:** You can't say they didn't.

**Mr Andrew Fraser:** They did. Bugger off, Bob.

**Mr BOB CARR:** No, they did not. How dare he use language like that! He knows how it offends my colleagues. For members who have just entered Parliament to be confronted with language like that is very disturbing. It was an open invitation for any protestor to turn up with a placard. Deep in the heart of the Clarence, when I alight in the national park, where I am performing a function, I expect there to be, as there is from time to time, a protest or at least someone with a letter to hand to me. But there were no protesters. There was no-one protesting. It seemed that confronted with the possibility of a sensible adjustment after a long period of consultation of the relevant council boundaries and having a single council for all of the river catchment of the beautiful and important Clarence Valley, the people accepted it. It makes sense. That seemed to be the mood up there, as much as I could judge. Everyone was cordial and happy. They all knew I was coming, it had been advertised in the paper, and no-one opted to protest.

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

**Mr BOB CARR:** The Leader of The Nationals keeps interjecting. That is very unfair because I never attack him. Why do I never attack him? Because I never remember his name.

#### PAWNBROKERS AND SECOND-HAND DEALERS REGULATION

**Ms NOREEN HAY:** My question without notice is directed to the Minister for Fair Trading. What is the latest information on pawnbroking in New South Wales?

**Ms REBA MEAGHER:** I thank the honourable member for Wollongong for her important question and for her interest in the role that has been played by the pawnbroking and second-hand dealing legislation in restricting trade in stolen goods. In late December last year a raft of significant reforms to the pawnbroking and second-hand dealing industry took effect. More than 1,200 licensed pawnbrokers and second-hand dealers in New South Wales are now required to ensure that they meet these tougher measures. These reforms will enable New South Wales Police to track pawned goods and return stolen goods to their rightful owner more quickly. A greater responsibility is placed on the pawnbroker to ensure that the person selling or pawning the goods is the rightful owner, and additional requirements for documentary proof of identification are being implemented for people wishing to pawn their property.

Licensees now have to report to the police if a unique identifying mark of goods that come within their possession has been tampered with. In order to hold a licence under the Act you must now be a fit and proper person and licensees must notify the Commissioner for Fair Trading if they, or one of their employees, have been found guilty of an offence involving dishonesty. Once advised, the Office of Fair Trading can act immediately, ensuring that only fit and proper people are holding a pawnbroker's or second-hand dealer's licence. Amendments to the prescribed list of second-hand goods also commenced in December. These amendments were made so that the list keeps abreast of the changes in technology and that licensees provide

information to the police within three days of a transaction of all goods that are at the highest risk of theft. This includes interactive game consoles and game software, electronic pianos and DVDs. All these amendments are further strengthening an effective regulatory regime.

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

**Ms REBA MEAGHER:** NSW Police worked in consultation with the Department of Fair Trading in the development of the reforms, and industry representatives met with the department and the police regularly regarding the proposals that were finally adopted. In fact, the consultation was extensive. I might take a few minutes of the House's time to outline the process for the edification of members opposite. The national competition policy review of the legislation was carried out under national competition guidelines. To ensure that the review process took into account the full range of public benefits of the legislation and that all views were thoroughly examined a steering committee was established—

**Mr Ian Armstrong:** A question without notice!

**Ms REBA MEAGHER:** I am sure that the honourable member would like to hear about community consultation and the stakeholders that were involved in the development of these amendments.

**Mr SPEAKER:** Order! The honourable member for Lachlan will come to order.

**Ms REBA MEAGHER:** A steering committee was established that was chaired by the Department of Fair Trading and it comprised representatives of the Attorney General's Department, NSW Police and the Cabinet Office. In addition to this, a reference group was established to provide advice to the steering committee. The reference group comprised representatives from Cash Converters, the Boating Industry Association of Australia, the Jewellers Association of Australia, the Australian Antique Dealers Association, the Law Society of New South Wales, the Consumer Credit Legal Centre, the Auctioneers and Valuers Association of Australia, the Australian Financial Conference, the Pawnbrokers Association of New South Wales and the Council of Social Service of New South Wales. An issues paper was released in March 2000. Copies of the paper were distributed to all licensed second-hand dealers and pawnbrokers in the State as well as to the reference group and other interested parties.

Forty-five submissions were received and a public forum was held to discuss the matters raised in the paper. A meeting of the reference group was held on 31 July 2000 to discuss the responses to the issues raised in the issues paper. After considering submissions and consultations with interested parties the steering committee prepared a report of its findings. This final report was released by the Government for public comment on 16 May 2002. Fourteen submissions were received and the comments were taken into consideration in the drafting of the exposure draft bill. On 1 October 2002 the exposure draft bill was sent directly to the reference group, steering committee, industry and consumer groups and parties who made submissions on the recommendations contained in the final report, as well as to other parties who expressed an interest in receiving the bill. Seven submissions were received and comments were taken into consideration when drafting the Pawnbrokers and Second-hand Dealers Amendment Bill. At all stages of the process NSW Police were consulted and since the conclusion of the review have continued to be consulted.

I put on record my congratulations to NSW Police on the success of the recent operation in Wollongong. The operation has shown that the regulatory regime adopted in New South Wales is getting results. During the operation NSW Police recovered approximately \$200,000 worth of stolen goods and it is anticipated more than 400 charges will be laid as a result of the operation. The pawnbroking and second-hand industry in New South Wales is committed to ensuring that stolen goods are not traded through licensed premises, and I am prepared to consider further refinements to the laws to strengthen regulation and consumer confidence in this industry and tackle the pawning of stolen goods. In this regard I have consulted with the Minister for Police and we have established a working party of police and fair trading officers. The working party is examining the outcomes of the Wollongong operation and, if necessary, will explore avenues of further reform. The working party is also looking to front-line police for their input into what areas they consider require further reform and enhancement. The working group is due to report its findings to me and the Minister for Police by the end of March.

**AUSTEEL PTY LTD**

**Ms PETA SEATON:** My question is to the Premier. Why has his Government lied to the people of the Hunter with a letter from the Premier on the Austeel web site promising "the project will inject \$2.8 billion into the Hunter economy, create 1,500 new jobs and boosts the nation's exports" when in fact the New South Wales Government is being sued for \$500 million for the Government's failure to finalise land and approvals for the project?

**Mr BOB CARR:** The honourable member is simply wrong. We have always said that the advance of Austeel—by the way, for which we have made the State environmental planning policy — depends on the capacity of the private proponent to line up equity partners, that is, to raise capital. It always depended on it. We said that at the launch of the project when we got together with the proponent. We said that it depends on the capacity, ultimately, of the private sector to line up equity behind the proposal. I said that in numerous interviews I gave about the subject—in fact on countless occasions. The Government is not putting taxpayers' money into investment capital for this proposal or any other. On 22 August 2003 State environmental planning policy [SEPP] No. 74, "Newcastle Port and Employment Lands", was gazetted.

The honourable member claims there was no planning approval but the policy was gazetted. She does not even know what a State environmental planning policy is. It was gazetted in August 2003 to provide an upfront framework for environmental impacts assessment, public consultation and decision making for major development in the Newcastle port area. The SEPP particularly applies to the Austeel proposal. In February last year the Government acquired the site for the steel mill at Tomago. In August 2002 we acquired the former BHP Kooragang Island site, part of which was to be used for the Austeel port site. We gazetted the SEPP I just referred to.

The Government undertook flow modelling. We completed surveys and geotechnical investigations of the port site, the steel mill site and transport corridor. We completed engineering studies to determine the best port location and optimal arrangements for material handling based on the port being in the Hunter River south arm. We neared completion of environmental impact studies for the port and materials handling corridor. We completed the environmental impact studies to bridge the Hunter River south arm for a navigation channel. The honourable member is terribly uninformed. This is the record of Government support. We gazetted the SEPP, we did all these things. We even prepared stage one tender documents for the port and corridor transport infrastructure, and we supported the Austeel project in discussions with the Western Australian and Commonwealth governments. But we never said we would take taxpayers' money and put it into the equity of the project, because that is not how we work. I thank the House for its attention.

**Mr Andrew Tink:** Point of order: The answer reminds me of what the Premier said—

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

[Interruption]

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

**BLUESCOPE STEEL ASIAN EXPORTS**

**Mr MATT BROWN:** My question is directed to the Minister for Regional Development and Minister for the Illawarra. What is the latest information on exports to Asia, particularly Vietnam, from BlueScope Steel at Port Kembla?

**Mr DAVID CAMPBELL:** I acknowledge the honourable member's ongoing interest in a vibrant steel industry in the Illawarra. Of course, that interest is shared by our other Illawarra colleagues, the honourable member for Illawarra, the honourable member for Wollongong and the honourable member for Heathcote. We all value a strong steel industry and the heavy manufacturing and engineering industries that go with it. I am delighted to inform the house that BlueScope's Port Kembla plant has played a major role in an International Red Cross project in the flood-prone Mekong Delta. Much of the steel for the 13,000 houses already built came from Port Kembla, with 7,000 tonnes of steel having been used in this important project.

Other BlueScope operations also played a role. BlueScope's Chester Hill research and development facility assisted the company's Vietnam operation with technical support for the design work. These houses are unique. They have no doubt saved lives and have most certainly saved communities from tragedy because they



are designed to resist the floods that occur during monsoons in Vietnam. The associated storms dump massive rainfall, and flooded rivers sweep homes away, leaving devastation. When the International Red Cross decided to help people living in the Mekong Delta, it sought expressions of interest from companies to design and build suitable houses. BlueScope came up trumps with a revolutionary house incorporating a moveable floor that can be easily raised. The house is strong enough to withstand the pressure of surging water, and when the flood level falls the floor is simply resecured in its original position.

I can hear a number of honourable members saying that that is incredible. Even more amazing is the fact that the house can be assembled in two days with just a screwdriver and a spanner. The steel structure is covered by walls constructed using local timber, bamboo and cloth fixed by the family when it moves in. The family moves in confident that the home will still be standing after the next big wet. The houses, which are designed to withstand monsoonal winds of up to 160 kilometres an hour, are five metres by 10 metres and each steel frame weighs 450 kilograms. The front porch of the house can be detached from its position near ground level and reattached two metres above the ground to form a higher and safer floor during monsoonal flooding.

When BlueScope tendered for this project it faced competition from a range of international companies, both within and beyond Asia. Companies based in Saudi Arabia also sought to design and build these unique homes. It is a tribute to this great Australian company that its design and materials were deemed to be the best. What a marvellous testament to the skills and dedication of BlueScope's workers, from those in the design laboratories to those in the thick of the action at the steelworks blast furnace and the rolling mill at Port Kembla. Blue-collar workers in the Illawarra have contributed to a humanitarian effort through an international aid agency—the International Red Cross. This sort of forward thinking explains why, almost 90 years after it was established as Australian Iron and Steel, later known as BHP Steel, BlueScope is one of Australia's most successful companies.

### **NARRABRI POLICING**

**Mr JOHN WATKINS:** I have a supplementary answer to a question without notice asked yesterday by the honourable member for Barwon about Narrabri Shire Council engaging private security guards. I have been advised that the council has before it a notice of motion for possible consideration at its next meeting. That was clearly the source of the honourable member's question. I understand that the notice states that Narrabri Shire Council has enjoyed a good reputation for having a relatively low crime rate. I am also advised that independent crime statistics support that statement. The good people of Narrabri have record police numbers. The officers are in place to ensure that Narrabri remains a safe community.

I am informed that the notice of motion also states that Narrabri Shire Council requests monthly meetings with the new Narrabri duty officer with a view to forming a more effective combined force through which to address antisocial behaviour. I am only too happy to pass on that request to the deputy commissioner's office to ensure that local police meet the council to deal with issues of concern to the community. The honourable member for Barwon would be well advised to act on his expressed interest in local policing by attending and contributing to the local meetings of the police accountability and community team. Narrabri Shire Council and the local police have a good relationship, and it will survive the efforts of the tawdry local member.

**Questions without notice concluded.**

### **CONSIDERATION OF URGENT MOTIONS**

#### **Rural Automatic Teller Machine Fees**

**Mr GERARD MARTIN** (Bathurst) [3.23 p.m.]: The matter I have raised—

**Mr Andrew Stoner:** Point of order: The point of order relates to section 164 of the standing orders, which provides that the same question is not to be put again. The honourable member for Bathurst introduced a motion last Thursday addressing the same issue he seeks to address today. There has been only a minor change in today's motion; it is essentially the same motion and should not be debated again.

**Mr GERARD MARTIN:** To the point of order: I have a copy of last week's motion, which was terminated because of time constraints, and I also have today's motion. Although it deals generally with the issue of rural fees, it is substantially different in wording.

**Mr Andrew Stoner:** It is the same motion.

**Mr GERARD MARTIN:** It is not the same motion. We are talking about a development. This issue is even more urgent because we now have information that the Australian Bankers Association [ABA] is drafting a submission to the Joint Parliamentary Committee on Corporations and Financial Services inquiry. Circumstances have changed and there are significant differences between the two motions. What the Leader of The Nationals is saying is rubbish.

**Mr SPEAKER:** Order! I have heard enough. Although I agree with the honourable member for Bathurst that the motion is different to the motion he moved last Thursday, that is immaterial to the matter to be determined in the point of order. The motion moved last week by the honourable member for Bathurst lapsed. No determination was made by the House, and he is therefore at liberty to move the motion of which he has given notice today, should the House determine that it should have priority. Indeed, if he wanted to do so he would be at liberty to move the same motion he moved last Thursday.

**Mr GERARD MARTIN:** The Leader of The Nationals should read the standing orders again.

**Mr Andrew Stoner:** Point of order: The point of order relates to Standing Order 71, which states:

**71.** In the House a Member may only speak once to a question, except:

(1) The Member in charge of the Order of the Day when the order is read.

**Mr SPEAKER:** Order! There is no point of order. The Leader of The Nationals would do himself a favour if he studied the standing orders. He should be aware that Standing Order 71 relates to a member speaking only once during the same debate.

**Mr GERARD MARTIN:** The Leader of The Nationals says he does not want to hear this again. This is about looking after people in rural areas. He thinks there will be some implied criticism of the Federal Government. The New South Wales Government is looking for bipartisan support. This motion is urgent because the submission is on the table and the parliamentary committee is making a recommendation that, if it were passed and the ABA and all the other banking organisations agreed with it, could have a severe impact on people in rural areas. Honourable members opposite should support the Government on this issue. The honourable member for Willoughby is a classic—whenever she hears implied criticism of the banks she is on her feet.

The honourable member for Epping was in a time warp and took us back to 1989. The honourable member for Lachlan and other honourable members opposite stood up one after another and apologised to the banks for the Farm Debt Mediation Bill and said that the legislation should not be passed because it would hurt bank profits. Honourable members opposite have a history in this area and we will expose the honourable member for Willoughby if she enters this debate. This motion is urgent because the submission is on the table now. This Parliament should make a strong statement. Country Labor will not let this issue die. I ask honourable members opposite to support the Government rather than sit doing nothing. They can do whatever they like.

### **Grain Infrastructure Advisory Committee Report**

**Mr ANDREW STONER** (Oxley—Leader of The Nationals) [3.28 p.m.]: My motion is urgent because country New South Wales is facing a crisis in relation to grain rail lines. That crisis is severely impacting not only on farmers but also on their communities, road users and local government ratepayers. The motion is urgent because the public has had just over one month to comment on Labor's Grain Infrastructure Advisory Committee report. The report has recommended the closure of three lines: Gwabegar to Binnaway; Burcher to West Wyalong; and Willbriggie to Yanco. Lines that have their fate in the balance in the report are: Weemelah to Camurra; Warren to Nevertire; Lake Cargelligo to Ungarie; Rankins Springs to Barmedman; Hillston to Griffith; Boree Creek to The Rock; and Greenethorpe to Koorawatha. That is, at least 10 grain rail lines across New South Wales face closure under this Labor Government.

**Mr Alan Ashton:** Point of order: The Leader of The Nationals has been a member of this place for long enough to know that he is not simply arguing the case for urgency. He is presuming that the Opposition has won the debate on urgency and he is proceeding to debate the subject matter of the motion. I ask you to direct him to state why his motion is more urgent than the motion of the honourable member for Bathurst.

**Mr SPEAKER:** Order! The Leader of The Nationals has been a member of this House long enough to understand the standing orders.

**Mr ANDREW STONER:** My motion is urgent because industry has shown strong support for rail and believes it should be the preferred option. It is urgent because the rail-road task force green paper of the New South Wales Farmers Association estimated that an additional 79,000 trucks a year, loaded with grain, would use country roads if adequate maintenance were not conducted on restricted and branch lines. The poor state of these small grain lines contributes to increased freight costs, and it therefore acts as a disincentive for growers to transport grain on them.

The motion is urgent because restricted lines alone account for 40 per cent of total production and 67 per cent of grain destined for export. The Grain Infrastructure and Advisory Committee [GIAC] report highlights Labor's appalling failure over the past nine years to invest in grain rail lines across New South Wales. The report provides further confirmation that the high cost of maintaining restricted lines has been caused by Labor's fix-when-fail maintenance policy, which is estimated to cost only \$8 million a year.

**Mr Alan Ashton:** Point of order: The Leader of The Nationals is again presuming that his motion will succeed. Only when I took the previous point of order did the honourable member mention the word "urgent". I ask you to direct him to state why his motion is more urgent than that of the honourable member for Bathurst.

**Mr SPEAKER:** Order! I heard the Leader of The Nationals say that the motion is urgent. He has the call.

**Mr ANDREW STONER:** The report states that for the lines to remain in service they must be restored by way of more intensive works and the implementation of a periodic, preventive maintenance regime.

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

**Mr ANDREW STONER:** The motion is urgent because years of neglect of our rail lines has resulted in a crumbling system that mirrors much of the infrastructure in country and coastal New South Wales for which the New South Wales Labor Government is responsible. Freight trains on some restricted and branch lines are limited to speeds of only 15 to 20 kilometres per hour, with speed limits down to 8 kilometres per hour across some bridges. The use of some lines is possible only at night.

My motion is urgent because the methodology used in the report to reach the road costing figures is highly questionable. The GIAC report also costs just one road in each area as the future grain route for all heavy vehicles if a rail line is closed. This seems absurd, given that trucks will take whatever path is necessary in country regions. The motion is urgent because there is absolute confusion over Labor's position on its Broadacre project. On the one hand, Labor's chief rail bureaucrat, Vince Graham, is saying that the money for the project would be better diverted to other areas. It is interesting to contrast that point of view with Minister Scully's statement to this House in 2002 that "I am happy to defend Project Broadacre."

My motion is urgent because there are so many questions to be answered in relation to the funding of rural rail infrastructure. We need this information to have an informed public debate. Following the privatisation of FreightCorp, Labor allocated money to upgrade and maintain the country rail network, but not a cent of this money was to be spent on restricted lines. In fact, it is almost impossible to ascertain where this promised money is going, or indeed whether it is being spent. The motion is urgent because an agreement has been struck for the Australian Rail Track Corporation to manage the country branch rail network in New South Wales as part of a broader rail agreement between the Federal and State governments. This matter is extremely urgent for country and coastal New South Wales. It is an opportunity for the Country Labor faction to cross the floor and support The Nationals in securing a better deal for country New South Wales. [*Time expired.*]

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

**The House divided.**

**Ayes, 49**

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

**Noes, 36**

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

**Pairs**

Mr Bartlett	Mr Brogden
Ms Saliba	Mr Hartcher

**Question resolved in the affirmative.**

**Mr SPEAKER:** Order! I call the honourable member for Newcastle to order. I call the honourable member for Lake Macquarie to order.

**RURAL AUTOMATIC TELLER MACHINE FEES**

**Mr GERARD MARTIN** (Bathurst) [3.42 p.m.]: I move:

That this House urges the Australian Banking Association, in its submission to the Joint Standing Committee on Corporations and Financial Services, to formally reject a plan to increase rural automatic teller machine fees up to \$10 a transaction.

This matter has been brought to the attention of Country Labor in recent weeks and for the second time we raise it in this House. We seek bipartisan support from the Opposition on this matter because we expect that there would be a common interest in ensuring that people in rural areas are not discriminated against. The committee seems to have based its determination on the fact that perhaps people in the country should pay higher automatic teller machine fees because of the number of transactions. Obviously an automatic teller machine in Pitt Street or Macquarie Street in the city will be used more than a machine in a small place such as Trangie, where it might be in a post office, an agency—the Federal Government has closed down all those post offices in the

bush—or a club. It is obvious that machines in such places will not have the same number of transactions, and some bean counter could work out, on a cost-effective basis, that it costs more.

The reality is that this is a universal service provided by all banks across the State, and the fees should be exactly the same. At the moment fees average about \$1.30 per transaction. Under the committee's recommendation the worst scenario could be that fees would increase to around \$10, as has happened overseas in places such as Canada. That is obviously unacceptable; Country Labor will not accept it. In its submission to the Joint Standing Committee on Corporations and Financial Services the Australian Banking Association [ABA]—the umbrella organisation for banks—should spell out clearly that banks do not want any part of this increase.

I know that the Commonwealth Bank is concerned about the fees, and will not impose a discriminatory charge. I challenge the other banks, and the ABA, to follow that lead. This is all about fairness; it is about ensuring that people in regional areas are not discriminated against. I know from having spoken to people in the Commonwealth Bank that it has such a policy, although I have not seen it publicised. At least one other bank probably has a similar policy, and they should be applauded for it.

Following deregulation of the banking industry in recent years the banks, quite rightly, have been criticised for withdrawing services, particularly in country and regional areas. We have all had experiences relating to the closure of bank branches. When I was Mayor of Lithgow, and subsequently, I received telephone calls from regional managers of banks in Rylstone and other places in my electorate who wanted to talk to me about how the bank was rationalising services. Before they arrived I knew it was all about which branch they were going to close. The messengers from the banks were always very polite, but that was their bottom line. For that reason I always had a feeling of impending doom when bank managers came to visit.

There has been a gradual erosion of banking services for people in regional and rural New South Wales. The one thing people can rely on is the good old automatic teller machine [ATM], which has become so much a part of our lives in recent years. In many cases it has become the banking facility in post office branches, agencies and clubs, and is the only access to banks for some people. The honourable member for Willoughby has probably gone to ring her mates at the Commonwealth Bank to check the veracity of what I am saying.

Banks have increased their fees on just about every transaction customers make, but we want to draw the line at automatic teller machine fees. We seek bipartisan support on this extremely important issue. It is something on which the Federal Treasurer and the Prime Minister could take the lead. They need some issues at the moment as they are a bit nervous about what might happen in the Federal seat in a few months time. They could certainly impress people in rural areas if they said, "We will not accept a situation where people in the regions have to pay more for the same service". Some people might say this is cross-subsidisation. If it is, well and good. But I am sure the honourable member for Murray-Darling would agree with me that there are plenty of reasons for having cross-subsidisation for services to country and regional areas.

Experience in other countries has shown that when differential fees have been allowed people in rural and regional areas are hit with significant price increases. There is already evidence of that. Some experts who gave evidence to the committee believe that the cost of using a foreign ATM in rural Australia could rise to between \$5 and up to \$10 per transaction. If a person wants to withdraw \$50 from an ATM for a night out—that would be enough for us Labor Party members, but members on the other side of the House would probably need \$500 for a night out—having to pay anywhere between \$5 and \$10 would make it a prohibitively expensive transaction.

The Joint Standing Committee on Corporations and Financial Services called its inquiry into the level of banking and financial services in regional, rural and remote Australia "Money Matters in the Bush". Indeed it does. It matters to people that they should have affordable services from the banks. We should send a direct message to the banks that people in these areas should not be financially penalised for what has become an everyday necessity—access to their ATM.

Banks have been part of the history of the bush since 1817. Indeed, the Bank of New South Wales, which is now Westpac, was the first bank in Australia. For many years banks have been fundamental to the services provided in rural and regional Australia. Although in recent times we have been disappointed with the rationalisation carried out by banks with respect to branch closures and reduction in the number of employees and services, people in rural and regional areas should receive the same level of service as those in the city and should not be discriminated against.

**Mr Thomas George:** You are picking on the honourable member for Willoughby.

**Mr GERARD MARTIN:** The honourable member for Willoughby will need considerable ammunition because we have heaps on her. In fact, she should declare an interest in this matter. The honourable member for Lismore, the honourable member for Murrumbidgee and others who occasionally visit the South Coast would agree with the essence of my comments.

**Mr Peter Black:** The member for Clarence does.

**Mr GERARD MARTIN:** I know that the honourable member for Clarence would agree. I am not sure whether we discussed it in the gym this morning, but if we did, we would have reached agreement on it. I ask honourable members opposite to put aside their bias and use their influence with John Anderson. He needs a few runs on the board at the moment because he has had some bad luck with air safety regulations—

**Mr Peter Black:** And sugar.

**Mr GERARD MARTIN:** I did not like to sour the debate by using the word "sugar", but I will talk about that later. Surely it should not be too painful for the Opposition to vote on this motion, and I am happy to accept a vote on the voices. Let us obtain a commitment from both sides of Parliament to defend people in country and regional areas. I am confident that the ABA will do the right thing because its submission will be crucial. However, we as a Parliament must send the right message: We do not want discriminatory ATM fees in rural and regional Australia. I commend the motion to the House and I expect it to receive unanimous support.

**Mr ADRIAN PICCOLI** (Murrumbidgee) [3.52 p.m.]: That was an interesting contribution by the honourable member for Bathurst, who is described in three words by Labor Party members and people in his electorate: lazy, lazy and lazy! So far as I am aware there is no such organisation as the Australian Banking Association; it is the Australian Bankers Association. Therefore, I move:

That the motion be amended by deleting the words "Australian Banking Association" and inserting instead "Australian Bankers Association".

Although it may appear to be a minor amendment, the motion should be worded correctly. The honourable member for Bathurst fails to grasp the importance of detail; he had only to refer to the telephone directory to get the name right. I hope that Government members support my amendment to correct the motion. People in country New South Wales regard banking regulation and services as very serious. That is why we were so disgusted back in the late 1980s when Labor deregulated the banking industry and sold the Commonwealth Bank. I was only 18 at the time but I still remember when Darlington Point had a Commonwealth Bank branch.

Many Commonwealth Bank branches were located across country New South Wales, but Labor—that great socialist party, which believes in public assets—flogged off the Commonwealth Bank to pay for services in country New South Wales. Labor then racked up another \$60 billion or \$70 billion of debt. It also privatised Qantas and everything else possible during its 13 years in government. I assume that the honourable member for Bathurst was a Labor member at the time and I know that the honourable member for Murray-Darling was a party member.

**Mr Peter Black:** Which party?

**Mr ADRIAN PICCOLI:** The Communist Party, I believe. Those members did not comment on the actions of the Labor Party at that time, and they shrink into their seats when reminded how the Labor Party privatised the Commonwealth Bank. In an attempt to increase the value of shares for its shareholders, the Commonwealth Bank had to close branches in country New South Wales. One can trace the devastation of country banking services back to when Labor was in government for 13 years at the Federal level, so God help country New South Wales if Labor is returned federally. We will return to the dark days experienced under the Labor administration of Paul Keating and Bob Hawke. I hope and pray that Labor is not re-elected for some time.

I remind honourable members that interest rates reached 17 per cent when Paul Keating and Bob Hawke were in office. People in the gallery probably had home loans on which they were paying 17 per cent interest, but the poor people who had a business loan, a farm loan or an overdraft were paying interest of 21 per cent or even 25 per cent. At the time it was like an auction; they could not go high enough quickly enough. We will return to those dark days if Labor is elected federally. Honourable members opposite often raise Federal

issues in this Parliament. However, today they do not ask for action by the Federal Government; they want an organisation to provide a submission. Where is a submission from the honourable member for Bathurst, the honourable member for Murray-Darling or the other no-hopers they roll out to whinge in this Parliament? Where are the submissions to this inquiry from so-called Country Labor members? I return to those three words that so clearly and correctly categorise the member for Bathurst—lazy, lazy, lazy!

The House has already heard from the honourable member for Bathurst the negative side to the suggested reforms. I would suggest that competition in the provision of ATM services from private operators would remove a tier of bureaucratic administration in the form of interchange fees that banks charge and could drive down the cost of using an ATM. The whole point of the inquiry is to examine the consequences of various reforms. The honourable member for Bathurst left his office for a brief period to participate in a television interview in which he referred to a \$10 fee for an ATM transaction. If he thinks he must scaremonger country New South Wales in order to get re-elected, good luck to him but bad luck for the rest of the community. Other people, who had obviously been influenced by the honourable member for Bathurst, were interviewed also.

In some communities where there are no ATMs, because there is no bank presence, other non-banking organisations will be able to install them. I am sure that all responsible and sensible members of Parliament would agree that that is a good thing. If that is the potential outcome of such reforms, that is good. Indeed, banks and other organisations may also charge different fees. As a consumer I will find out which financial institution charges the lowest fees and I will use the ATMs belonging to that financial institution. The point of competition is that it enables consumers to choose the right option, particularly the cheapest option. Two possible positive outcomes could be a reduction in fees and an increase in the availability of ATM machines.

I welcome this inquiry because of the possible benefits that can accrue to country New South Wales, which is important. We do not need the continuous negative carping from the honourable member for Bathurst and the honourable member for Murray-Darling, who will speak next in the debate. Listen to the honourable member for Bathurst now! He is outspoken in Parliament when the Premier is not here. During question time today a question was asked about council amalgamations. The honourable member for Bathurst talks big in public but, according to the Premier, he has not raised council amalgamations in caucus. Today the Premier said that the issue of council amalgamations had not been raised with him.

**Miss Cherie Burton:** Point of order—

**Mr ADRIAN PICCOLI:** The honourable member for Bathurst goes out and tells the union that he is doing so much—

**Miss Cherie Burton:** Sit down!

**Mr ACTING-SPEAKER (Mr John Mills):** Order! The Parliamentary Secretary will address all her remarks through the Chair or I will not hear the point of order.

**Miss Cherie Burton:** The point is relevance. The motion is about banking in country New South Wales. It has nothing to do with amalgamations.

**Mr ACTING-SPEAKER (Mr John Mills):** Order! I do not uphold the point of order. The remarks of the honourable member for Murrumbidgee are relevant.

**Mr ADRIAN PICCOLI:** I was responding to an interjection from the honourable member for Bathurst, who has been telling unions in public and the Premier in caucus that in no way will he accept forced amalgamations. The reality, according to the Premier in question time today—it is in *Hansard*—is that the honourable member has said absolutely nothing about it.

**Mr PETER BLACK (Murray-Darling) [4.02 p.m.]:** This is very much a Country Labor issue. I am surprised that The Nationals would send in the honourable member for Murrumbidgee on this matter. Let us face it: In the past few weeks we have seen the annual outbreak of bad manners time and again. The honourable member for Murrumbidgee is leaving the Chamber. Clearly, the annual outbreak of bad manners has been extended; it looks like it will continue for 10 months. Let us hope that it does not continue for 12 months. The first time I was alerted to this issue goes back to a headline in the *Australian* of 4 March 2003, which stated:

Banks to scrap ATM charge

I thought "This is good." On 5 March the *Daily Telegraph* stated:

New idea on ATM fees—be up front

But the Australian Consumers Association added a sour note. The article stated:

Consumers know how much they pay and they're very unhappy.

A headline in the *Australian Financial Review* of 5 March stated:

ATM shake-up plan sparks fears of fee increases

People in the bush started to worry when they saw the headline in the *Sydney Morning Herald* of 16 January 2004, which stated:

Banks have green light to raise ATM fees in the bush

Then a headline in the *Daily Telegraph* of 17 January 2004 stated:

ATM fees furore in the bush

Charges may rise \$12

I am pleased that the matter has been raised with the Australian Bankers Association, which I understand is run by a chap called Ding Dong Bell. I do not know his first name but I understand that his staff refer to him as Ding Dong Bell.

**Ms Gladys Berejiklian:** Treat him with a bit of respect.

**Mr PETER BLACK:** If his staff refer to him as Ding Dong Bell, that is fine with me. What I have to say is this: Treat the banks with respect? I was brought up on a song called *The Banks Are Made of Marble*:

But the banks are made of marble,  
With a guard at every door,  
And the vaults are stuffed with silver  
That the miners sweated for.

It is a great song. I suggest that members opposite find out what Australians have traditionally thought about banks. Let us get back to Ding Dong Bell. In 1999, when I last was on the executive of the Local Government and Shires Associations, we did a survey from 1990 to 1999 across Australia. The survey showed that the banks had closed 1,100 branches and in the last decade—I know there is an overlap—750 bank branches were closed. I was horrified when the Commonwealth Bank was sold off, because I knew what would happen. First, I was horrified when it was sold off—I do not back off from that. When the bank was sold it closed branches in country areas, including Ivanhoe. Incidentally, Ivanhoe had a temperature of 48.5 degrees two weeks ago; it was so hot they had to turn off the heaters in the gaol. Importantly, the people in gaol do not have a bank branch in Ivanhoe. The nearest bank is located in Hillston. The honourable member for Murrumbidgee referred to rail branch lines. Rail branch lines! Silo workers in many bush communities cannot go to a bank to cash their cheques.

**Mr Thomas George:** Point of order—

**Mr ACTING-SPEAKER (Mr John Mills):** Order! If the point of order relates to relevance I will rule against it. I am listening to every word the honourable member for Murray-Darling says.

**Mr Thomas George:** It is one of relevance. The honourable member for Murray-Darling should be brought back to the subject.

**Mr ACTING-SPEAKER (Mr John Mills):** Order! The remarks of the honourable member for Murray-Darling are entirely relevant to the motion.

**Mr PETER BLACK:** I will return to the subject of Ivanhoe. The closure of the Commonwealth Bank branch in Ivanhoe saved a lot of marriages. The bank did a special deal with the IDU. When the sheds closed at Ivanhoe the men were paid with two cheques because the Ivanhoe RSL could not cash big cheques. So for the



first time in their lives the chaps were going home and handing over the big cheque to their wives, who thought it was marvellous. However, the wives did not hear about the small cheques. The banks closed branches in Wentworth and Wilcannia. They do not care about isolated communities; they do not care about workers who want to cash cheques; and they do not care about pensioners who want to cash cheques. The banks have never cared about the bush. They have always been made of marble. [*Time expired.*]

**Mr GREG APLIN** (Albury) [4.07 p.m.]: Let us cast our minds back to when a similar motion to this was moved last week. It was on a day when the Government was under fire, and the motion was obviously a diversion. However, it failed to move forward, and it is based on spurious grounds, to say the least. There is absolutely no evidence of this \$10 fee; it is an invented figure that exists in the minds of members opposite. It is a scaremongering tactic, like so many others we have heard raised in this House. The Joint Standing Committee on Corporations and Financial Services report on the ATM fee structure stemmed from the committee's original report entitled "Money Matters in the Bush".

On 25 July 2002 the chairman of the committee announced that it had agreed to inquire into the level of banking and financial services available to Australians living in rural, regional and remote areas. In October 2003 the committee resolved to conduct, as part of its broader inquiry into banking and financial services in country areas, an inquiry into proposals to reform the foreign ATM fee structure and its likely effect in country areas. Recommendation 1 of the report stated:

The Committee recommends that the ATM Industry Steering Group include in its considerations on the reform of ATM interchange fee arrangements the special circumstances of fees and charges associated with the use of foreign ATMs in rural, regional and remote Australia.

Recommendation 1 continues:

The focus of the group would be on building into any proposed reform of the ATM fee structure, safeguards that would ensure that people living in country towns and remote communities do not incur significantly higher fees or charges for using a foreign ATM and that an unreasonable or unwarranted differential in fees and charges between those in rural and remote areas and those in metropolitan areas does not develop.

Recommendation 4 states:

The Committee recommends that should a direct charging regime be introduced both the RBA and the ACCC closely monitor shifts in fees and charges for foreign ATM services and report publicly on developments in fees charged.

The Committee recommends further that should a direct charging regime be introduced the RBA produce statistics to show the fees for ATM services in rural, regional and remote Australia and the fees in metropolitan areas.

In addition, the Committee recommends that the statistics include as a separate category fees charged for obtaining an account statement.

The Australian Bankers Association has stated that banks, building societies and credit unions are currently finalising their ATM proposal, which will be presented to the Australian Competition and Consumer Commission [ACCC] for authorisation. The proposal supports the ACCC and the Reserve Bank of Australia [RBA] recommendation that a direct pricing model be implemented. Once that proposal is lodged, it will be considered by the ACCC. Most importantly, the ACCC must consider the public benefits and detriments of applications before making a determination. The Act requires the ACCC to consider the impact of any proposal on identified consumer groups, including rural and regional consumers.

The inquiry by the Parliamentary Joint Standing Committee on Corporations and Financial Services recommended that interchange fees between banks for foreign ATM transactions be abolished immediately and replaced by direct charging, which would have the effect of reducing foreign ATM transaction fees from approximately \$1.50 to 50¢. The Labor members of the committee opposed the introduction of the proposed direct charging regime. They were concerned that direct charging fees would allow ATM owners to charge a different fee for each individual ATM based on differential costs.

The ATM Industry Steering Group stated that under its direct charge model the framework of bilateral interchange fees would be dismantled. The proposed model removes the need for the card issuer to reimburse the ATM owner-operator for providing the service and hence the card issuer to recover the interchange from the cardholders. Rather, an ATM owner-operator would levy a direct charge on all cardholders who use its ATM service. The size of the charge would be determined solely by the owner-operator and debited to the cardholder's account. The fee for providing the service should reflect the cost of providing the service plus a margin for return on investment. In other words, the ATM interchange fee would be set at zero and the components of the foreign fee would be unbundled.

In the time I have available I will refer to some of the major recommendations of the inquiry: the introduction of industry standards for electronic banking in remote Australia, the protection against unreasonable differential rural foreign ATM fees in areas where there is only a foreign ATM, the branch closure protocol to incorporate comprehensive community consultation, and improved consumer protection measures for isolated people. [*Time expired.*]

**Mr STEVE WHAN** (Monaro) [4.12 p.m.]: I am pleased to support the motion, which goes to the heart of the provision of basic services for families and businesses in rural and regional New South Wales. While rural families suffer as bank services diminish, the banks continue to post bigger profits. Recently the Commonwealth Bank posted a half-yearly profit of more than \$1.2 billion. Our big four banks remain on target to once again break the \$10 million barrier and set yet another record profit over the coming year. In 1997 household bank fees were \$1.2 billion. By 2002 they were closer to \$2.7 billion, an increase of 123 per cent. It is now possible that charges on automatic teller machines [ATMs], particularly for rural and regional Australians, will be increased. Country Labor believes it is time for the Federal Coalition to accept Labor's policy and reject any suggestion of differential fees for ATMs.

I listened carefully to the contribution by the honourable member for Albury, who spoke about the recommendations made by the committees. I will refer to one such recommendation, which I believe is particularly important. The majority of members on the Joint Standing Committee on Corporations and Financial Services, the Coalition members, recommended that there should be direct charging. They said that they want to protect against an unreasonable or unwarranted differential in fees and charges between rural and remote areas. Who will judge what is unreasonable or unwarranted? According to the Coalition members, if a bank can justify an increase of \$10, then it can go ahead and charge that amount.

**Mr Greg Aplin:** It is called competition.

**Mr STEVE WHAN:** The honourable member for Albury interjects "It is called competition". Those of us who talk to people in rural communities know that in many areas competition has not delivered a great deal of benefit for rural towns. The honourable member for Murrumbidgee seems to be of the view that deregulation and allowing banks to charge what they want will result in the provision of more services. We have seen evidence of that in a lot of areas! People in rural communities do not believe that they will get the benefit of lower prices if deregulation occurs. In contrast, the Labor members of the committee stood up for rural New South Wales. They stood up for the things that Country Labor stands for and rejected the introduction of direct charging. The report states:

The Labor members of the Committee opposed the introduction of the proposed direct charging regime. They were concerned that direct charging of ATM fees would allow ATM owners to charge a different fee for each individual ATM based on their different costs.

The Labor committee members were absolutely right to take that position because the application of differential fees will result in more expensive services in regional New South Wales. Figures of between \$5 and \$10 per transaction are commonly bandied about in the community. Such amounts are unacceptable and should be ruled out by the Federal Government and the banks. We understand that banks are in the business of making profits for their shareholders. However, they also perform a community service and have obligations and responsibilities. We want to make sure that they provide a service and that the people of regional New South Wales can access the funds reasonably close to their homes and at a reasonable price.

In recent years ATMs have popped up everywhere around the country. There are now approximately 20,000 ATMs in Australia, compared to 4,400 in 1990. We hear a lot of talk about foreign ATM transactions, that is, when one bank's ATM is used to withdraw money from another bank. In rural and regional New South Wales about 40 per cent of ATM transactions are foreign transactions. The honourable member for Murrumbidgee said that he would make sure he chose the ATM with the lowest fees. In most of the small towns I represent people do not get that choice because there are not multiple ATMs. Indeed, under this new charging regime there will not be multiple ATMs; there will simply be an ATM charging a much higher price.

Currently, banks charge an interchange fee of between \$1.50 and \$2.00 on a foreign ATM, while the actual cost of providing the service is about 50¢. There is a big difference between the fee charged and the actual cost. Under the philosophy of the Coalition, the banks will be able to justify charging more in New South Wales. Once again, rural residents of New South Wales will be charged more to access services. They deserve to have services provided to them on the same basis as they are provided to people in the cities. [*Time expired.*]

**Mr GERARD MARTIN** (Bathurst) [4.18 p.m.], in reply: I thank all members who contributed to this debate. In particular, I thank the honourable member for Murray-Darling for his usual incisive and entertaining

address and the honourable member for Monaro for his excellent and considered contribution. Government members were surprised to hear the honourable member for Murrumbidgee lead on behalf of the Opposition. That shows that the Opposition has little regard for this issue. The honourable member for Murrumbidgee accused me of being lazy. It is no secret that the Leader of The Nationals is trolling around The Nationals backbench trying to get someone to replace the honourable member for Murrumbidgee in the shadow ministry. One only has to look at his performance last week to understand why. After five years as a member in this place he could not ask a question properly and was bounced out. The honourable member for Murrumbidgee should do his homework.

The Government accepts that the Opposition is closer than the Labor Party to the top end of town, the bankers. We accept the Opposition's amendment to change "Australian Banking Association" to "Australian Bankers Association". I take responsibility for the oversight; we must get the little bits right.

I am disappointed that the honourable member for Willoughby did not join the debate. She would have had to declare an interest. We have only to go back to her maiden speech, which was effusive about her career in the Commonwealth Bank, to understand that she comes from a long line of people on the other side who see it as their God-given right always to defend the banks, because the banks are always right. The Coalition opposed the Farm Debt Mediation Bill—which was introduced by my predecessor as member for Bathurst, Mick Clough—until right at the end when they had to join us and support it. The opening lines from the responses of the Hon. Duncan Gay and the honourable member for Lachlan show that they are apologists for the banks.

We have an opportunity at the moment because the committee is in full flight. It is making recommendations. We are saying only that there is a possibility in this case that people in rural areas may be discriminated against. The honourable member for Albury is another north shore-ite, the north shore of the Murray. The north shore is well represented here, and that is great. He claimed that the suggestion that the transaction fee could increase to \$5 or \$10 was preposterous. Ample evidence was given to the committee that that is exactly what has happened, particularly in Canada, when charges were deregulated to allow differential charging. The banks will make hard-nosed business decisions; they will not build in any social commitment.

The Labor Party supports a social contract with the banks so that community interests are considered. It should be written into the charter of the banks. We will not get any support from the other side of the Chamber on that issue. It is important for us to speak out on this issue in a bipartisan manner. It will not hurt the Opposition too much to do that. We are prepared to accept the Opposition amendment. I do not speak to the Australian Bankers Association every day; it is a body foreign to me. But I did have a phone call from a lady from that organisation in the last week. It must have been static in the line that made me think that she said she was from the Australian banking association. Acceptance of the amendment might be the only win that the honourable member for Murrumbidgee ever has in this place.

We want bipartisan support. We want to say in a unified voice to the committee, while it is considering the recommendations, that we would like these people, if they have any influence with their masters in Canberra before they are swept up in front of the Latham juggernaut, to make sure that people in rural and regional New South Wales are not unfairly penalised with ATM charges because of where they live. As the honourable member for Murray-Darling and the honourable member for Monaro so eloquently put it, the banks have discriminated against people in country areas for too long with the wholesale rationalisation of banking services. So let us stand up as one group, support the motion and say to the banks "Hands off" as far as exorbitant ATM charges for people in country areas are concerned. [*Time expired.*]

**Amendment agreed to.**

**Motion as amended agreed to.**

## **REGIONAL DENTAL SERVICES**

### **Matter of Public Importance**

**Mr RICHARD TORBAY** (Northern Tablelands) [4.24 p.m.]: I am delighted to have the opportunity to raise this matter of public importance today. Dental services across New South Wales, particularly in regional, rural and remote parts of New South Wales, remain a significant issue, one that has been the subject of a number of private members' statements prior to today. Nonetheless, it is important that we continue to strive to improve the situation. When I raised this issue in the House some time ago I commented that regional New

South Wales faced a severe shortage of dental health facilities and practising dentists. Regional dentists are unable to attract replacement dentists or recruit support staff despite seeking candidates across the country.

One of the problems is that the number of dentists graduating in New South Wales has significantly declined in recent years, a trend that is reflected throughout Australia. The statistics make interesting reading. In 1974 there were 115 dentistry graduates from the University of Sydney and in 1979 the figure was 135. But in 1999 only 35 students graduated, in 2000 only 27, in 2001 only 29, and there was a slight increase to 44 in 2002. The figures demonstrate a significant reduction and that can only spell bad news for people of this State. But, as I said, the reduction will particularly impact on those in regional, rural and remote areas. I am pleased to see a number of country members in the Chamber and I hope that they will contribute to the debate.

In the 1970s there was a ratio of one dentist per 4,500 to 5,000 people. Presently there are only 3,200 dentists practising in New South Wales and the ratio is currently one dentist per 8,000 people. More than a third of the current dentists graduated prior to 1975, and only 14.5 per cent of the State's dentists practise in regional New South Wales. This State, like the rest of the country, has an ageing population of dental practitioners and the number of qualified dentists to replace them is grossly inadequate. The industry has raised the issue with me on numerous occasions. It has told me that a dentistry course takes five years and even if we begin to provide incentives to attract more people into the field there will still be a significant shortfall in the short term. It will take a number of years before the problem can be solved.

There have been many complaints about the incentive schemes put forward by the Government. I have discussed the matter with the New South Wales Minister for Health on a number of occasions, as I did with his predecessor. The State's attempts to encourage more dentists to regional areas have certainly been welcomed but they have had limited success. The overall shortage of graduates is one problem. Another is that newly graduated dentists have strong preferences to establish practices in more affluent areas of metropolitan cities. More women are graduating in dentistry, from 14 in 1999 to 18 in 2002. But the women dentists that I have spoken to have told me that they face a problem in taking up positions in regional and rural areas because suitable employment opportunities for their spouses or partners may be limited.

Another important factor is that the majority of overseas students who train as dentists return to their countries of origin to practice. In a few regional areas there are currently adequate numbers of dentists but the problem is the sustainability of the numbers for the long-term provision of dental health services. Other areas have almost no dental services. Honourable members in rural and regional New South Wales know about the challenges in their electorates, which have almost no dental health services. Many people have to travel long distances and wait long delays for treatment.

A national scheme was established in the dying days of the Keating Government on a dollar-for-dollar basis to address the issue of significant waiting lists for dental treatment in the country. It was a trial and, according to the figures, it was very successful. It had an enormous impact on waiting lists for public dental treatment. I was pleased to see that during a recent visit to New England the Federal Leader of the Opposition put dental health services back on the political agenda. A Federal election will be held later this year and the Hon. John Anderson made a commitment to re-establishing the Commonwealth scheme in part, and matching State funding, if the Coalition is re-elected. Without attempting to be partisan, I hope the Federal Government revisits that issue. It would be good to see the Government and the Opposition in the lead-up to the Federal election commenting about the contributions that they will make to reduce the time dental patients must wait for public treatment.

I get tired of speaking to people who deserve to be treated but who are experiencing these delays. It is disappointing and disturbing for me, not only as a local member but also as someone who is supposed to help people, to see the frustration of people looking for basic dental services. In many cases patients are told that public dental services can deal only with the most urgent cases. A constituent of mine was told that getting an appointment for treatment for a toothache might take months. That is unacceptable and we can do better. Honourable members should look at the joint State-Federal dental proposal, and at the positive impact it had on waiting lists and the way in which extensive funding was freed up and put into the front line for public dental services. It was a successful model and I urge the Federal and State governments and oppositions to put these dental services strategies in place. They were successful and they will be again.

I know the higher education aspect of this issue is important. We must make higher education more accessible. We must ensure that incentives are available for people who want to enter the very important career of dentistry. University places in the relevant faculties should not be limited. Rural and regional New South

Wales is struggling to attract experts in these fields, but university places are limited. It does not make sense that people want to enter these noble professions but the cost of undertaking the necessary training is so exorbitant that it is impossible for them to provide those services to the State and to regional and rural New South Wales. The move to user-pays or privatised education is frightening. It is eroding the concept of public education at every level, both State and Federal. We have seen the impact on TAFE fees and in other tertiary education institutions as a result of the Nelson reforms. We must support industries and services and educate people who want the opportunity to make a contribution other than on the basis of the size of their bank balance. If that occurs, we will be the losers.

**Miss CHERIE BURTON** (Kogarah—Parliamentary Secretary) [4.34 p.m.], in reply. When the Howard Government withdrew from the Commonwealth Dental Scheme [CDS] in 1996 it shamelessly abandoned its responsibility to thousands of people. The Federal Government clearly has a responsibility for oral health. This obligation is enshrined in no less than the Australian Constitution. In 1946 the Australian public voted at a referendum to grant power to the Commonwealth to provide a wider range of health and social security benefits in the post-war period. The outcome was section 51 of the Australian Constitution, which reads:

The Parliament shall—subject to this Constitution—have power to make laws for the peace, order, and good government of the Commonwealth with respect to:... the provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorise any form of civil conscription), benefits to students and family allowances.

Good oral health is a fundamental aspect of life-long wellbeing. It is not just about having good-looking teeth. Poor dental health can affect a person's overall health. Serious dental problems can be linked to other health issues including the inability to eat fresh fruit and vegetables, which in turn reduces vitamin and mineral intake, digestive problems, periodontal infections that have been associated with premature labour, and problems in managing blood sugar levels in diabetics. Obviously, poorly maintained or damaged teeth can also have a hugely detrimental affect on self-esteem. As we all know, serious dental problems can mean serious pain.

The importance of dental health was recognised when these constitutional changes were made in the middle of the last century. In 1997 the Commonwealth Government, despite the longstanding contribution it had made to the provision of dental services across the country, walked away from the CDS. The honourable member for Heathcote and the honourable member for Fairfield organised a campaign on behalf of workers in the dental industry who were being subjected to violent outbursts by seriously ill people who could not get dental treatment. The honourable member for Heathcote was referred to as the "Pacman" of the Parliament. However, those protests fell on deaf ears.

By walking away from the CDS, the Howard Government walked away from thousands of needy Australians. The CDS was introduced in 1994 to reduce the geographic and financial barriers that prevented people in most need from receiving timely and appropriate dental care. In its last full year of operation—1995-96—the CDS contributed \$37.8 million to dental care in New South Wales. John Howard announced in August 1996 that the Commonwealth Government would withdraw from the program and the following financial year New South Wales received just \$18.6 million. The impact of this disgraceful decision was immediate and devastating. In the last fully funded year of the CDS—1995-96—the New South Wales Government provided dental services to 444,000 adults. By 1997-98, with dental health care decimated by the withdrawal of Commonwealth funds, that number dropped to just 172,000. Effectively two-thirds of those requiring treatment—more importantly, two-thirds of those eligible—were abandoned by the Howard Government.

The New South Wales Government did not walk away. It stepped into the void left by the Howard Government because it had no choice. A significant portion of the community was in real need, and some were in real pain. Over the past three years this Government has rebuilt dental care in this State. In 2000 the Government announced funding increases totalling \$33 million over the next three years. In 2002 a further enhancement was announced, taking the total health budget to \$97 million per year. As graphic as the withdrawal of Commonwealth funds was in 1997, so too the lifeline thrown to dental health by this Government had a profound impact.

I am advised that in the six-month period from 1 July to 31 December 2003 we provided 27,430 denture services, 20,924 vouchers were issued under the Oral Health Fee for Service Scheme, and 140,383 adults received oral health treatment. We have instigated a raft of strategies to make public dental care in New South Wales more effective and sustainable. We established the Priority Oral Health Program, which helps people in urgent need gain access to emergency oral health care within 24 hours. We also established the Oral

Health Fee for Service Scheme, which enables patients to obtain treatment from their private dentist, paid for with a voucher. To date almost 1,100 registered private dentists have agreed to participate in the scheme. We are recruiting additional specialists as part of a broader strategy to increase access to public dentistry.

This is no easy task. As with many other health professionals, a serious work force shortage continues to compromise our recruitment efforts. We have brought new life to rural dental health by establishing three rural and regional oral health centres. These centres—at Queanbeyan, Grafton-Coffs Harbour and Dubbo—provide additional specialist services. As well as providing care, these centres also operate as a hub for providing ongoing training and professional education for dentists in the public sector. The benefits of these rural-based centres are manifold. They provide better access for people in rural areas to oral health care, including more specialised services; they provide additional services through the Fee for Service Scheme; they give rural dental health professionals in both the public and private sectors the opportunity to maintain and extend their skills; they support the recruitment and retention of rural dental professionals; and they provide a rural base for student and postgraduate teaching, and public health research.

We have also created a particular focus on Aboriginal dental health. To help provide a comprehensive approach to delivering and funding services, an Aboriginal Oral Health Advisory Committee has been established with representatives from Aboriginal medical services, and the oral health and Aboriginal health branches of NSW Health. We fund 10 Aboriginal medical services to provide oral health services. These medical services either provide oral health care themselves by employing dental health professionals and establishing dental facilities on site, or issue vouchers to enable patients to see a private dentist. We have also made an additional grant to Corrections Health to support oral health care for Aboriginal people in custody.

Despite the ground we have recovered since the abolishment of the Commonwealth Dental Scheme, this Government maintains that the Commonwealth Government has a clear responsibility to participate in dental health. We believe that this is not just an option for the Commonwealth, it is an obligation. The Federal Opposition, under Mark Latham's leadership, has clearly indicated that it will live up to this expectation when it assumes government. Federal Labor has committed to investing up to \$300 million over four years, culminating in a \$120 million a year program under its Australian Dental Care Plan. Working with State and Territory governments, the Australian Dental Care Plan would provide up to 1,300,000 additional dental procedures across the country. This would substantially decrease the number of people currently waiting for a dental procedure. Under Labor's plan, concession cardholders could receive free check-ups when they need them, and also timely and appropriate subsidised dental treatments, restorations and dentures.

Labor's plan will also assess the dental health of every person admitted to residential care and put in place an action plan to provide ongoing care; target programs for indigenous communities that recognise specific problems such as water fluoridation and a high incidence of diabetes; and provide public education and awareness programs to help prevent dental problems, as well as improve data collection to help plan even better services. That is the kind of Commonwealth Government response needed to dental health. That is the kind of plan that this Government could work with. The re-establishment of a Commonwealth dental plan has received endorsement from no less than the Australian Medical Association [AMA]. The AMA calls on the Howard Government to match the commitment from Federal Labor. The Federal Government should participate more in supporting the State Government's approach to dental health. [*Time expired.*]

**Mr PETER DRAPER** (Tamworth) [4.44 p.m.]: Along with my colleague the honourable member for Northern Tablelands I recently attended the Vision New England Summit in Armidale convened by the Federal member for New England, Tony Windsor. One of the key points brought forward at that summit was a recognition that dental services in regional New South Wales are under extreme pressure, and that low-income individuals and families are facing inadequate access to services. The New South Wales branch of the Australian Dental Association [ADA] contributed to the debate at that summit, and it made some interesting observations that deserve serious consideration. When commenting on the 2002 NSW Health Work Force Planning Project, the New South Wales branch noted that the 2010 projection of dentist numbers revealed a clear and alarming shortfall based on current and projected enrolments.

What needs to be carefully considered is that the difference between the number of registered dentists and those actually practising in the profession of dentistry is already almost 1,000. The ratio of dentists to patients across the State is now one to 8,000, a figure that has doubled since the 1970s. Only 45 dentists graduated from the University of Sydney last year, compared with 135 in 1979. These are alarming statistics, but it is increasingly obvious that there simply are not enough dentists to meet an ever-increasing demand. The New South Wales branch of the ADA clearly supports the need to increase the number of dentists in the work

force. It feels that this could be achieved by increasing the number of dental graduates and improving educational opportunities for overseas trained dentists, as well as identifying registered dentists who are not practising and supporting them in re-entry programs. The New South Wales branch also identified the need to look at the role of dental hygienists and how they can be better utilised to improve services to the public.

The ADA has indicated that it would support the restructuring of hygienists' conditions of practice to include treatment in nursing homes, hospital settings, hospices and rural settings without the direct supervision of a registered dentist. This would depend on treatment being performed as per the supervising dentist's prescription. Such a move would free up dentist resources in treating those who require long-term, intensive, preventative treatment regimes. The New South Wales branch indicated support for the employment of hygienists in the private sector and the ability of those oral health care team members to provide services in residential homes.

The ADA also indicated its support for any proposal to provide scholarships to students from rural areas to undertake study in dentistry. The projected shortage of dentists does not take into account the distribution of practising dentists. There is a view that there are a number of underemployed city practitioners, whilst very few country practitioners would be underemployed. The costs involved in undertaking a dental degree are a strong disincentive to rural people, and scholarships would encourage such people to undertake higher study. The ADA believes that the contracting of scholarship holders to return to country areas for a period of time, as occurs in the defence forces, should also be encouraged.

The ADA also supports scholarships to indigenous Australians to undertake dental study at any level, as it recognises that the cultural differences between Aboriginal Australians and other Australians may cause problems in the delivery of dental care. The use of indigenous Australians to deliver services should help reduce these differences. If we are to improve future prospects for dentistry in New South Wales, an informed, co-ordinated national policy on the oral health services work force is needed, and there is a strong need for a State-based work force group to support this process.

Vocational training is another area that needs to be focused upon. The lack of career opportunities within the public sector appears to be a barrier to retention, and vocational training would provide additional motivation for existing employees. Given the problems associated with recruitment and retention to private dental practice in high-demand areas, such as rural areas, the Australian Dental Association is of the opinion that vocational training would expose new graduates to both the public and private sectors for mutual gain. We need to attract and retain dentists to the public system. The association points out that whilst remuneration in the public sector is undoubtedly lower than that in the private sector, the benefits of salaried employment are not well reported or marketed. Educational opportunities, annual leave, superannuation contributions and additional benefits could be better promoted to make the role a more attractive proposition.

The association believes that it would be prudent for NSW Health to investigate the rates of remuneration and incentive structures offered by dental clinics operated by health funds. The ADA notes that the discussion groups identified the lack of career pathways as limiting recruitment and retention to the public sector. Dental students identified the need for structured and mentored clinical education. All Australians should have access to modern, comprehensive oral health care. I urge members to take the time to look at the association's policy framework. It offers a vision and suggests solutions to what may become one of the most important issues facing our health system. All levels of Australian government and community groups should work together towards this goal.

**Mr STEVE CANSDELL** (Clarence) [4.49 p.m.], by leave: Dental care is an extremely important issue to many constituents in the Clarence electorate and, indeed, across country and coastal New South Wales. I commend the honourable member for Northern Tablelands for raising this matter in the House today. Timely access to dental treatment must be a high priority for any government. However, in New South Wales we have a scheme that is shrouded in secrecy and extensive waiting lists of people who have been waiting years for treatment.

This reminds me of an issue I raised in the Parliament in June concerning an elderly lady from Yamba whose gums were shrinking and who was taking up to three packets of Panadol a day to relieve the pain. She had to wait over 12 months before she finally received treatment. Also, a middle-aged lady from Wooli was in extreme pain for 12 months before she had any relief. Trying to establish facts and figures on the scheme is nearly impossible, so much so that last week the shadow health Minister was forced to put a series of questions on notice to the Minister for Health in relation to the waiting list for public dental care. I challenge Labor to come clean on the figures so that the public can see the full extent of the poor state of the scheme it administers.

While the Carr Labor Government fritters away \$90 million a year on consultants, more than \$3 million a year on monitoring its performance in the media and \$36 million running ministerial offices, it allows people in our communities to suffer in pain for years. Under the Australian Health Care Agreement, New South Wales is responsible for public dental services for the community. New South Wales is required to fund public dental services and to report on how many of these services it provides. But given the disgraceful situation Labor has allowed to develop, it is little wonder it is reluctant to publicly disclose the figures. The waiting list could be addressed readily were the Government to direct adequate funding for such services for which it has acknowledged responsibility.

In 1996 the time limit of the Commonwealth Dental Health program, which was designed to help reduce waiting lists for State and Territory funded public dental services, ceased. This was a one-off grant of \$300 million by Prime Minister Keating in the dying stages of his parliamentary term. That grant was fulfilled under the Howard Government and it ceased in 1996. In keeping with this sphere of responsibility in the health care system, the Australian Government also provides Medicare funding for a number of dental procedures for private patients receiving services in private and public hospitals, subsidised drugs that may be prescribed for oral health under the Pharmaceutical Benefits Scheme, funding for the university training of dentists and other dental service providers, and funding for the dental care of war veterans and full-time and part-time members of the Australian defence forces.

It is a shame that the people who are suffering are mainly low-income earners, many of whom are unemployed, and pensioners who do not have the capacity to pay for dental procedures to be undertaken by private dentists. Their only alternative is to travel several hundred kilometres from outlying areas to Sydney. I am also told that there is still, after 12 months, no public oral surgeon based in Grafton, Lismore or Coffs Harbour. Anyone requiring oral surgery, unless it is an extreme emergency, would have to seek the services of a private dentist who is experienced enough to undertake the dental work required. I believe it is about time Labor got its priorities right. People matter more than spin.

**Mr RICHARD TORBAY** (Northern Tablelands) [4.53 p.m.], in reply: I take this opportunity to thank all members who have contributed to this debate, namely the Parliamentary Secretary—the honourable member for Kogarah—the honourable member for Tamworth and the honourable member for Clarence. All those members made very important points in this debate. The Parliamentary Secretary put forward a number of points particularly in relation to the Commonwealth's withdrawal of the dental scheme back in 1992. There is no doubt that that was bad news for dental services in New South Wales. That was obvious from the figures that I quoted in relation to what happened to waiting lists. The Parliamentary Secretary is a hardworking, intelligent person—

**Mr Andrew Fraser:** Who told you that!

**Mr RICHARD TORBAY:** The honourable member for Coffs Harbour almost applauds, but it is against standing orders in this place and I remind him of that. This is not just about bashing the Commonwealth dental services—and I hope that the second part of the Federal Government's contribution is an acknowledgement that its withdrawal of services was bad news for dental health—but it is appropriate that we look constructively at solutions. That will require the Commonwealth Government and the State Government to co-operate. It will require incentives for higher education, as the honourable member for Tamworth so properly put forward in this debate. We have to help educate, and give incentives to allow opportunities to educate, more dentists. That is going to help in getting those opportunities out to regional and remote areas. The Commonwealth has a contribution to make. Yes, the withdrawal of services occurred, but there is a Federal election coming up. The Federal Leader of the Opposition has commented on this issue and I hope that the Prime Minister on behalf of the Government will do the same. That would be good news for the people of New South Wales and Australia.

The honourable member for Clarence also made a number of very important points in the debate, particularly in relation to the individual representations we receive as local members in our local areas. As has the honourable member for Clarence, I have a number of stories to relate. I remember a constituent from Uralla who indicated to me in a letter that he had not eaten meat for three years because he could not chew it with his dentures. When I saw him I can confirm that he was dead right. We managed to get some dentures for him through political representations, though sadly that ensured him only a reasonable quality of life. We are not asking for much in this matter. I understand that a local butcher, having read of this man's plight in the newspaper, displayed goodwill by sending him a big cryovac of Scotch fillet. I thought it was pretty good for the people in the Northern Tablelands electorate to get behind that particular process.



The number of dentists graduating is declining, and that is the trend. The opportunity to educate people to practise as dentists is being made more difficult. The cost of higher education is increasing, yet the waiting list grows. These services are simply basic services that we should be providing to the community, particularly our senior citizens and those who need to access these sorts of basic services. I urge all members from all sides, at both levels of government, to be constructive about this process because it is an issue that affects every single one of us in all electorates in every part of this State and country.

**Discussion concluded.**

**Madam ACTING-SPEAKER (Ms Marie Andrews):** Order! It being before 5.15 p.m., with the consent of the House, I propose to proceed to the taking of private member's statements.

**PRIVATE MEMBERS' STATEMENTS**

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**SOUTH WEST ROCKS MARITIME MUSEUM**

**Mr ANDREW STONER** (Oxley—Leader of The Nationals) [4.59 p.m.]: I recently visited the South West Rocks Maritime Museum, which is a branch of the Macleay River Historical Society, about which I have spoken previously in this place. South West Rocks and the Macleay River have a unique place in the maritime history of New South Wales and Australia, harking back to the time when shipping was the pre-eminent mode of transport and trade for eastern seaboard communities. This fascinating history is beautifully chronicled and preserved in Boatman's Cottage No. 1, a restored part of the South West Rocks pilot station complex, which was established in 1902. The honourable member for Coffs Harbour is fascinated to hear this because he shares an interest in the maritime history of the North Coast.

The pilot station was in charge of all shipping between Smoky Cape and Grassy Head, including shipping across the Macleay River bar, up to Kempsey. One of the vessels used by the pilot and his four boatmen was the *Macleay*. This vessel later fell into disrepair but was purchased by a private donor and returned to South West Rocks, where it was lovingly restored by a local boatbuilder. The *Macleay* now stands proudly under shelter from the weather, in the grounds of the cottage. Inside the cottage are countless artefacts such as models, tools, logs and other documents, as well as pictures of great historical significance.

**Mr Andrew Fraser:** It is a fascinating display.

**Mr ANDREW STONER:** As the honourable member for Coffs Harbour says, it is a fascinating display. I am sure that when he next visits South West Rocks he will drop in to the boatman's cottage and have a look at the maritime museum. Amongst the items are details of the vessels that worked the Macleay River under the ownership of the North Coast Steam Navigation Company, including the *SS Kyogle*, the *Coramba*, the *Yulgilbar*, the *Zelma*, the *Gumbar*, the *Orara* and the *Comara*. Details of the commissioning of the Trial Bay breakwater by the Parkes Government in 1866 following the loss of 89 ships and 243 lives in shipwrecks in the preceding four years are also featured, along with the fascinating history of the Trial Bay Gaol, which was built in 1879 and later used as an internment camp for enemy aliens during World War I.

Also featured is the incredible story of the wrecking of the former showboat *Sydney Queen* and three vehicular ferries, the *Koondooloo*, *Lurgurena* and *Kooroongaba*, which were being towed by the *Polaris* in January 1972. Under the right conditions one can still see parts of the wrecks of the *Sydney Queen*, the *Lurgurena* and the *Koondooloo* on beautiful Trial Bay Beach. This wonderful historical compilation has been achieved largely through the efforts of a dedicated team of volunteers, amongst whom there are currently 12 at South West Rocks, including president Wal Vincin, secretary Sid Warrington, publicity officer Lisa Harvey, Bill Jackson, Frank Condon, and the original treasurer of the group, Trevor Thompson. The volunteers have done a fantastic job in making available this priceless history for all visitors to South West Rocks and, indeed, all residents of the North Coast.

Sadly, Macleay River Historical Society and the South West Rocks Maritime Museum are concerned about preservation of these items because some have been stolen from the museum. One must wonder at the mentality of people who would steal such incredibly important artefacts. It is certainly worrying. The museum wants to establish some asset control of the items. That will involve obtaining a scanner, some computer equipment, a digital camera and the relevant software to enable accurate and safe storage and recording of all

items in the collection. Using twenty-first century technology, including a database and bar codes of the items, will ensure their preservation—a worthwhile objective. I formally ask the Premier to see his way clear to assist the Macleay River Historical Society and the South West Rocks Maritime Museum to embark on this very worthwhile project.

### JOHNNY WARREN INDOOR SPORTS CENTRE

**Mr KEVIN GREENE** (Georges River) [5.04 p.m.]: Last Friday I had the pleasure of attending the opening of Hurstville City Council's new indoor sports centre. At that function council named the indoor sports complex in honour of one of Australia's greatest sportsmen—a man who represented the St George district on 297 occasions—former Australian soccer captain Mr Johnny Warren. Johnny was captain of the Australian Socceroos from 1965 to 1971 in two World Cup campaigns. After suffering a serious injury he returned to the Australian side to be a member of the 1974 World Cup finalists—the only time Australia has made Soccer World Cup finals.

Johnny represented Australia on more than 60 occasions, including 44 full internationals, so it was fitting that Hurstville City Council, under the leadership of Mayor Vince Badalati, chose to name the centre in his honour. Alan Jones, AM, well-known radio broadcaster and great sports lover, was a guest speaker. He spoke brilliantly and was able to incorporate his great knowledge of sport and sportspeople, including many representatives from the St George district who were also in attendance on the day. Across a great variety of sports the St George district has had in excess of 200 internationals represent Australia, 60 of whom were in attendance.

The function catered for more than 560 people. Some of the notable sportspeople in attendance included rugby league immortals Johnny Raper and Graham Langlands, international tennis superstar Ken Rosewall and former world record athlete Alby Thomas. It was also great to see Basil Dickerson, the only remaining member of the 1936 Australian Olympic team and former St George representative, who now lives in Springwood. Apologies were received from Michelle Ford, who unfortunately could not attend. Michelle is another example of the fine quality of representation at the Australian level from the St George district. It was also pleasing to see people of the calibre of Doug Utjesenovic and George Harris, who were compatriots of Johnny Warren. They were pleased to see their former teammate honoured in this manner.

In particular, I thank Les Murray from SBS and Michael Tomolaris, who made a video presentation of Johnny Warren's contribution to Australian sport. A second video outlined the significant contribution of St George sports stars. I also thank the sponsors of the function and the Sports Expo, which took place in the indoor stadium over the Saturday and Sunday. The sponsorship meant that Hurstville City Council did not incur any costs for the entire weekend's celebrations. In particular, I note the contributions of platinum sponsors Westfield Hurstville, LeisureCo., the managers of the complex, and Dominelli Sutherland. I acknowledge also the support given by the gold sponsors Buildcorp, and the *St George and Sutherland Shire Leader*, which featured a 16-page article in last Thursday's edition. I thank also Hancock Alldis, lawyers, which this year celebrates its seventy-fifth anniversary in Hurstville, and Penshurst RSL.

The community was well represented by local organisations and executives of sporting groups as well as school principals and parents. I acknowledge the work of Barry Fisk, Phil Bates and the director of service delivery at Hurstville City Council, Victor Lampe. I acknowledge also the magnificent efforts of Mayor Vince Badalati to ensure that the function was a wonderful success. On the day it was announced that Ken Rosewall, another local St George boy whose father owned grocery stores in Penshurst, the heart of the Hurstville council area, would be honoured this Saturday by Hurstville City Council, which will name its eight-court tennis complex in Roberts Avenue, Peakhurst the Ken Rosewall Tennis Centre.

Those present when the announcements were made were appreciative of the fact that it was not only Johnny Warren who was recognised by Hurstville City Council but also Ken Rosewall, one of the world's greatest tennis players, who won eight grand slam tennis singles events and nine grand slam doubles events in a career that lasted in excess of 20 years at the top of his sport. I thank Mayor Vince Badalati and Hurstville City Council for their efforts in this regard.

**Ms ALISON MEGARRITY** (Menai—Parliamentary Secretary) [5.09 p.m.]: I join the honourable member in congratulating Hurstville City Council, under the leadership of Mayor Vince Badalati, and the staff of the council on opening this significant facility for the community. I know that the honourable member for Georges River was very busy that day because prior to that function he joined his colleagues and me at the

launch of the Great Kai'mia Way, a project into which he had enormous input. Despite the hot weather he put every effort into both functions and I join him in congratulating the community. I am sure that the sporting facility will benefit it for many years.

### TRADESPEOPLE PROFESSIONAL DEVELOPMENT

**Mr JOHN TURNER** (Myall Lakes) [5.09 p.m.]: Tradespeople in my electorate have alerted me to some new requirements by the New South Wales Office of Fair Trading which will mean that from 1 March 2004 tradespeople must obtain 100 points over a three-year period in continuing professional development as a pre-requisite to renewing their licences. I do not believe that many tradesmen are aware of this requirement at present. However, as they renew their licences the requirement will be brought to their attention, and I expect an avalanche of concerns about the proposals.

The categories and points are roughly as follows—and there are quite a number. Category A is an upgrading of a restricted licence to an unrestricted licence. Category B is formal education courses, including university education for tradespeople, or by registered training operations. Category C is industry training—one gets only two points per hour and must attend seminars and workshops or information nights and trade nights, or industry meetings or industry conferences. Alternatively, tradespeople can take another training package, which involves on-site training or occupational health and safety training. Category D is private study; one can only get five points per annum. That includes purchasing and reading trade magazines and the like.

Category E is industry committee participation, which means that a tradesperson must be a member of a committee run by an industry-related body or association. Category F is industry promotion and training, which has only 20 points per annum. That involves formal training. The department expects people to arrange seminars and give lectures. I hardly think tradespeople will be able to do that when they are out there trying to earn a quid. They would also get points for publishing documents and papers in trade journals. That is hardly something that tradespeople would be interested in doing.

Category G is industry experience, where a maximum of 20 points per annum is available. Points are awarded to people who can show that they have signed contracts, completed contracts or are employing apprentices and so on. That is probably the most likely category in which to obtain points but it certainly will not give tradespeople 100 points over three years. It is alleged that the categories and points were worked out in consultation with the industry. However, I am sure that it was only the peak bodies and that individual tradesmen not affiliated with the trades bodies were not consulted. They should have been included as they will be affected by this change.

A number of matters arise out of this proposal and they are not exhaustive. As I said, a minimum of 100 continuing professional development [CPD] points need to be accumulated over a three-year period. A number of the categories are slanted to more formal types of CPD. They are categories A, B, C and, to a lesser extent, D. Obviously few tradespeople would wish to avail themselves of the formal areas such as giving lectures or preparing papers. In any case it would be very difficult for them to do so. For any number of reasons the majority of tradespeople would not be inclined to be part of categories E and F. Also, country tradespeople could be prejudiced if they are unable to participate in those categories.

Category G, industrial experience, is an area in which the majority of tradespeople will be able to accumulate some points. However, they would be able to accumulate only a maximum of 60 points, and therefore another 40 points would be needed in order to meet the target of 100 points over three years. It has been put to me that the requirements of the CPD have not been thought through, and I am inclined to agree. I have received a letter from Paul and Kathryn Varrica in which they say:

The new CPD system of points, Categories A to G is unacceptable to me as I cannot and will not achieve the required points due to financial burden, time constraint and the distance issues it presents with NO benefit to my customers or myself.

It is commendable that we strive to continually improve our industry. Merit is given for the *intent* of CPD. Its mandatory, dictatorial impost is undemocratic and unfair. I too have individually, continually searched for and found methods to improve my workmanship, efficiencies and business. These have not involved the arduous and costly official sanctioning now proposed ...

The letter further states:

After 25 years, how much more do you realistically think I need to know about concreting driveways, paths, slabs and the like?

The letter continues:

Had I not participated in independent CPD, without the unreasonable requirement of reaching unwarranted point targets, I would not today be in business. Generally I find this new requirement to be unfair and intrusive for the individual, counterproductive in general, dictatorial, and repressive.

I think many people will walk through our doors and tell us that. It is fine to have continuing education programs, but they must be realistic and tailored to the tradesperson who is out there trying to make a quid. Our tradespeople must not get stuck in seminars and industry forums.

### **AUSTRALIAN CAPITAL TERRITORY PRISON SITE**

**Mr STEVE WHAN** (Monaro) [5.14 p.m.]: For some years now the Australian Capital Territory Government has been looking for a site to build a prison. Currently the Australian Capital Territory sends its prisoners to New South Wales at a cost of about \$9 million a year. It now wants to build a prison that will cost about \$23 million per year to operate. I will not comment on how the Australian Capital Territory Government should spend its money and I do not have any particular problems with prisons that are situated in the right places. However, I am concerned about the Australian Capital Territory Government's latest proposal—which it has devised without any consultation with the New South Wales State Government, local residents or the local council—that involves locating the prison less than two kilometres from New South Wales residents.

The residents of Jerrabomberra and Letchworth would be the closest to the prison. They would be able to view the prison clearly, particularly at night when it would be floodlit. The prison would of course be surrounded by security, and many local residents have expressed the view that it would be an unwarranted intrusion on their neighbourhood. We all have areas in our electorates that would welcome a prison. Cooma in my electorate considers its prison to be very valuable and an important part of the town's economy. It is a very good neighbour. However, I think we would all agree that we should give local residents the right to say yes or no and to comment on the prison location process.

The Australian Capital Territory Government has said for some time that it wants a more co-operative relationship with the New South Wales Government. However, this is not a very good start. As I said, there was no consultation with the Queanbeyan City Council, the State Government planning authorities or local residents.

**Mr Andrew Fraser:** What about local councils?

**Mr STEVE WHAN:** I just mentioned that—the honourable member for Coffs Harbour missed it. The Australian Capital Territory Government has been put in a difficult position. It originally wanted Commonwealth land located near Canberra airport but the Commonwealth has been playing games with that land. The Commonwealth Government has said that it does not want the land in the long term, and that it is undertaking a planning process to decide what to do with it. However, it will not tell the Australian Capital Territory Government how long that process will take. The Commonwealth Government has indicated to the Australian Capital Territory Government, via the Deputy Prime Minister, that it would prefer to offer the land first to the airport owners. I believe they should be able to make a decision more quickly and tell us what they think.

Federal Labor candidate Kel Watt has campaigned hard with me against this prison and collected thousands of signatures. More than 150 people turned up to a recent public meeting on the issue. Opposition to the gaol has cross-party support. The Federal Liberal member Gary Nairn and I have written jointly to Jon Stanhope and John Anderson opposing the location of this gaol close to New South Wales residents. The threat could be removed very quickly—indeed, almost immediately—if the Howard Government would take the decision to make the Majura land available.

The Commonwealth Government has said that it is undertaking a planning process, but it will not commit to making that decision by a particular date. At the public meeting in Queanbeyan the crowd, which included me, the Federal member and other representatives from the area, carried several motions. The first motion, carried unanimously, stated:

That this meeting requests the ACT Government immediately withdraw its decision for the location of the new Prison and Remand Centre at Hume.

The second motion, carried unanimously, stated:

That this meeting requests the Hon. John Anderson MP, Deputy Prime Minister and Minister for Transport and Regional Services to expedite the evaluation and planning studies of the land in Majura that has been identified by the ACT Government for the possible acquisition and construction of a new Prison, and that such evaluation to be completed by the end of May 2004.

The third motion, carried unanimously, stated:

That in the event that the Majura site currently owned by the Commonwealth Government is not suitable or available to the ACT Government for a Prison, this meeting requests the ACT Government to construct its Prison at a suitable site including the land north of the airport in the Majura Valley owned by the ACT and previously considered in detail.

As I understand it, the Australian Capital Territory considered an alternative site in the Majura Valley but the airport, through the Federal Government, indicated that it had problems with that site. This is a simple solution to the problem. The people of Jerrabomberra, Letchworth and the Queanbeyan areas could be spared this next-door neighbour, which will bring visual pollution and devalue the properties in the area, by the Federal Government making a quick decision to make this land available. It is a decision it could and should make immediately.

### HUNTERS HILL SAILING CLUB

**Mr ANTHONY ROBERTS** (Lane Cove) [5.19 p.m.]: Recently I was proud to open a new installation at one of the most magnificent and successful sporting groups in my electorate, that is, the Hunters Hill Sailing Club. I refer to a book called "40 Years of the Hunters Hill Sailing club", compiled by Grahame Tindall from annual reports and personal anecdotes. In 1961 an idea was born. In a casual meeting at the Woolwich Pier Hotel over a few ales Keith Dreverman and Dick Grant discussed the idea of creating a sailing club in the Hunters Hill area and, from this humble beginning, the club developed. A more formal meeting was convened on 31 January 1961 at the home of Peter Dent and the ideas took a more definite form.

In the 1961-62 season the members' enthusiasm, which is a wonderful attribute in this club, overcame the lack of a clubhouse and sailing boats. Vacluse Sailing Club brought some of its boats over and prospective members arrived with their own boats. Sabots were the mainstay of this inaugural day. The early launching area of Angelo Street was passed by and the site at Onions Point was chosen. The first opening day was a great success. Construction of the new clubhouse commenced in the 1971-72 season, with work directed by a building committee chaired by Dick Grant. The old clubhouse was sold to the scouting movement and needed to be vacated by August 1972, so the pressure was on to move the club.

Towards the end of the 1970s the 12-foot skiff class ceased because of flagging membership. Construction of the upper storey was stalled as unforeseen difficulties arose, particularly with regard to the structural integrity of the concrete slab that would become the floor of the upper storey. Work did not finally get under way until 1980. In the 1990s the ground work was being laid to develop the junior fleets by Jenni and Don Bonnitcha with the Sabots and Greg Shaw and Bruce Walker with the MJs. Children and their families were attracted to the club as new members, and by the end of the 1991-92 season there were 25 Sabots and 6 MJs in the fleet. The then commodore recorded in his report of the season these prophetic words about the young sailors: "May they all go on to bigger and better things." Beginning in the mid-1980s a great many members came from outside the Hunters Hill municipality from all around Sydney. The club has a reputation that has spread far and wide and has gone on to great things.

I pay tribute to the management committee of the Hunters Hill Sailing Club: president Kevin Burman, Commodore Celia May, Rear Commodore Ian Brown, treasurer David Lyon, secretary Greg Murray, past president and building officer Grahame Tindall, assistant building officer Peter Dind, who has made an outstanding effort, publicity officer John Cronan, membership registrar and boathouse registrar Bob Partridge, social committee convenor Megan Campbell, canteen co-ordinator Julie Atkins, canteen rosterer Heather Trussell, safety officer Peter Inchbold, hall hire secretary Philippa Allen and committee members Colin Chidgey, Elizabeth Dind, Robyn Rolfe, Ian Uther, Mark Trussell and Derek Hamilton. I also pay tribute to all the sailors and families who make up this wonderful club.

As I said, the club has a great past and an even greater future. I recognise the contribution that the club makes to the sailing community of Sydney and Australia. It has some fantastic young sailors coming through its ranks. The Mayor of Hunters Hill, Bruce Lucas, sails at the club. The club members also make a significant contribution to the broader community in my electorate. I am very proud to have this organisation as a part of my community and I wish the club and its members the very best for the future. I intend to play an active role in the growth of the club and the development of the young sailors. I am sure that with their dedication and enthusiasm some of the young sailors will represent us at State and national competitions and, I hope, at the Commonwealth and Olympic Games. Once again I pay tribute to the dedication and enthusiasm of the young sailors and their parents who support the club and to the volunteers who do such great work in the background.

### MAD SAILING PROGRAM

**Mr BARRY COLLIER** (Miranda) [5.24 p.m.]: I draw the attention of the House to an early intervention program that was officially launched in the Sutherland shire on 10 February. The program focuses on youth who are disadvantaged or at risk of being marginalised. It aims to help these young people develop important life skills and build their self-esteem, and at the same time break down the barriers that often exist between these young people and street police. The program is called "Making a Difference", or MAD. MAD incorporates a youth sailing program, which is a joint initiative of the Sutherland Police and Community Youth Club [PCYC] and the Sutherland police local area command.

The fundamental idea is that the discipline of sailing is a useful way to develop teamwork, leadership, and social and communication skills, which are so often important in dealing with life issues, such as decision making, conflict resolution and working with others. Not only is sailing a healthy activity, it is fun. The MAD sailing program, which has been developed in consultation with community organisations and local youth services, will be available to young people between the ages of 10 and 18 years who reside in or have strong links with the Sutherland shire. The MAD program is not confined to young people who have been cautioned by police or find themselves in trouble with the law.

It is true that young people will often join the MAD sailing program following referrals by the local youth liaison officer, the Department of Juvenile Justice, the Department of Community Services or the PCYC, but that is not always the case. At any one time the MAD sailing program will give up to 12 young people from the Sutherland shire the opportunity to sail with police officers and appropriately qualified and screened volunteers in four Eliot 5.9 yachts. The MAD sailing program is the dream of Senior Constable Lloyd Williams, a youth liaison officer attached to the Sutherland police local area command.

Through his commitment, determination and sheer hard work Senior Constable Williams, a police officer of 18 years experience, has turned his dream into reality. I, with my wife, Jeanette, first met Lloyd 18 months ago at an open day at Sutherland police station. I recall vividly his enthusiasm when he explained his vision of a youth sailing program and he showed me the yacht he had so carefully and patiently restored in his own time. Since that time Lloyd has gone on to restore dinghies and Eliot 5.9s in his holidays, obtain his commercial coxswain certificate from TAFE, and gain assistance, support and sponsorship from the PCYC, local businesses, Rotary, the Break Free Foundation and the Sutherland District Trade Union club. The program has so impressed me that I have sought support from the Premier.

The MAD program also has very strong support from the Sutherland local area commander, Superintendent Henry Karpik, and the Sutherland PCYC and its wonderful volunteers. I was pleased to see so many police, PCYC volunteers and business and community representatives attend the launch of the program at Kogarah Bay Sailing Club. I thank the club for its support in providing the moorings and other facilities for the MAD program yachts and dinghies. Like many worthwhile programs, MAD had a trial run last December. Senior Constable Williams conducted a two-day sailing program based on the principles of MAD for 12 children from Coleambally. The pilot was conducted in conjunction with police from the Griffith local area command. Senior Constable Lloyd Williams said that the two-day trial was a huge success. In an article in the *St George and Sutherland Shire Leader* dated 12 February, Senior Constable Williams said:

When you sail you have a skipper, a team leader and three or four people in a crew ...

Sailing out there is a lot like life—if they don't work together as a team then they're not going to go anywhere ...

The kids we have taken out so far have enjoyed it. You really see it all come together when they start racing against each other. They all work together to achieve a common goal and we can see they've been paying attention.

The MAD program, developed by Senior Constable Lloyd Williams, demonstrates in a tangible way that the commitment of our local police goes well beyond the duty roster. MAD demonstrates how our police are ever willing to go the extra mile. MAD also demonstrates community support for the hard-working police and the very worthwhile programs they develop and implement in the interests of young people and to the benefit of our shire community.

I congratulate and commend Senior Constable Lloyd Williams on the MAD sailing program. Through his unselfish commitment, drive and dedication, he has instigated this program and developed it to its present state. I thank all the police involved, the PCYC and the volunteers and supporters for their contribution to the program, past present and future. The MAD sailing program has my full support and I wish it every success. I have no doubt that the MAD program will truly live up to its name and really make a difference.

**Ms ALISON MEGARRITY** (Menai—Parliamentary Secretary) [5.29 p.m.]: I join with the honourable member for Miranda in paying tribute to everyone involved in developing and launching the Making A Difference program. Like the honourable member, I pay particular tribute to Senior Constable Lloyd Williams. Many of the fine men and women in our police service have a dedication and a real commitment to youth and to youth programs, and I have to say that Lloyd is one of the best examples of someone with that sort of commitment and dedication. He resides in the Menai electorate. The honourable member for Miranda mentioned the time and effort that Lloyd has put into restoring boats and getting bits and pieces from everywhere to get the program going. I know that he had two or three boats constantly at his private residence and he was spending every spare moment that he could working on them. I hope he will not mind me saying this, but it became somewhat of an obsession with him. It took someone with his drive and energy to make sure that it happened. I also thank the local area commander, Superintendent Karpik, who offered Lloyd support to achieve that on top of his normal duties. I congratulate everyone involved. I thank the honourable member for Miranda for advising the House about the successful launch and wish the program all the best for the future.

### **DUNN ROAD CLOSURE AND KAPOOKA BRIDGE**

**Mr DARYL MAGUIRE** (Wagga Wagga) [5.31 p.m.]: I draw to the attention of the House the deplorable state of Dunn Road. I have mentioned the road in the House on several occasions. During a visit by the Public Bodies Review Committee to Wagga Wagga when it was inquiring into civil liability I took committee members down Dunn Road to inspect the treacherous conditions first hand. Dunn Road has already claimed a young life during the time I have been the member for Wagga Wagga. The road has deteriorated to such an extent that the local council has had to close it. The road was originally a fire trail. As a result of successive council decisions the road was opened up and it is now taking through traffic from Uranquinty and the towns and villages to the south of Wagga Wagga. It is used as a shortcut to get around the city, out to the airport and to other destinations.

Dunn Road is in need of urgent upgrade. The council has committed \$186,500 for works that will slightly remedy the situation but major funding is needed to ensure that the road is brought up to a standard that will not put lives at risk. The council is somewhat stretched for money because, pursuant to the overall plan of the Roads and Traffic Authority [RTA], it committed funds to build Red Hill Road, the official bypass for Wagga Wagga. I understand that the council made the decision with the RTA on the assumption that the RTA, the Minister and the Carr Government would provide funding to build the new Kapooka bridge. The bridge is the link to the south of the city and also to the Olympic Highway. The study for the construction of the new Kapooka bridge works has been completed for a number of years. The Government has set aside \$400,000 for the initial stages of the bridge project, such as planning, but money has not been forthcoming for the capital works to enable construction of the bridge.

The Red Hill Road project is basically three-quarters completed but the new bridge needs to be constructed to allow people from the south to access the city. Councillors were so concerned about the treacherous state of Dunn Road that they had to close it. They do not have funding to upgrade the road because the funds were committed to the Red Hill Road bypass. This problem cannot continue. We need a commitment from the Minister and the Government to fund the capital works project for the Kapooka bridge. The present bridge has caused many accidents. Semitrailers frequently go over the edge of the bridge and the RTA is then forced to repair the road and the bridge, at enormous cost. The XPT travels along the main railway line under the bridge on its trip from Sydney to Melbourne. I fear that one day a semi will go over Kapooka bridge and cause an enormous accident involving the XPT or a goods train.

For many years a new bridge has been promised for Kapooka. Now there is the horrible situation of the alternative road having to be closed because the council does not have the \$1 million it will take to upgrade it. In this place we have often heard roads described as goat tracks. The chairman of the Public Bodies Review Committee inspected the road and declared to the media with me that it was a hazard, that it was dangerous and that it would leave council and the Government liable because of its condition. I have travelled on the road many times and I keep track of its condition. It has deteriorated to such an extent that it is unsafe. The council even considered imposing a 50 kilometres an hour speed limit on it to try to minimise the accidents that it predicted would occur. Intervention by the Minister is needed. There should be a decision to commit to the Kapooka bridge project, which would allow the council to complete the bypass for the city of Wagga Wagga. People from Uranquinty, from the south of the State, would then not need to travel on this dreadful piece of road that can only be described as a rural fire track or a goat track. The commitment of the necessary capital works funds will prevent unnecessary deaths as a result of people using the shortcut.

## ORGAN DONATION

**Ms ANGELA D'AMORE** (Drummoyne) [5.36 p.m.]: Tonight I acknowledge Australian Organ Donor Awareness Week, which extends from 22 February to 28 February. Australian Organ Donor Awareness Week is an annual campaign to raise the profile of the Australian Organ Donor Register and organ donation. By registering to become organ donors people could make the greatest gift one human being can give another: the gift of life. To date over 4 million Australians have signed on to save a life. As of 2 January 2004 there were 1,824 people on the waiting lists for transplants. One donor can save up to 10 lives. A total of 624 people received transplant surgery last year, thanks to 79 donors, but 74 others died while waiting for transplants. The Australian Organ Donor Register is Australia's only national organ and tissue donor register and it serves as a lifeline to the people on the waiting lists. Registering is the first crucial step. The donor register will ensure that donors' intentions can be verified 24 hours a day, seven days a week by authorised medical personnel anywhere in Australia.

For people with serious or life-threatening illnesses an organ or tissue transplant could mean a second chance at life. More than 30,000 Australians have received transplants in the last 60 years and improved survival rates now mean that organ or tissue recipients enjoy many years of high-quality life after their transplant. Even if people's names are on the Australian Organ Donor Register, organ and tissue donation will not go ahead without the consent of their families. Most families will carry out a relative's wish if they know what it is. If they do not know, the decision is much harder, so family discussion about the topic is crucial. Anyone can choose to donate organs and tissue. While the age and medical history of the donor may need to be considered at the time of donation, people should never assume that they are not healthy enough or that they are too old: people up to 90 years of age can donate some organs and tissue. The importance of organ donation is highlighted when we consider that less than 1 per cent of deaths occur in such a way that organ donation is possible. For organ donation to take place the donor must die in hospital from a major brain injury and must be attached to a ventilator.

I acknowledge LifeLink, which is responsible for the co-ordination of all organ donations in New South Wales and the Australian Capital Territory. The LifeLink web site offers donor families, organ recipients, individuals on the organ transplant registry, health professionals and the general public the ability to access information to better understand the system and processes of organ donation and transplantation. I encourage everyone to join the Australian Organ Donor Registry and to do so knowing that they can help up to 10 people lead healthier, more productive lives, and in most cases prolong those people's lives. The Roads and Traffic Authority [RTA] should be commended and be proud to be associated with the Australian Red Cross Blood Service and its organ donation arm, LifeLink, which co-ordinates all retrieval procedures in New South Wales and the Australian Capital Territory.

In 1984 the then Department of Motor Transport recognised the important work organ transplant pioneers such as Dr Victor Chang were doing to help those who required new organs to survive. The department decided to assist this important initiative by allowing people to nominate their donor intentions via the New South Wales drivers licence system. Nearly two million licence holders in New South Wales, or 46 per cent of the eligible population, have indicated on their licences that they are willing to donate all or some of their organs to those in need of transplants. Since 1997, there has been a 6.7 per cent increase in the number of people indicating they would donate all or some of their organs.

The Roads and Traffic Authority [RTA] also supports the Australian Organ Donor Register, which is a national program administered by the Health Insurance Commission, by transferring organ donor data to the register. The RTA's chief executive officer, Paul Forward, received an award on behalf of the RTA from the Australian Red Cross Blood Service at this week's launch of Organ Donor Awareness Week at Sydney Town Hall, which was also a celebration to mark the twentieth anniversary of the first successful heart transplant in New South Wales. The award is also in recognition of 20 years of collecting donor intentions using the New South Wales drivers licence system. I am proud to say that I elected to donate my organs when I was 18 years of age. Members of my family have benefited from lung and kidney transplants. They would not be here today if it were not for those dedicated people who have opted to donate their organs.

I also acknowledge and give thanks to the families of all donors. These people, in times of trauma unimaginable to most, have had the strength and compassion to see beyond the tragedy, respect the decision of their loved ones and make decisions on their behalf to allow others to live and enjoy a quality of life that would otherwise not have been possible. Prominent people in our community have also understood the significance of organ donation. Kerry Packer, who is the beneficiary of a kidney donation, launched the David Hookes



Foundation in Sydney this week. Who can forget Fiona Coote, who underwent a heart transplant operation 17 years ago? I commend the community and organisations whose members strive every day to increase awareness and participation in organ donation programs.

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [5.42 p.m.]: I commend the honourable member for Drummoyne for raising this important issue, which demonstrates the diligence she applies to promoting issues in her electorate and beyond. Organ donation confronts constituents in not only the Drummoyne electorate but also in greater New South Wales. As the honourable member has pointed out, the recent launch of the David Hookes Foundation highlighted the need for organ donation. This is Organ Donor Awareness Week and we should all consider the matter seriously. As members of Parliament we should spread the word about the need for organ donations. Some people are concerned that organ donation is not easy and that it causes many family problems. A person's intention can be easily recorded. As the honourable member pointed out, the New South Wales system is simple: one can indicate willingness to donate on one's drivers licence or join the Australian Organ Donor Register. I hope this important message is well understood by constituents in Drummoyne and greater New South Wales. As the honourable member pointed out, 74 people died waiting for transplants last year, and that is 74 too many.

### SYDNEY FERRY SERVICES

**Mrs JILLIAN SKINNER** (North Shore) [5.44 p.m.]: My constituents are concerned about the latest ferry crash and about ferry problems generally. Ferries are important to many of my constituents as a means of public transport to the city. The crash of Sydney Ferries' *Lady Herron* into a wharf at Circular Quay on 20 February and the crash involving the RiverCat *Betty Cuthbert* the day before are the latest in a series of at least 30 incidents involving Sydney ferries since 1966. I have highlighted problems with our ferry services many times in this place. That is a reflection of the Government's apparent disinterest in this form of public transport. The problems have included reduced ferry runs, lengthy service delays, restricted passes for students and the difficulty experienced purchasing tickets, particularly during the Christmas period, when the media published photographs of long queues of people waiting at Circular Quay. In addition, a ferry was pulled from service for many weeks after its survey period expired.

The deficient maintenance of ferry wharves has also been exposed. I remember visiting a wharf in the Kirribilli area that was closed because one of the pylons was damaged. I was standing on the wharf with my colleague the Deputy Leader of the Opposition, who was the then shadow Minister for Transport, when the pylon collapsed and fell to the water. Such problems have been experienced on other wharves in my electorate. Neutral Bay wharf and the Hayes Street wharf, which I used when I was a ferry commuter, are both a concern. I receive many letters and telephone calls from constituents who are concerned about the diminution of ferry services, which are important in keeping cars off the road. Whenever I send out a circular to my constituents asking them to identify their major concerns, without any hesitation they reply "Transport"—traffic jams, particularly on Military Road, and the problems caused by vehicles using quiet residential side streets to avoid them. The Government should be doing everything it can to encourage people to leave their cars at home and to use public transport. That includes making our ferry services reliable, easy to catch and attractive. Instead, whenever I raise my concerns about the reduction in ferry services, I get a blank response from the Government. At one stage ferry administration services were located at Circular Quay; they are now in an office somewhere in the middle of the CBD.

One of the last bills debated before this Parliament rose for the Christmas break was a Government bill designed to corporatise Sydney Ferries. I expressed my concern during that debate that the Government was using that legislation to keep itself at arm's length from even further reductions in services. I will run through some of the ferry accidents and incidents that have occurred recently. The *Lady Herron* crashed into Circular Quay on 20 February causing extensive damage, and on 19 February the RiverCat *Betty Cuthbert* crashed into Cockatoo Island wharf as a result of a mechanical failure. Many of the recent problems have been due to a lack of maintenance. Maintenance of public transport services is a problem across the board, and ferries are no exception. On 13 January the *Queenscliff* was forced to drop anchor after the pump controlling the pitch of the propeller failed. They are only three of the accidents or incidents that have occurred this year. As I said, going back to 1996, there have been 30 major incidents involving Sydney ferries. The Government must do something about it.

## LAKE MACQUARIE ABORIGINAL CONSULTATIVE COMMITTEE

**Mr JOHN MILLS** (Wallsend) [5.47 p.m.]: This is a good-news statement about the commitment of Lake Macquarie City Council to local Aboriginal people. Harry Brandy is the Aboriginal community development officer for the council. He sent me the customary invitation to the quarterly meeting of the Lake Macquarie Aboriginal Consultative Committee on 11 February. The meeting was special because we were to witness the signing of a statement of commitment by the mayor and representatives of the three Lake Macquarie Aboriginal land councils. In addition, we were invited to view the special display cabinet in the council foyer holding various Aboriginal artefacts connected with the area.

In fact, the words of the statement are two years old. The *Newcastle Star* of 16 January 2002 referred to the presentation of the commitment at a council meeting to be held on 22 January 2000. The Aboriginal community worker at the time was Leanne Thompson Gordon, who described the document as a joint commitment to denounce racism directed at indigenous Australians. The council passed a resolution endorsing the commitment, which was designed to redress the disadvantages facing local Aboriginal people. The document is the initiative of the Lake Macquarie Aboriginal Consultative Committee and it focuses on respecting and preserving Aboriginal culture, traditional sites and significant places. The document of commitment was not signed at that stage; it was signed earlier this month.

Aboriginal representatives at the meeting included Bev Jamieson from the Yulawirri Nurai Indigenous Association, Bob Sampson from Keepa Keepa Elders, Ron Gordon from Awabakal Aboriginal Land Council, Michael Green from Bahtahbah Aboriginal Land Council, Selena Archibald from Itji Maru, Bev Dargin from Araluen Aboriginal Corporation, Robbie Olsen and Deb Swan. Council officers in attendance included William Davies and Diane Tonkin. The Lake Macquarie Aboriginal Consultative Committee comprises a number of State and Federal members of Parliament. The Federal members are Kelly Hoare and Jill Hall, and the State members are the honourable member for Swansea, Milton Orkopoulos; the honourable member for Lake Macquarie, Jeff Hunter; the honourable member for Charlestown, Matthew Morris; and myself. Under the heading "Acknowledgments" the commitment document reads:

The Council of the City of Lake Macquarie acknowledges that the Aboriginal people, in this area the Awabakal and Worimi, were the first people of this land, and are the proud survivors of more than two hundred years of continuing dispossession ...

As a vital step towards building a just and common future, Lake Macquarie City Council recognises the sense of loss and the grief held by indigenous people for the alienation from their traditional land, the loss of their freedom, their lives, their languages, their health and the disruption of their cultural practices.

Under the heading "Commitments" the document reads:

Lake Macquarie City Council, in consultation with local Aboriginal people:

- Denounces racism directed at indigenous Australians and will take action to combat racism within its capacity ...
- Respects and conserves Aboriginal cultural practices, traditional sites and significant places ...
- Works towards the recovery of indigenous language, health, cultural practices and lost kinship.
- Looks towards Aboriginal culture for practical knowledge which could help to secure a sustainable future. Supports reconciliation between indigenous and non-indigenous Australians.
- Promotes the employment of Aboriginal people.

The commitment document was signed by Councillor John Kilpatrick, the Mayor of Lake Macquarie, who will soon retire. Since John's appointment as mayor about 11 years ago, he and I have worked together closely. The commitment document was also signed by Ron Gordon, the chairperson of Awabakal Aboriginal Land Council, and Michael Green, the Chairperson of Bahtahbah Aboriginal Land Council. Koompahtoo Aboriginal Land Council is the third land council referred to in the document.

This first-class commitment is a fine achievement; it is a worthy aim for all of us in the Lake Macquarie community. I have made a New Year's resolution to do much more to put the fine words of this commitment into practice. The commitment needs to be promoted in the community, so that we can all work together to redress the disadvantages facing Aboriginal people in Lake Macquarie. I challenge Lake Macquarie City Council to put the commitment into practice. This week the council has an opportunity to do so, although I do not believe that the mayor has yet realised that opportunity is available. Recently Mayor John Kilpatrick wrote to Minister Beamer complaining about delays in approving the Lake Macquarie local environmental plan

[LEP]. It is acknowledged that those delays relate to the back-zoning of many properties referred to in the LEP. I understand that as a matter of policy the back-zoning of property against the wishes of property owners during the drafting of an LEP is unfair.

Eighteen months ago I assisted Awabakal Aboriginal Land Council to prepare its objections to the LEP rezoning of five parcels of land. Awabakal Aboriginal Land Council objected to the rezoning of these lands from rural to environmental protection. Last week I saw the list of properties prepared by Lake Macquarie City Council from which the back-zoning had been removed from the latest draft. The land under claim was on the list, but the four parcels of land already granted to Awabakal Aboriginal Land Council under the Aboriginal Land Rights Act were missing. In this instance the social justice and reconciliation objectives of the New South Wales Aboriginal Land Rights Act are being denied to Awabakal Aboriginal Land Council. I urge council to take this opportunity to redress the difficulties facing Aboriginal people in Lake Macquarie. It can do that by eliminating the back-zoning provision relating to the land already granted to Awabakal Aboriginal Land Council under the Aboriginal Land Rights Act.

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [5.53 p.m.]: I commend the honourable member for Wallsend for raising this important issue and bringing to the attention of the House the steps taken by Lake Macquarie City Council in relation to its commitment to the Aboriginal community in his region. As the commitment document acknowledges, the Aboriginal people are the proud survivors of more than 200 years of continuing dispossession. The commitment document represents an important recognition of accountability and responsibility on the part of Lake Macquarie City Council through local government representation in the region. It will play a vital role in improving relationships with Aboriginal people and the community's understanding of them.

I commend Lake Macquarie City Council for taking this important initiative. However, it is regrettable that the Prime Minister continues to refuse to accept responsibility for the past suffering of the Aboriginal people of this country and its effect on them. It is not a matter of simply saying sorry; it is a matter of acknowledging that we are ready to move to the future, working in harmony as one community. That is the important message that Lake Macquarie City Council seems to suggest through its commitment. I commend the honourable member for Wallsend for his diligence and hard work in supporting the Aboriginal people in his community.

#### **CANCER COUNCIL TAMWORTH AND DISTRICT RELAY FOR LIFE**

**Mr PETER DRAPER** (Tamworth) [5.54 p.m.]: I am pleased to inform the House of the upcoming Cancer Council Tamworth and District Relay for Life, which is the second such event to be held in Tamworth. The Relay for Life is a 24-hour community event that celebrates cancer survivors, remembers people who have died from cancer, builds a cancer-smart community, and raises money for research and support programs conducted by the Cancer Council. People participate in teams, with members of each team taking turns in walking a track from 10.00 a.m. on the first day to 10.00 a.m. on the second day. The first Tamworth and District Relay for Life was held in March 2002, when 86 teams participated and 1,243 walkers raised an amazing \$174,378. This amazing fundraising effort is the New South Wales record of the Cancer Council; to date no other Relay for Life has bettered it. The people of the Tamworth electorate are extremely supportive of this initiative, as it involves people from all walks of life.

Last year I was fortunate enough to attend the Walcha Relay for Life, and virtually the whole town turned up. That relay raised \$90,000, which is an amazing effort for a small community. It shows the passion of Walcha residents for their local area. The Tamworth event will be held on Saturday 13 March and Sunday 14 March at the Jack Woolaston Oval in Tamworth. Once again, the Relay for Life will commence with survivors and carers taking part in the first lap of the relay to celebrate those who are surviving cancer. There will also be a special candlelight ceremony on the Saturday night to remember those we have lost to cancer.

Through the generosity of the 2002 participants, funds raised from the Relay for Life have been put back into the Tamworth and district community through a large number of valuable projects and programs. They include the environmental tobacco smoke and kids campaign, which is gaining recognition throughout the schools in the electorate as young people are starting to talk about and become aware of it. There are also living with cancer education programs, which offer a great deal of support to the many people in our community who suffer this debilitating disease. I doubt that a single family would not have been touched by cancer of one form or another. Other programs include sun protection programs in the workplace and child care centres, and area tobacco advocacy programs. Recently I visited a child care centre and was extremely encouraged to see the large number of young children with sunscreen on their noses and hats on their heads.

Most notable, however, was the funding raised for a clinical trials co-ordinator at Tamworth Base Hospital. The establishment of the position offers a huge adjunct to the hospital's existing services. It also gives us an opportunity to further explore cancer prevention, rather than trying to react to it after diagnosis. Much support and information has been provided to cancer support groups in the Tamworth area, cancer patients and their families, and local rotary clubs. The clubs are very much aware of the importance of cancer prevention. One of the local clubs operates a bowel scan initiative every year. I have spoken to two people who owe their lives to the fact that they participated in the bowel scan program and were able to get sufficient warning to have the treatment that prolonged their lives.

Moneys raised by Relay for Life were also used by the Cancer Council to fund a number of cancer research programs in New South Wales. Funds raised at the 2004 Tamworth and District Relay for Life will be used to provide a new support and information pack for newly diagnosed cancer patients in our region, cancer research, patient support, and local cancer education and prevention initiatives. To date 43 teams have registered for this year's Tamworth and District Relay for Life. The organisers hope to break the New South Wales record of team numbers, which currently stands at 87. Last year the record was set by Wollongong, which pipped us by one team. I acknowledge and thank the organisers of this momentous and special event for our community, and I encourage everyone, regardless of age, to be at Jack Woolaston Oval to walk a few laps for cancer sufferers and survivors. I pay tribute to the Cancer Council staff in Tamworth, who are amongst the most passionate, diligent and determined people I have ever met. They perform their valuable roles in the knowledge that the awareness they raise in the community provides a great benefit and certainly may prevent the incidence of cancer in the future.

### **KU-RING-GAI ELECTORATE RAILWAY STATION ACCESS**

**Mr BARRY O'FARRELL** (Ku-ring-gai—Deputy Leader of the Opposition) [5.59 p.m.]: I want to raise issues relating to rail services in my electorate. In particular I again want to raise the issue of access at local stations. The eight railway stations in the Ku-ring-gai electorate, running from Roseville to Wahroonga, are typical of those across the system. They are characterised by staircases reminiscent of nineteenth century British railway stations. There is not a lift to be found between St Leonards and Hornsby. It is an appalling indictment on our public transport system. It makes rail travel impossible for too many disabled people, and it makes the use of trains less attractive to seniors and those with young children. It acts as a barrier and, regrettably, encourages people to use cars.

I should note my concern that the current rail crisis, which has seen on-time running on the North Shore line drop to around 30 per cent when the target is over 90 per cent, will leave a lasting legacy. I fear we will not attract back to rail all those who, through unreliability, cancellations and extensive delays, have used cars to get to and from work. But I return to the issue of station access and the situation facing commuters on the North Shore line.

Were the railways to be run by a private company, the failure to provide better access for seniors, the disabled and parents with young children would offend antidiscrimination legislation. One might have hoped that, given the railways are operated by the public sector, the State Government would have led by example in improving access for these groups. That appears to be a forlorn hope—but hope did exist. Following repeated representations about these issues in September 2002 the then transport Minister, Carl Scully, came to Gordon station and announced that Gordon and Turramurra railway stations would have their access upgraded—including the installation of lifts—in the next financial year, 2003-04.

The community welcomed the announcement and I welcomed the announcement on behalf of those long-suffering commuters. I publicly—and perhaps uncharacteristically—thanked Mr Scully for his announcement. But what a difference an election and a new Minister makes. Last year's State budget contained no funding for any sort of upgrade at Turramurra and allocated only \$350,000 for a project estimated to cost \$3 million at Gordon. In relation to Turramurra I point out the significant proportion of aged citizens who live around, and use or want to use, the railway station. I recognise that there are many aged residents across all the suburbs that make up Ku-ring-gai, but the number of seniors living in retirement villages, nursing homes, units and homes around Turramurra railway station is the largest of any station. In response to numerous letters to the new Minister for Transport Services, last November I received a letter from the Parliamentary Secretary for Transport stating:

Turramurra has been included in the forward program for Easy Access improvements ... Works have been completed at 66 stations to date, with another 59 planned—

And I emphasise—

over the next seven years including Turramurra.

So despite a former Minister's commitment given in September 2002, the project had been deferred for up to seven years. Last week I received a reply to a question on notice from the Minister for Transport Services stating:

Concept design plans for the upgrade of Turramurra Station are scheduled to be developed during 2004. Subject to funding schedules, construction is proposed to commence during 2006/07 as part of RailCorp's Easy Access program.

Originally promised in 2003-04, then by 2010, we now have a commitment for work to commence during 2006-07. But I note the caveat "subject to funding schedules". I think this episode speaks volumes for the Carr Government's approach to transport planning.

In relation to Gordon the good news is that work is to proceed, admittedly on a slower timetable than announced by Mr Scully, but the allocation of funds and the submission of a development application to Ku-ring-gai council indicates some good faith that the project will advance. There is currently disquiet in some quarters about the proposed upgrade and its impact upon the heritage features of Gordon station. Ideally I believe it should be possible to provide lifts, improve all-weather coverage and not detract from Gordon's heritage significance. CityRail has demonstrated that at a number of other stations across the system. At a time when the State Government's planning laws are playing havoc with Ku-ring-gai's built environment I can appreciate the sentiments expressed by members of the Ku-ring-gai Historical Society.

However, I raise my fears that the State Government may use these concerns to shelve the project and use the funds elsewhere in Sydney. I think those raising heritage concerns need to be mindful of this. They need to be careful not to provide excuses for this much-needed upgrade to be again put off. Regrettably, there is a precedent. It is why earlier plans for improvements to the station were cancelled in the 1980s. The 6,200 commuters who use Gordon station each day deserve these improvements. They deserve better all-weather coverage—the heat of recent weeks and the rain of the past few days have been like a nightmare for people waiting for trains at Gordon. They deserve better access.

Gordon and Turramurra stations are vital first round stations to have improved access. Other stations such as Pymble, Wahroonga and Lindfield should follow closely in a second round of improvements. I am pleased to note that at Ku-ring-gai council's meeting last night, on a resolution moved by Councillor Hall, and seconded by Councillor Kitson, the council is going to proactively seek to discuss with State Rail what can be done to install lifts and/or escalators at railway stations in Ku-ring-gai's local government area. What is important about this resolution put forward by Councillor Hall is that for the first time it indicates on the part of council a willingness to meet part of the costs of installation, such as design consultancy work, for consideration in the forthcoming budget.

This is consistent with an approach taken by the Greiner Government in relation to Ku-ring-gai and in relation to the construction of a number of school halls where Ku-ring-gai council contributed towards the construction, and as a result those halls are available as community assets across the Ku-ring-gai electorate. I commend the councillors for their support of the resolution. I commend the Government for continuing to advance work on Gordon, and I would like to see the heritage issues addressed. But I condemn the Minister for his repeated failure to adhere to the timetable in relation to Turramurra station.

**Private members' statements noted.**

*[Madam Acting-Speaker (Ms Andrews) left the chair at 6.04 p.m. The House resumed at 7.30 p.m.]*

**STRATA SCHEMES MANAGEMENT AMENDMENT BILL**

**Third Reading**

**Bill read a third time.**

**EDUCATION AMENDMENT (NON-GOVERNMENT SCHOOLS REGISTRATION) BILL****Second Reading****Debate resumed from 24 February.**

**Mr GREG APLIN** (Albury) [7.35 p.m.]: For something so vital and basic as education, it is surprising that a bill which supposedly seeks commonality in standards and reporting should have taken more than two years of consultation and required yet another report. Who can argue against accountability and rigour in all schools and educational institutions? Government speakers have gone to great lengths to labour this point and when one hears this message continually repeated, one wonders at the need for the uniform parroting of the same message. Perhaps it is based on the politics of envy and hate. It may be the unfettered desire of the Government to exercise centralised control, because some of the statements I hear from those opposite represent, guide and formulate the attitudes of politically aligned teachers and affect their balanced outlook. I have been amazed at some of the outbursts and complaints I have encountered in the past while on a State high school council and in my present capacity.

I trust this is not the motivation for this bill. If funding envy is one of the motivating propulsions for this bill, the Government may reasonably have to consider proportional application of the bill's provisions in keeping with the ratio of State funding for non-government schools—not a practical course of action and not desirable, but then neither is a funding system in which independent schools educate 34 per cent of the population yet receive only 21 per cent of the funding. When talking about accountability we need to acknowledge that independent schools subsidise our State system because parents not only pay their taxes but also pay fees so that the Government can fund State schools.

What about these grants to non-government schools? The system already requires submission of financial accountability and financial questionnaire forms on an annual basis detailing the money spent. I question whether a similar system is in place for government schools. In fact, school councils become the managing body. Many independent schools already file returns with the Australian Securities and Investments Commission. All independent schools are already subject to rigorous inspections. A full audit is conducted in order to achieve registration and all aspects are thoroughly checked—teachers, amenities, occupational health and safety requirements, toilet facilities and so on. It is time that the same standards were applied to government schools. The bill should be about accountability and uniform application but perhaps the Government maintains double standards and, in imposing all these regulations, one wonders whether all the work is absolutely necessary.

So many principals and teaching principals are worn down by the amount of paperwork already in place for public schools. Now, they will surely face more. I mentioned double standards. Schools encounter these in participation in sports. Small independent country schools have told me that they are restricted from joining at district and State level for their students. Other schools have said that they have little or no access to all stages of curriculum initiatives or professional activities. This form of discrimination is entrenched in the Government's attitude and the Minister would do well to honour his mission of delivering uniformity.

As I travel around visiting schools in my area I am constantly amazed at the work done by parents and citizens associations and individual parents to assist schools, whether independent or State. This bill does not address uniformity of standards. Uniformity of buildings and amenities at schools has been mentioned previously. It is often the case at country schools that parents and citizens associations put up the shade shelters, install airconditioning and undertake fundraising. At this stage the Government has a long way to go in achieving uniformity.

Last year I attended the presentation day at Corowa High School, which is a fine State school. It has great achievements in many different areas, whether it be sport, academics, culture or extramural activities. Unfortunately the presentation was held on a hot day and the staff did not want to conduct it in the hall, given the number of people attending from the school community as a whole. The registered club in town, the Corowa RSL club, made its auditorium available to the school. I remind the Minister that that may not happen in the future if a tax from a certain other quarter is successfully imposed and the Corowa RSL club facility is not made available free of charge to Corowa High School for its magnificent school presentation.

I could mention other schools that I have visited. Lowesdale Public School is a very small school of some 16 or 17 students. It is a great achiever across the State, particularly in the fields of art and poetry, and is

well led by Robyn Moore. Once again the school parents and citizens must come to the aid of the school in achieving uniform standards that we all expect for our public schools. Xavier High School has established magnificent facilities. Again, the parents, citizens and friends have come together to provide the magnificent facilities at that school.

The gardens at St John's Lutheran School, let alone the standard of the buildings, were amazing. When I asked who maintained the gardens I was told that the school does not have a gardener; parents come in on a weekly basis—indeed, some parents come in more frequently—to maintain that school's facilities. The Scots School at Albury, which I visited recently, has a new science centre. It is a magnificent establishment. People at the school were at pains to make it known that no government funding had been provided for the science block. This goes to the heart of the bill. We expect standards to be imposed on some areas without them being imposed on others. A hint of that double standard is contained in the Minister's second reading speech. He said:

I shall refer briefly to the sections of the bill that are of greatest significance. The amendments are set out in schedule 1 to the bill ... amend the Act and provide that courses of study for primary and secondary schooling respectively are to be based on and taught in accordance with the syllabuses developed by the Board of Studies.

The Minister leaves us in no doubt that the syllabuses are to be adhered to and will be based on those developed by the Board of Studies. Yet in the next paragraph the Minister said:

That board syllabuses have the confidence of schools is shown by the fact that almost every school uses them.

In the first paragraph the Minister said that schools are forced to use the syllabuses, and in the second paragraph he referred to the fact that schools are exercising a choice to use the syllabuses. That is very odd. Later the Minister said:

Subsections (e) and (f) of new section 47 require schools to have premises, buildings and facilities that are adequate for the courses of study at the school. These provisions are carried over from the current Act. Schools should be able to show that their classrooms, libraries, computer laboratories and other facilities are adequate to deliver their courses of study successfully.

Who could argue with that? It is essential for schools to be able to offer those facilities to educate our young people. However, the important element is whether the facilities in public schools are up to scratch and, if not, when will they be brought up to the same standard? We can look at airconditioning and so many other areas. I encourage the Minister to send out his inspectors to ensure that public schools across the whole State are up to the standard that he expects non-government schools to meet. The Minister said:

New South Wales has a long tradition of excellence in education and we acknowledge that the non-government sector has made a significant contribution to this tradition. However, the achievement of all schools is made possible through policy and regulatory frameworks that are established by governments, taking into account the interests of the community as a whole.

That is absolutely correct but it introduces double standards, and this bill does not address those issues. There are minor things that one must contend with when one represents an electorate on the border. The school bus system is inequitable in relation to private schools and public schools. Indeed, it serves public schools better than it serves private schools. But even on that issue there are anomalies for my electorate, which is on the New South Wales-Victoria border. New South Wales allows, at taxpayers' expense, children to travel from New South Wales to Victoria. The Victorian Government does not provide a similar system, allowing parents to choose to send their children to New South Wales schools. That is an across-border anomaly that the Government has chosen to ignore. Effectively, we are subsidising the Victorian system.

This bill is riddled with such inconsistencies. The Minister would do well to have a good look at uniformity because, as I said at the outset, one could not argue with the fact about accountability. It is important but it goes across the board. I think we will find that some State schools are wanting in the standard of their facilities. I am all for upgrading facilities and ensuring that the standard of services delivered by our State schools is the same as the standard of services that will be delivered by non-government schools under this bill.

**Mr MILTON ORKOPOULOS** (Swansea) [7.45 p.m.]: I am proud to support the Education Amendment (Non-Government Schools Registration) Bill, the object of which is to amend the Education Act 1992 to provide more rigorous standards for registration of non-government schools. Opposition members say that they support this bill, but they have spent the entire evening talking about everything else apart from the bill. We are entitled to ask why. Opposition members are vulnerable in the community at large on the question of funding education in this State and nation. Members opposite are vulnerable because the funding formula implemented by the Howard Government clearly discriminates against students who attend public schools. Let us look at the facts. The Howard Government continues to put more than \$1.3 billion into private schools,

compared with a pathetic \$600 million for public schools. This equals \$4 for every private school student, compared with \$1 for every public school student. An article in today's *Sydney Morning Herald* reported the Minister as saying:

NSW government schools educate more than two-thirds of all students in the state, yet they get less than a quarter of Commonwealth funding. How is this fair?

The honourable member for North Shore, who led for the Opposition in this debate, highlighted the drift to private schools in New South Wales, as well as in other States, as if students are voting with their feet. But as one can see, the gross disparity and inequity in funding shows the weakness of that line of argument. Members opposite cannot talk about the inadequacies of education facilities and services in their electorates while at the same time apologising for a Federal government that attacks and cuts and cuts public education in this country, especially in New South Wales, affecting all students in this State. They cannot have it both ways.

Parents have taken the signal from Howard to go where the money and resources are flooding, and that is the private school system. Opposition members also uniformly rabbitied on about comparisons of facilities for public schools in their electorates, as if to say that the bill will not work because the Government is not spending money on public schools in this State. As if that has anything to do with the bill! The bill gives those parents that choice to properly assess whether the school they choose for their children meets the same standards as those required of government schools. It is consequential upon the Grimshaw report, which the Opposition has not disputed.

The Grimshaw report found that standards for all schools should be about goals and expectations, not minimum or basic requirements, and that there was a need for a regulatory framework that addresses quality and accountability in non-government schools. This bill achieves that through the amendment in schedule 1 [1]. Like other public bodies, schools will need to be constituted as legal entities, with the owner operators clearly identifiable and accountable. An article on page 19 of the latest issue of the parents and citizens journal stated:

More concerning is the increase in the number of small non-government schools that are being established. The ease of access to Federal government funding; the lack of accountability for its use; and the lack of enforcement to ensure adequate education standards has seen a massive growth in this area.

The article continues:

Of all schools established since 1999 over 60% have fewer than 60 students and nearly half have fewer than 40 students.

Clearly, the proposed amendment in this schedule to the bill addresses the specific concerns of the New South Wales parents and citizens associations about accountability and registration. The second means by which educational standards can be maintained across both sectors is brought about by the amendments in new section 47 (d), which requires teaching staff at non-government schools to either have attained or be in the process of attaining professional teaching competencies. I am sure such a provision will be welcomed by all parents of children at school, whether private or public sector.

Third, new section 47 (k) provides that schools must put policies and procedures in place to promote student welfare and compliance with reporting requirements for child protection, according to relevant legislation. In other words, non-government schools are required to comply with the reporting requirements for child protection. New section 47 (h) provides that corporal punishment will be banned. That will finally close a chapter in the history of education in this State. Other provisions in the bill require schools to base their courses on the Board of Studies syllabuses, with a saving provision that enables schools that have an alternative course of study to make a case to the Board of Studies for exemption and consideration on religious or philosophical grounds.

Lastly, the bill provides for non-government schools to present annual reports to parents, as is the case in government schools in New South Wales. During this debate the Opposition advanced the entirely erroneous argument that this provision was not necessary because there may be sensitive information that the school does not want published. That is unambiguous claptrap. Non-government schools are generously funded with public money and the public has a right to know how their money is spent. It is indefensible for the apologists opposite to argue an alternative case. What this bill asks of non-government schools is no different from what is required of government schools, which educate 80 per cent of students in this State. For those reasons I strongly support the bill.



**Mr BRAD HAZZARD** (Wakehurst) [7.52 p.m.]: As previous speakers have indicated, for a number of reasons the Coalition will not oppose the bill. However, every Coalition member who has spoken to this bill has indicated a degree of concern about the way the bill came about and the motivation behind it. I began my professional life as a science teacher. Although I ceased teaching many years ago, I have maintained my interest in education and teaching and in the ever-improving outcomes for our children. It is an important issue for the Parliament to ensure that our students in the private and public sectors have improved opportunities in the broader education area and through social activities. In its attempt to lift standards the Government should take a more collaborative approach than it has adopted in this case.

Many Labor members have fallen back into the old private school versus public school warfare concept. This approach indicates that there are provisions in the bill that they believe give credibility to that good old Labor fall-back. But it does not help our children in either the public or private sector for such silliness to take place in this Chamber. The lie is uncovered when we see that many Government members—whom it is not necessary to name—have expressed in this place their old class warfare views are products of private schools. Yet they are happy to play these silly political games. Members of Parliament should come together on the education of our young people and say that we want the best outcomes for children in the private sector, as we do for children in the public sector.

All members, but particularly Labor members who pursue the old class warfare argument, should be more sensitive and caring in their approach to the educational outcomes of our students. I know that the Liberal members and The Nationals want the best outcomes, and I believe that most Labor members want the same. Unfortunately, some Labor members get lost in the idiosyncratic class warfare approach. Children in both systems have the benefit of caring parent communities and teachers, and they do well in both systems. The values imparted through both systems are the values that each individual community wants to impart. Broad brushing in education is a very dangerous exercise.

I am disturbed about some aspects of the bill, not because they impose standards on private schools that can be more rigorously and externally examined by the Government but because, in many cases, our government school students are not getting the benefit of the standards that the Government is imposing by legislation on the non-government sector. For example, section 47, which was of some interest in this debate last night, provides certain requirements for registration. One of those, stipulated in section 47 (f), is that:

school premises and buildings are satisfactory

That open description leaves it to the Minister for Education and Training to determine what is satisfactory at a private school. When compared to the facilities provided in public schools, one wonders how the Minister will use this section. I do not reflect on the current Minister, but the actions of some former Ministers have indicated that they are prepared to do certain things to perpetuate the class warfare debate.

Will education Ministers, particularly Labor Ministers, take the opportunity to make life difficult for private schools? They should start in their own backyard. Often Labor education Ministers—and, again, I do not reflect on the current Minister—have been reluctant to visit private schools. Students at those schools are seen as a different group of people. They are not; they are all children of New South Wales. Education Ministers should, pursuant to the Education Act—or just because they are the Minister—do everything possible to nurture and encourage students in both sectors. In my local area some government schools are missing out badly on the provision of facilities. Yesterday I attended an excellent seminar held by police local area commander Dennis Clifford and Inspector Dave Walton for our local school principals.

The main issue discussed at the seminar was the security of schools. Representatives from the Department of Education and Training security section and NSW Police spoke about the value of fences around schools. The seminar took place at a local private school, and the speakers pointed out that the fence around that school, which was paid for by fees from parents, was the type of fence that should surround both private and government schools. I asked one of the school principals, whom I know very well, about the process to get funding for a school fence. She told me it would take more than a year to get such funding from the Government, it would be a struggle to get it, it would have to be justified, and there would be a great deal of paperwork involved. That shows the inconsistencies. The Government can talk about the sorts of facilities that it expects the private sector to offer and yet it is not necessarily providing, or making it easy to provide, the sorts of facilities that any one of us, as members of Parliament, would like to see in all schools.

North Curl Curl, which is no longer in my electorate, has a very fine public school. Trish Cavanagh has been the principal of that school since about 1993. The school is presently trying to obtain funding for an expanded meeting place, but it will be a hall. The last time it got funding was when the Coalition was in power.

It had a weather shed. As the school grew, parents were prepared to do the work. The then Minister, Virginia Chadwick, was approached—I assisted to some modest degree in that regard—and in the end a small amount of money, about \$20,000, was contributed by the State Government. Far more was contributed by the parent body of that government school, and far more by a parent who was a builder. That weather shed has now served that school for 10 years as a small hall.

But the school has done well. Trish Cavanagh and her staff, Lee White, president of the parents and citizens association, and the other members of the parents and citizens association, and the students have done so well that the school has attracted many more students. But now they have a struggle to get any funding at all from the State Government. If the Minister and the Government are fair dinkum about supporting government schools, that would be a very good school to put some money into, because the parent community has saved quite a bit of money for that hall, and a small amount from the Government would make a difference. This highlights how silly it is that the Government is imposing these requirements on private schools when it is not providing basic facilities in its public schools.

Both my children attended Allambie Heights Public School, an excellent government primary school. The school's facilities were very basic: there was no airconditioning for hot days. The computer cabling was put in by some excellent parents with technical expertise—not a lot different from what goes on in non-government schools. But the Government did not do it. Time and again this Government fails our students in terms of physical facilities. Under section 47 private schools must satisfy certain educational requirements for registration. Yet I know children who needed intensive programs who left the government system because the Government failed to address their literacy needs. The school principals in my area found it very difficult—as principals everywhere do—to go to their area office and ask for additional funds to provide intensive reading programs.

In my area teachers in government schools have given up applying for their students to enter the Reading Recovery Program. I have been told that they can spend weeks putting together the documents to support a case for a child who will end up being illiterate if he or she cannot get into the Reading Recovery Program. But by the time the teachers take time away from looking after the other children in order to complete the documents required to apply for the six lousy positions that are offered for the whole of the northern beaches for one session it is just not worth the effort. They may put in 40, 50 or 60 applications but only six kids get into the program, so all the work they put into completing applications for the other children is for nothing.

Accepting that as parliamentarians we would like to see good standards for all children, whether in the public or private system, I ask why the Government has embarked on what appears to be a commencing point which is divisive—that is, just focusing on private schools—and why now it is talking only about private schools. Why are Labor members constantly attacking the Coalition with the old class warfare argument of the private versus the public system? It is about time the Parliament grew up. Members who want to debate that sort of class warfare rubbish should just forget it. It is last century stuff. I know some members opposite who went to private schools. I went to a government school.

My father was a fitter and turner. When I listen to some of the rubbish that comes from people on the Labor side I know that they have come from private schools. I will not identify them but their fathers were very well-to-do people. That sort of stuff is total rubbish, and it is not good for the kids. Let us try to advance out of this base argument. Let us go to a more intelligent plane in future where we can, as a community of parliamentarians, put in place legislation that supports kids from both systems and removes the class barriers from our society.

Another example is the Schools Spectacular, a fantastic display of the most wonderfully talented government students, but because of the them-and-us attitude students in the private sector do not have access to it. So the community of New South Wales misses out on nurturing some very good students who happen to go to a private school—it may be a very modest private school—and we never see them on that grand stage at the Entertainment Centre. I implore the Government to start being a bit sensible about encouraging students and schools on both sides of the spectrum, public and private, to do the best by their communities.

In my area there is a very good relationship between the government schools and the private schools. There are occasionally joint functions and the principals seem to be developing more of a relationship. I used to belong to the Teachers Federation, but sometimes it does silly things. It also does good things but it needs to set itself aside from union politics. It thinks it has to appear lefty, like it is kicking the private system to death. It should just make its own system work well. If it adopted a collaborative approach to ensure that kids in both

sectors work well, New South Wales would have a far brighter future than it currently has, with the Government introducing legislation that is initially divisive and continuing that divisive aspect through the debate in this place.

**Ms KATRINA HODGKINSON** (Burrinjuck) [8.07 p.m.]: I will speak briefly to the Education Amendment (Non-Government Schools Registration) Bill. I also express concern about increasing class division between private schools and public schools and the attitudes to them put forward by various unions. I am a product of both systems and I know many people who would like to ensure that their children have at least some private education at some time during their schooling. It is very important to those parents. It is essential that we get rid of this class warfare. In the year 2004 we should have some sanity in this argument. It is important that the bill is passed: it has many sensible aspects.

The objects of the bill include changes involving new registration requirements for non-government schools, ensuring professional teacher competency, education facilities that are adequate for the courses of study provided at the school, school premises and buildings that are satisfactory, appropriate student welfare and discipline policies, courses in key learning areas based on the Board of Studies approved syllabus, provision for the Minister to approve modification to the syllabus to make it compatible with schools' education, philosophy or religious output, performance reports including statewide tests and exams, and teacher standards and retention rates.

I will concentrate briefly on new section 47 (f), which requires that school premises and buildings are satisfactory, to highlight the clash between the Government legislating to ensure that all private schools have educational facilities, school premises and buildings that are satisfactory and the situation with just a few of the public schools in my electorate that have really suffered over the last few years. I have raised these concerns previously. I will go through a small amount of correspondence in relation to schools in my electorate that have expressed concern.

Recently I met with members of the parents and citizens association of Tumut Primary School, which has a split infants and primary site. The infants building is located in Capper Street, and children attending school assembly at the primary school site have to walk from Capper Street to Wynyard Street, which takes approximately 10 minutes. They have to cross two roads, neither of which has marked crossings. I am sure that presents problems for parents picking up their children from the infants and primary schools at the end of the day. I wrote a letter to the department and I received a response from the Minister on 4 January this year. The Minister said:

While I have noted your comments regarding the transportation of buildings from the infants' site, I am advised this is not a satisfactory long term solution to the school's facilities requirements.

The Government has to provide a solution to this problem, which is unsatisfactory. I have received reports about the delay in correcting an Internet problem at Adelong Public School and at many schools in Goulburn. I understand that that problem affected 400 schools across the State. The letters I have received from parents and citizens associations indicate that that problem significantly affected the education of many students. I refer again to item [9] of schedule 1 to the bill, which relates to educational facilities for private schools. New section 47 (e) states that it is a registration requirement for non-government schools that:

educational facilities are adequate for the courses of study provided at the school.

Clearly, we have a real conflict between government schools and non-government schools. I wrote to the Minister about Tumut High School after receiving many letters from parents and citizens associations and other people about the state of the toilets at that school. A detailed letter from Jenelle Becker from Tumut about the disgusting state of the toilets at the school said that students would rather hang on than use the school toilets—another problem that needs to be rectified. I received advice from the Minister, who said:

The Department has completed building work to address the privacy issues associated with the girls toilet.

A number of problems still have to be resolved because I have seen those toilets and they are disgusting. The Minister will have to address also the privacy issues relating to the boys toilets. It is important for students at that tender age of puberty to have the privacy they need. Late last year I attended a wonderful awards night at Tumut High School, but at 7.30 p.m. the temperature in the auditorium was still 34 degrees Celsius. It was extremely hot, and people were sweltering. I know that these schools have restricted budgets, but the Government must urgently install airconditioning units in schools throughout this State.

I have been informed by the parents and citizens association of Wollondilly Public School that that school needs a full-time teacher-librarian. The school principal has no funding to employ a full-time teacher, and currently only four days are allocated for that position. That school has to have a full-time teacher-librarian. This year 440 mainstream students and 34 special education students will be enrolled at that school. A full-time teacher-librarian would have to conduct 19 classes, of which 15 would be regular classes and four would be special education classes. The Minister does not realise that special education classes are as important as mainstream classes. When the honourable member for Southern Highlands represented the seat of Goulburn she asked the Government for a purpose-built library with proper facilities for computer studies, reading, and audiovisual classes at Wollondilly Primary School.

The department must do something about that issue, which has been at the top of the list for many years. Although this Government has been in office for a number of years there is still no permanent library at Wollondilly Primary School. On 3 February the Hon. Amanda Fazio, a member of the Legislative Council, issued a media release in which she referred to the class size reduction program. She said in that release that five primary schools in Burrinjuck were about to embark on a smaller class size program. She referred also to Brungle Public School, where only one kindergarten student will be enrolled in 2004. Gundagai South Public School has only eight kindergarten children enrolled this year. The Hon. Amanda Fazio referred also to Binalong Public School. All those schools are tiny public schools. The honourable member said:

... these local schools would be targeting their Kindergarten classes at a statewide average of 20 students.

What message does that send to small schools in my electorate? Perhaps the message that is being sent is that they will not have a kindergarten as they have only a few kindergarten students. Those are the sorts of messages that are being conveyed by this Government. I received a letter from the parents and citizens association at Bradfordville Public School in Goulburn requesting me to ask the Minister to stop the removal of a demountable classroom. Alan Saville made out a strong case for the retention of that classroom. Parents and teachers are concerned when threats are made to remove demountable buildings from schools. Bradfordville, which is not affluent, has a large public housing area, and parents and students struggle. We require additional resources for schools with special needs—schools such as Bradfordville Public School. Paragraphs (e) and (f) of new section 47 require that:

- (e) educational facilities are adequate for the courses of study provided at the school.
- (f) school premises and buildings are satisfactory...

This is a classic example of the Government taking away things from schools with special needs. Parents who have children at those schools panic, and rightly so. It is of great concern to them that students, who are already suffering from a lack of facilities and need additional facilities, might have additional services taken away from them. The Opposition does not oppose the bill, but it is concerned about many inconsistencies in private and public educational facilities in this State. Members who are affiliated with union organisations in any way, shape or form should encourage those unions to stop segregation between public and private educational facilities. I am sure that all honourable members realise that all children will attend either a public or a private school and that some of them will attend both.

**Mr WAYNE MERTON** (Baulkham Hills) [8.17 p.m.]: The Education Amendment (Non-Government Schools Registration) Bill has probably given many Labor members a great feeling of gratification. I am sure they believe that they are continuing what for many of them has been an ongoing cause for a number of years: the class struggle. It is a tragedy that in 2004 we are revisiting the so-called class struggle. Honourable members probably believe that that is a figment of my imagination.

**Mr Richard Amery:** It is.

**Mr WAYNE MERTON:** The honourable member for Mount Druitt, whom I regard as a friend, was not in the Chamber last night. He was spared the agony of listening to his colleague the honourable member for East Hills, who was resplendent in his pink or yellow tie, referring to the class struggle and telling the tale of private schools verses public or State schools. When the honourable member was speaking he reminded me of a remnant of the not so glorious past of the Australian Labor Party—a ghost or apparition of the Evatt-Calwell era—a period of political isolation and despair, albeit well deserved, that most progressive and realistic members of the Australian Labor Party would prefer to forget.

That factional and class warfare continues unabated in the minds of people like the honourable member for East Hills. He could well be compared to those members of the Japanese imperial forces who came out of the jungle many years later to find that World War II was over. For the honourable member for East Hills the

class warfare will never be over. The struggle will continue and, although he might be misled, he will carry the flag with some degree of pride and conviction until, finally, Utopia is reached and the proletariat remains supreme.

I point out to the honourable member for East Hills and all the other true believers, real believers or whatever, of the once great Labor Party that that era is certainly over—the class war and the struggle is over. This is 2004 and neighbouring children go to private and State schools. When they come home from school they play cricket or some other game together in their backyards or in the street. That is how it should be. The proletariat has surrendered its arms and things have changed. We are living in a classless society and we do not need the reminders of the past when the Labor Party was obsessed with class warfare and the struggle of the working classes. This bill is a reminder of what members of the Labor Party have thought and continue to think. I believe that a minority of honourable members opposite believe the propaganda being spread about private schools. I do not come from a private-school background. I went to South Granville Public School. I did not catch a bus, nor was I driven to school. I did not tell my parents, but I rode my pushbike.

**Mr Grant McBride:** Did you wear a helmet?

**Mr WAYNE MERTON:** No-one wore helmets in those days; it was a different era. Some might be surprised that I passed the sixth class examinations and went to Fairfield High School, a well-respected Western Sydney school with a great academic record that has produced a number of important people, including Dr Greg Woods, Wayne Ashley Merton, and several others. We are proud of our school. We were housed in demountables and it was rough. It was hot in the summer and we had airconditioning if we opened the windows—although sometimes they would not open. We had nice insulation in the walls that some kids pulled out to put down other kids' backs, which caused itching for weeks. I hope it was not asbestos. I am still alive.

**Mr Grant McBride:** Did you smoke behind the Georges Hall?

**Mr WAYNE MERTON:** No, I was an asthmatic. I am very proud of my schooling. Fairfield High School was a great school, but it was basic and rough. On sports day we had to walk to Knight Park at Yennora, which took about 50 minutes in 40-degree heat. If we were late we were thrashed. It was good discipline; I have no problems with it and it served me well. Some of our children went to private schools and some went to State schools, and some of our grandchildren now attend State schools. Our schools are as we find them and what we make them. That is the important point.

I am not elitist and I fear the not very thinly veiled attacks on private education. It is a matter of choice: if we want to send our children to a private school and we can afford the fees, we can do so. It is as simple as that. If we want to send our children to a State school, we can also do that. Honourable members should not think that people send their children to a State or private school simply on the basis of financial considerations. Many wealthy people send their children to State schools, and that is the way it should be. We must have that freedom of choice. It is part of the democratic system; it is what Australia stands for: a fair go, a choice and no compulsion. There is a place for both private and State schools in this society.

This legislation is aimed specifically at private or non-government schools. However, I detect a quandary on the Minister's part. I do not know whether it is pangs of guilt or whether he feels that the conditions he is trying to impose on private schools, but not on State schools, are unfair. His second reading speech conveyed a mixed message. The Minister, the author of this legislation, said:

I point out that we are not asking non-government schools to do anything that government schools have not done or will not do... The Act clearly stipulates that government schools must comply with the same requirements that apply to non-government schools... the forms of accountability should be similar for both government and non-government schools ... reports across the government and non-government schools sectors remain broadly consistent, with the same core features.

That is unfair. If he can implement those aims, there will be a fair, legitimate and equitable result. However, there is no guarantee that this Minister does not have an agenda with one set of rules for State schools and another for private schools. The Minister is very fair and I hope he will implement this legislation so that it applies equally to private and State schools.

This legislation contains important principles that should be implemented. They include, for example, providing adequate educational facilities for courses of study. That is a commonsense and motherhood statement. It also states that school premises and buildings should be satisfactory. Yes, they should be. Who could argue about the logic of that? Reference is also made to a safe and supportive environment being provided

to students by means including school policies and procedures that make provision for the welfare of students, employing staff in accordance with the Child Protection (Prohibited Employment) Act, and implementing school policies and procedures that ensure compliance with relevant notification requirements imposed in relation to persons employed by the school under part 3 of the Ombudsman Act and the Commission for Children and Young People Act.

School policies relating to discipline must be based on principles of procedural fairness and should not permit corporal punishment. We will not deal with that issue now. That all sounds fair, but under this legislation—which no doubt will be passed—there is no guarantee that these requirements will apply to State schools. That is an enormous problem. If honourable members think State school buildings are not in need of repair, I refer them to a letter I received from the Baulkham Hills High School Parents and Citizens' Association. Baulkham Hills High School is a selective high school and a jewel in the crown of the Department of Education. Its students achieve high marks in the higher school certificate and parents are fighting and clawing to get their children enrolled there, and for good reason. The letter states:

1. After many years of neglect, the junior girls and boys toilets, which were in a poor condition, were completely renovated in 2002. They now meet code requirements and are in good condition. The school is most appreciative of this work and result, which was funded by D.E.T. after many years of agitation.

I wrote to the Minister about that issue. It is strange that the jewel in the department's crown should have problems with its junior boys and girls toilets. The letter continued:

However, the senior girls and boys toilets situated adjacent to the library, still remain in very poor condition. They are small, inadequate, poorly lit and ventilated. They do not meet code requirements. They have not been upgraded since the school opened approximately 32 years ago. Also in that time, the number of senior students has significantly increased as the school has changed in function from a local comprehensive school to a selective high school. The senior students need a major refurbishment of both the boys and girls toilets.

That is a tragedy and an indictment of the Government. Some money was spent on school carpets and it cost \$2,500 to patch up the roof. The toilets were refurbished partly but not entirely. The school has been open for 30 years. I have fought like crazy to get the school hall built—I have made five or six private member's statements on the subject. Labor members should not relish this situation. Their Government has allowed the schools to run down and caused this inequity. Many schools do not have airconditioning and those that have do not have the electricity needed to run it. The Government wants private schools to guarantee the provision of such facilities but provides absolutely no assurance that it will require similar standards of State schools. That is hypocrisy at its worst. But this Government is based on hypocrisy, broken promises and deceit. If the Minister for Education and Training is fair dinkum about this legislation he will make a commitment that the same standards will be required of private and State schools.

**Mr DARYL MAGUIRE** (Wagga Wagga) [8.31 p.m.]: This is an important debate on a subject that should be dear to the hearts of all honourable members: providing the best education for all. Education is the greatest gift that we can give to a child or an adult. History shows that humans have an appetite for learning and it is important that we, as legislators, put in place measures that enhance, develop and progress the skills of the entire population. The Education Amendment (Non-Government Schools Registration) Bill sets out in detail the standards required of non-government schools. Previous speakers in this debate have highlighted many relevant points and I shall expand upon only some of them.

In speaking during the second reading debate on the bill the shadow Minister for Education and Training, the honourable member for North Shore, pointed out that the real detail of the bill can be found in the "Registered and Accredited Individual Non-government Schools (NSW) Manual". I have not yet had the opportunity to read that manual but the devil is usually in the detail. The bill prescribes the standards that are required of non-government schools. What levels and standards is the Minister for Education and Training prepared to apply to government schools? I am curious as to the Minister's definition of the word "satisfactory" as it is used in the bill. Many honourable members who have spoken in this debate have referred to the substandard conditions at schools in their electorates. Wagga Wagga is no exception.

I have corresponded with schools in my electorate in recent times, particularly about the recent heatwave conditions and difficulties that teachers faced in coping with the extra demands placed upon them. On Tuesday 17 February the *Daily Advertiser* carried the front-page headline, "School out if it's too hot." The accompanying article referred to the fact that many public schools are not yet airconditioned. Airconditioning should be standard in schools in the Wagga Wagga electorate. Does the Minister think the current situation is satisfactory? Will non-government schools be required to provide those facilities when the public system is begging for them? Their appeals appear to the falling on deaf ears.

I have mentioned many times in this place the additional facilities for which schools have campaigned for many years. I recently raised the plight of Koorringal High School, which requires an enlarged facility in which to conduct physical education classes and examinations and to hold its presentation nights. Since 1970 Koorringal High School has had yearly enrolments of more than 1,000 students. When I have written to the Minister about this problem he has agreed that a facility is needed to accommodate those students as the existing building will accommodate only a maximum of 500 people. Koorringal High School was developed and built in the 1970s following the old gaol design, which does not include internal hallways.

The school was built cheaply—and badly—to meet the needs of the time but little thought was given to providing assembly areas or places for students to take refuge from the heat or the rain. Koorringal High School is forced to hold its presentation evenings in venues around the city and attendance is by invitation only, because the entire school population will not fit into the existing school building. There are six personal development, health and physical education classes that follow different timetables. Examinations must be held in classrooms. This necessitates moving students from those classrooms, which causes dislocation throughout the school. Will the Minister not apply the same standards to Koorringal High School that he is demanding of non-government schools? I have received many letters from parents about the recent heatwave. Letters were also sent to the *Daily Advertiser* complaining about the lack of airconditioning in schools. A letter of 18 February states:

I am writing today in relation to the extraordinary conditions that I have discovered many public school students in Wagga Wagga must endure whilst attending classes. I am at home from work today, as my 7 year old son is recovering from a condition that undoubtedly was exacerbated by the atrocious conditions that is evidently asked of him and his classmates to endure regularly while attending Turvey Park Primary School. I am in disbelief that children are subjected to such poor conditions at any institution, especially one of education.

The letter continues:

I deem this totally unacceptable. Air conditioning is, to me, one of the most rudimentary requirements in a school anywhere, but especially in Wagga Wagga. With temperatures regularly soaring into the 40<sup>o</sup> C region these classrooms are sweltering along with our children.

I was stunned by the next comment. The letter goes on:

What I find even more horrifying is the fact that students at Wagga Wagga High School not only have no temperature control, but are also required to endure a one hour power outage on a daily basis to save power!

I was shocked when I read in that correspondence about the measures that have to be applied in that school. Other schools have written to me to express their concerns about the limitations placed on cleaning and the lack of wheelchair access. We recently celebrated the Year of the Disabled and the great achievements that disabled sportspeople, both men and women, have made to our community. Yet in 2003 I received correspondence from the parents and citizens association of Humula Public School that read:

In 2003 we had a wheelchair sports educator come to our school and the children were extremely disappointed that he could not gain access to their classrooms to see their work that they had done on the subject.

Wheelchair access in schools is an extremely basic requirement. We should all hang our heads in shame about the lack of wheelchair access in schools for those with a disability. Is that the kind of standard that is to be applied to non-government schools? I ask the Minister to indicate when he will resolve this issue. The Humula Public School parents and citizens association letter continued:

Late last term one of our teachers was on crutches and found it extremely difficult to get into the school building safely.

We also have two students at our school with a medical condition which may in the future require them to be confined to wheelchairs.

That is a shameful state of affairs. Khancoban Public School parents and citizens association wrote to me to express its concerns about the school. As members would be aware, Khancoban is a small township in the Snowy Mountains. It has a transient population, and that results in its school numbers fluctuating. Unfortunately, because of the criteria that are applied rigidly across schools, when Khancoban Public School numbers drop below a certain figure, the school loses a teacher. I maintain that teaching 25 students is just as difficult as teaching 24 students, because the teacher has the same workload. When a school loses a teacher because of such a minor reduction in student numbers, parents simply remove the children from the school. I also received a letter from the parents and citizens association of Milbrulong Public School, which is located in the local government area of Lockhart. The letter reads:

At Milbrulong Public School we have on record the regional blueprints for a brick toilet block which was approved by the Director of the Riverina Area Office of Education on the 8<sup>th</sup> January, 1971. This work never processed. Part of the letter reads "the construction of a new toilet block and projects of this nature are therefore expensive proposals. It will be appreciated that it is necessary for my department to ensure that future of any school is secure before proceeding with the construction of new toilet blocks" ...

As these are the only toilets at this school, the staff have to use these toilets as well.

How much more evidence does the school need? The new toilet blocks were approved in 1971, yet the school is still using demountable toilets. According to the commitment of the Minister, whilst ever there are students at that school it will remain open. I urge the Government to invest some money in that school's infrastructure.

I believe that non-government schools have been meeting, and, indeed, exceeding, the standards set for them. I understand that many teachers in non-government schools have defected from the public school system because of their concerns about the way the system has been managed. I am sure everyone would agree that standards should be applied to the education system, as they are applied to a raft of other portfolios. I note that the bill provides that educational facilities should be adequate for the courses of study provided at the school, and that school premises and buildings should be satisfactory. The Minister should explain to the community what he believes to be satisfactory standards. What are the satisfactory standards that put both government and non-government schools on a level playing field? If a school is deficient in its standards, what will the Minister do about it?

Koorinal High School desperately needs a school hall for its 1,000 students, so it does not need to hold its presentation evenings over a number of nights. Milbrulong Public School has needed a new toilet block since 1971, yet its need has still not been met. I have visited every public school in my electorate, and I appreciate the efforts of the teachers and principals, the parents and citizens associations, and all the people involved. Those schools are the hearts of our small communities. I urge the Minister to address some of the concerns I have raised, and to indicate what he believes to be the satisfactory standards by which non-government schools will be measured and which he will apply in addressing deficiencies such as those I have raised. In conclusion, I believe that members should highlight and support public education and non-government school education. As I said at the commencement of my contribution, education is the greatest gift one could give a child or an adult. It is important that these issues be addressed, and I expect the Minister to reply to the concerns I have raised.

**Mr ADRIAN PICCOLI** (Murrumbidgee) [8.46 p.m.]: It is opportune that this House should be debating the Education Amendment (Non-Government Schools Registration) Bill only a week or so after New South Wales experienced the highest temperatures it has endured for a long time. I am sure that both government and non-government schools felt the effects of those high temperatures. Members on both sides of this House acknowledge that there is a need for standards in both government and non-government schools. However, the New South Wales Labor Government has direct control over the standards for government schools. In my electorate there are a number of glaring examples of those standards being well below what the community would regard as acceptable. I refer to the poor state of the infrastructure at some government schools. Fortunately, we have great intellectual and social capital tied up in our schools. We have terrific teachers, parents, and students.

The generous nature of teachers, parents and students has allowed them to put up with some of the antiquated infrastructure in New South Wales schools. I will refer to a few examples in my electorate. Last week I visited Yoogali Public School at the request of the parents and citizens association, particularly Judy Corradi, the association's community representative. On my visit I inspected the school's toilet facility, which is very old. It is also the only toilet facility in the school, which means that the students and teachers are forced to share it. I understand that has been unacceptable for a long period, based on Department of Education and Training standards, occupational health and safety requirements, and child protection issues. The teachers are obviously a little nervous about sharing toilet facilities with students, because of child protection issues. A new toilet facility for the school has been on the agenda of the Department of Education and Training for some time, but so far no action has been taken to address the issue.

I had the opportunity to look at the toilet facilities and to talk to some of the teachers and representatives of the parents and citizens who are obviously very concerned about the situation. The teachers are concerned about their welfare and that of the students. The parents are concerned about the welfare of their children. It has been an ongoing issue for a long time. I understand from an educational district office point of view that it is high on the agenda, but the funding has not been made available from the department to remedy that situation. I also saw the playground facilities at the school: old steel swings and a slippery dip. They would



almost be collectors' items! Most playground facilities have been replaced with modern play equipment that is made of plastic or composite materials. The children at Yoogali Public School still use that old equipment.

I refer to Narrandera High School, which has an ongoing issue in relation to its toilet facilities. The floor of the boys' toilet slopes away from the door back to the side of the block where the urinals are located. As a result, any water or urine in the toilet remains there and soaks into the concrete, and has done so for many years. It is becoming a significant hygiene problem to the point where some students refuse to go to the toilet all day because of the smell. Teachers have to pour disinfectant on the floor every few days just to get rid of the smell, but it returns within a couple of days. This is another capital works issue that has been raised by the parents and citizens and by the school for many years. Someone from capital works inspected the problem a couple of years ago and said that they would address the problem, but nothing has been heard since. I raised this issue in the House towards the end of last year, but as yet Narrandera High School is still waiting for some action in that regard.

I refer to substandard airconditioning facilities at Griffith High School. Since becoming a member of Parliament in 1999 I have made representations to Ministers for Education and Training, both former and current, and I have made speeches in the House about this matter. I took the Hon. John Hatzistergos, then the Australian Labor Party's duty MLC to the school, and showed him the facilities. The former Minister for Education and Training—now the Minister for Police—also went to Griffith High School and examined the facilities. Some airconditioning is planned to be installed in the next 12 months, but a number of classrooms will not be airconditioned. Teachers and students will suffer in the kind of temperatures we had last week. I have highlighted three serious examples of capital works projects that need to be carried out in my electorate.

We talk about standards. We should raise the standards of schools for which the State has responsibility, including funding responsibility. I make a constructive suggestion to the Minister for Education and Training. A couple of times every year an announcement is usually made during question time in response to a dorothea dixon from a Government member. The Minister announces that a number of schools across the State will have specific things done for them. For example, perhaps 25 schools will get new carpet and 20 schools will be painted. One year a number of schools got new ride-on lawn mowers. That is fine and I am sure the schools welcomed those upgrades. However, I question whether those upgrades are on the list of priorities in terms of capital works for those schools. For example, \$10 million, \$20 million, \$30 million or \$50 million may be available to be spent on carpeting 30 schools and painting 20 schools. However, those schools may have other priorities.

I suggest that it would be better for the Government to go to the district offices of the Department of Education and Training and ask about their capital works priorities. As a result, some of the significant capital works projects that need to be done can be completed. In the past three or four years a fair bit of money has been available in the Griffith and Deniliquin district offices, which are in my electorate, that would have covered the capital works projects to which I just referred. I have referred to serious occupational health and safety and child welfare issues at those schools. Nothing could be more serious than child welfare and the health of students. Those issues could have been dealt with. Some schools could have forgone new carpet and instead replaced facilities that are most urgent. At times money is made available for one-off capital works, as is announced in the House. My constructive suggestion is that when that money is made available district offices be contacted and asked about their priorities. Perhaps some of the more important capital works projects could be carried out as a matter of urgency. I am sure all honourable members recognise that the standards in our public schools need to be at the highest level possible.

**Ms PETA SEATON** (Southern Highlands) [8.56 p.m.]: The Education Amendment (Non-Government Schools Registration) Bill aims to raise standards and accountability for the spending of public money in independent schools. I am disturbed that whilst we all want high standards—we on the Coalition side are determined to raise standards and to get focus on standards—we are apparently asking in this bill that independent non-government schools subject themselves to a level of assessment that we would love to see government schools subjected to. I speak to parents and teachers on a daily basis. From my observations of all the local government schools, I would love to have some independent person come in and run their eye over those facilities and give an assessment as to whether they were up to standard. Are we really on a level playing field?

We are asking one sector of the education community to submit itself to standards and testing—never be afraid of that. However, the Minister for Education and Training and the Government are not prepared to run the same tests over its government schools. I am glad that the Minister for Education and Training is in the

Chamber. I will remind him of some of the issues in my local government schools which, I hope after hearing me, he might be keen to try to deal with. Picton High School is a fantastic school with a fantastic teaching staff and great kids. However, it is in desperate need of an upgrade. We have been battling for an additional high school in the Southern Highlands for several years. I received a weary and resigned letter from the parents and citizens in the past year that stated, "We have obviously lost that battle. The Government is determined not to build an additional high school. Let's now focus on getting some of the much-needed upgrade that we need at Picton High School. All of our efforts in the last few years have gone into fixing plumbing, underground plumbing that has cost nearly \$100,000."

That work was necessary and overdue. However, it seems that the Government has now ticked the box and said that it has done its bit at Picton High School. In fact, that should have been done a long time ago. Let us now focus on and upgrade Picton High School to ensure that it does justice to what goes on inside that school. When students and parents of the school look at the brand-new Camden High School down the road—necessitated because of other issues at the old Camden High School—they see what a modern government school could, should and does look like. Understandably, they say that they want one of those too. I want the Minister to set out a plan for the upgrade of Picton High School.

Picton Public School was in the news again recently because of the airconditioning issue. Parents worked hard to buy airconditioners and the Government provided some airconditioners. However, they forgot the absolutely vital missing link: upgrading the electricity infrastructure. Children in the kindergarten, who ought to be having the best time of their lives getting the most positive introduction to their schooling, had to spend eight days out of their first three weeks of school under a tree because it was cooler there than in the hot box of their demountable classroom. Surely we should be doing better than that. Picton Public School needs a bigger hall and it needs demountable buildings replaced.

Mittagong Public School needs additional permanent rooms. Bowral Public School struggles on a site that is too small for the number of students. It is overwhelmed with demountables. It needs an upgrade and it needs more space. Moss Vale High School is a wonderful high school. Under principal Jim McAlpine it is just going ahead in leaps and bounds. I would recommend Moss Vale High School unreservedly to anybody—as I would recommend all of our local public high schools. Moss Vale High School needs a multipurpose hall, it needs new arch-rooms to replace dangerous demountables, and it needs facilities to match the activity and the high standard of education that goes on inside the school.

Bowral High School has under-code toilets. It has substandard canteen and toilet facilities. It needs new facilities. Appin Public School needs a hall to match the new library. The library is doing great things for the image and the enjoyment of the school, but the school needs a hall as well. Douglas Park school is a small school and a great school, but it needs consolidation of the site. The last time I visited Douglas Park I was helping the parent community bring attention to demountable buildings that had holes through which one could literally stick one's finger. The carpet had been ruined by a leak. Those demountables have been there for more than 20 years. Cawdor Public School—a tiny school and a great school loved by everybody in the community—needs a firm commitment to its future from this Government. It needs to know it is going to be there for the long haul and it needs a plan to upgrade its buildings, including enlarging the amount of public space it has. At the moment it just uses the church on the block next door. The church has a lovely little hall but the student numbers have outgrown it. The school needs the Minister to look at the representations it has made to cope with the longer term growth.

Bargo Public School is a school I have spoken of many times in this place. It is in desperate need of additional funding to fix long-term plumbing problems and long-term landscape management problems. It needs a hall and a library. When I visited the school not long ago the teachers showed me what is essentially a garden shed—it is the only space that a couple of teachers have managed to find in which to prepare their lessons. We expect teachers to do a professional job teaching our children and we expect them to have all of the resources available that they need to enrich the intellectual life of our children, but we expect them to prepare their lessons in what is essentially a garden shed with a padlock on it. That is not good enough.

Yanderra Public School needs facilities and upgrades. Tahmoor Public School—a great school—has a lovely brick-built hall with lovely picture windows in it, but with all the growth in the Wollondilly area the school hall can no longer contain the whole school student body, let alone parents, friends and community members. That is a school that needs to have a rethink about how the hall is configured. We need to encourage the school to enjoy its communal events. The parents of students at Bundanoon school have outlined to me their priorities for an upgrade of the school. Moss Vale Public School needs new permanent classrooms.

All of these school issues are capital works issues. I have not even got to issues such as information technology infrastructure, professional spaces for teachers to work and fixing basic infrastructure, such as plumbing and electrical supplies, so that principals are not spending their entire time pleading with the department to fix pipes, drainage problems and get the electricity connected. I want to see our principals engaged in issues such as helping plan the intellectual development and activities of the school. Principals are not trained to be plumbing managers; they are meant to enhance the intellectual and educational life of the school and to lead the school community, the parents, the teachers and the students. They cannot do that if they are on the telephone trying to fix a plumbing problem.

We still have major security problems in our schools. Many of the ones I visit in my area need painting and carpeting. Some of these schools are discovering that because they have demountables with airconditioning problems they have had to spend \$2,000 or \$3,000 to install blinds on the windows to try to keep the sun out. This is an unacceptable use of teachers' time and parents' resources. We have been fortunate in that some of our local schools have had new buildings, particularly Buxton Public School, The Oaks Public School, Oakdale Public School and Hilltop and Colo Vale schools. They have had long overdue upgrades to their buildings. Let us make sure that there is sufficient money in the budget to do sufficient maintenance on those buildings so that in 10 or 15 years time we do not see what are now beautiful buildings in a state of neglect and disrepair.

I mentioned earlier that our area is in desperate need of a new high school. It was on the top of the priority list for so many parents in the Wollondilly and Wingecarribee areas leading up to the last election. The Coalition made a commitment to build an additional high school between Bowral and Picton—possibly in Mittagong or Bargo—but the Carr Government refused to admit to the need for that school. The Government has let down people who were looking for additional choices of schools with more space and with slightly less congested learning environments for our students. Because the Government has refused to build an additional public high school in our area, understandably both the Catholic education community and the Anglican education community have recognised the need that everyone in the community could see—except for the Carr Government—and have made commitments to invest in additional independent school facilities in our area.

Wollondilly Anglican School opened its doors this year. It is a magnificent school and it is well supported by the community. I believe it has a very bright future under its new principal, Stuart Quamby. In addition, the Catholic school sector is hoping to provide high school facilities in the local area as well. Why is it that the non-government sector can see what this Government is blind to as far as its obligations and responsibilities to provide high-quality choices in public education? Many parents are now working at second or third jobs in order to afford to send their child to a non-government school because they want to have the choice, they want to have access to facilities and they want to have an educational environment that is not overcrowded, as many of our high school facilities are. A school can have the best teachers, the best students and the best syllabus in the world but if its students are struggling in a crowded, rundown environment, many parents will make the decision that they want their children to be educated somewhere else.

Until the Government accepts this and starts to deal with upgrading facilities in its schools and taking responsibility for the public education sector, people will continue to vote with their feet and move their children to non-government schools. I am delighted to see standards set in our schools and the bar raised higher and higher. No-one in the non-government school sector would shy away from being set high standards and striving to reach them. I do not understand why the education Minister is not prepared to set that same test for himself and his Government in providing high standards and excellent facilities for our students in government schools.

**Mr BARRY O'FARRELL** (Ku-ring-gai—Deputy Leader of the Opposition) [9.09 p.m.]: I join in the support of the Opposition for the Education Amendment (Non-Government Schools Registration) Bill but wish to express some reservations about the increase in ministerial discretion that its provisions will give to the Minister for Education and Training. I do so as the member representing the electorate of Ku-ring-gai, which has fine non-government schools and fine public schools. I have often said that because of the presence of first-class non-government schools within my electorate the public school sector competes vigorously for students, and competes, and successfully so, in retaining students at both a primary and secondary level. I am delighted to say as the member of Ku-ring-gai that there is not a bad public school in my electorate. I just wish we could extend the public education experience in Ku-ring-gai across the rest of the State.

I recognise that the issue is not just about schools or resources, but about demographics, parental involvement and support at home. All are key education factors. I know that even the Minister for Education and Training understands that, as does the department—with which I have problems from time to time—which

is endeavouring to address those issues across the rest of Sydney. The reason I speak to the bill is, firstly, to make the point that, particularly in relation to item [9] of schedule 1 to the bill, it was the Liberal Party and the National Party which, in December 2002, first proposed increased reporting requirements for non-government schools. We said, in a document published by Opposition leader John Brogden in December 2002, that non-government schools should report on the use to which taxpayer funds were put. Of course, the nonsense of the bill is that non-government schools report annually to the Federal Government in relation to the sorts of issues that this bill seeks to address, and have been doing so for some time. They have been doing so happily. They have formed good relationships with Federal bureaucrats, so they know that information is kept secure and is used appropriately in the allocation of funds.

The difficulty that non-government schools have, and that some have expressed in relation to this bill, is not just the fact that the bill has no detail, with the manual being kept secret and the details to be worked out after the legislation has passed; and it is not just the increase in ministerial discretion. The difficulty is that, while some may trust the current Minister for Education and Training, we may end up one day with an education Minister who comes from the left wing of the Labor Party, who, despite his protestations, might have been educated at Scotch in Melbourne or Canberra Grammar, has no understanding of public education because of his background—I know that comment does not apply to the current Minister for Education and Training—and may not be as sympathetic given the road to Damascus path they are taking to achieve political advancement in supporting non-government schools. The reality is that the bill ought to be clearer, and it ought to contain the detail of its measures.

Another reason I speak to the bill is to deal with an issue that was touched on by the honourable member for Southern Highlands. The reality is that some parents exercise choice to send their children to non-government schools. As I have said, in an electorate like mine it is a choice between fine public schools and fine non-government schools. There can be no better example of the choice that is exercised. I am happy to engage in the Prime Minister's debate about what is involved in that choice. But those who exercise that choice pay considerable taxation to State and Federal governments. Why should they not get some return from taxpayers to support their children's education? I have no problem—I never have—with that taxpayer support being allocated on a needs basis, as it is Federally and indeed at the State level. We are to see some changes in the way which funds are allocated at the State level. I say fine to that, because even in my electorate there are extremely well-off private schools and Catholic systemic schools that are less well-off. Clearly, there are differentiations in needs when it comes to my electorate. But the reality is that parents with children at both lots of schools pay their taxes and still deserve some support from government in relation to the educational choices they have made.

I say again that, whether it is fine schools like Ravenswood School or Roseville College—I know that one of the guests of the honourable member for Coffs Harbour attended both of those schools—or whether it is the Presbyterian Ladies College, Knox College, Barker College or Abbotsleigh School for Girls, they are expensive schools, and many Ku-ring-gai families that I represent make a conscious choice to send a spouse back to work to pay for their child's education at those schools. I have a strong view that they ought to be supported in the making of that choice by some contribution by government. So I stand here as someone who is very comfortable with the duality of our education systems. I stand here as someone who, unlike some members opposite, actually practises his belief in public education in the education of his own family. Perhaps some will say: Well, that is fine because Ku-ring-gai has fine public schools. The reality is that it also has fine non-government schools. I support the public education system as both a parent and a local member. But I respect the choice made by parents, not just in Ku-ring-gai but across the State, who pay their taxes and work hard to send their children to non-government schools because of failures they perceive in the government school sector. We need to acknowledge that, support them and continue that support.

My concern is that, as we approach the Federal campaign, once again lies are being told about the funding of schools. As the Minister for Education and Training knows, in 2001-02—forgive me for using old figures but I have not been a shadow Minister for Education and Training for a while—92.5 per cent of the State Government's \$6.9 billion schools budget went to State schools, and 7.5 per cent went to non-government schools. We know the proportions of students in those years were roughly 70:30. At the Federal level, in the same year, 67 per cent of the Federal Government's \$1.8 billion schools budget was allocated to non-government schools, and a third went to State schools. So, overall, in 2001-02 non-government schools received 20 per cent of funding—even though they had 30 per cent of the students—and State schools received 80 per cent of taxpayer assistance for the rest. By any measure, once all aspects of taxpayer funding, Federal and State, are taken into account, public education is far more strongly supported than private education. The issue ought to be about the quality of education for all, and not about fights between the non-government and public sectors, because at the end of the day that gets us nowhere.

The Minister may say that this legislation is all about trying to ensure excellence for school students. I make the point that others have made: the requirements that will be made of the non-government sector under this bill are not always made in relation to public schools. For instance, although I know as a parent the rates of voluntary contributions at the public school that my children attend, and I know as a community school council member what those rates are at two other schools with the same demographics in the same electorate, and I am conscious of the enormous gap between both lots of schools—despite the fact that by and large the suburbs, the demographics and the socio-economic backgrounds are pretty much the same—that information cannot be reported. Parents and citizen group treasurers and school principals would be under threat of all sorts of injunctions if they were to dare tell people that the voluntary contribution rate was down to 60 per cent or over 90 per cent.

I would like the Minister to give us a clear understanding of what is being required by this bill. Clearly, there are differences. Clearly, and understandably, the independent non-government school sector is concerned about what the Government may have in mind. I think that is a genuine fear because, having had something to do with the Department of Education and Training, I am still convinced it is run by the Teachers Federation. I have great respect for the Board of Studies. In my view, the Department of Education and Training is the last great unreformed body of government. I know the Minister will say that he has copped some heat from the Opposition for trying to start some of that process. Quite frankly, the Minister has not gone far enough. He ought to listen to the Federal Opposition leader and some of the ideas that he has picked up—some of the ideas that John Brogden was running with when he first became Leader of the Opposition—about reforming the department to get a better outcome for parents and teachers, but most particularly for students.

Because of the way in which the department is being run, the non-government sector has real concerns about providing to that department the sort of information that it regularly provides to the Federal department. There is no trust left. That is because, under the administrative arrangements established by the current New South Wales Government, bureaucrats in the Department of Education and Training, when funding non-government schools, are happy to say that money is coming out of funding that otherwise would have gone to the public school sector. The Minister has polarised the administration of the Department of Education and Training between the ideologues and those who believe that the issue ought to be about outcomes, irrespective of the operating system. The dilemma is that organisations like the Independent Schools Association have understandable concerns about what will become of the information provided to the department, and how it will be used. Quite frankly, in the past this Government has misused information and material, and there is no reason why, in the lead-up to an election campaign, we would not witness a similar sort of smear.

The other issue relates to the discretion to be given to the Minister. The New South Wales Parents Council is understandably concerned because, in the past, we have seen ministerial discretion used for political purposes that has hurt those parents who choose to send their children to public schools. In 2000 the former Minister for Education and Training, the current Speaker, John Aquilina, cut funding to around 70 independent schools due to a political fight between the Federal and State governments. That is not the sort of approach we need to education in this State and it is not one that will further anything in relation to either non-government or public education.

It is terrific that the legislation seeks to encourage greater reporting, if the Minister is genuinely committed to reporting equally from both sides. If these sorts of criteria are applied to the public sector, the public sector will not always come out with the desired result. It is a matter of regret that so much discretion has been left in the hands of the Minister, whoever that may be, and that too many details will be finalised after the legislation is passed. The honourable member for Southern Highlands and other Opposition members have made the point that when it comes to item [9] of schedule 1 and the nature of premises and buildings being satisfactory, we can all point to holes in our local public schools. I can certainly do so. I could talk about Wahroonga Public School, a school formed by an Evatt, a former Labor Minister, which cannot obtain funding for stage two of its building works, but I will not. I could talk about Pymble Public School and the fact that parents had to pay for the covered walkways between the classrooms to ensure that the kids are not affected by the sort of weather we have experienced in the past few days, but I will not.

However, I do wish to talk about Killara Public School, which has, on a ratio of 4:1, more demountables than classrooms. That school is under the great leadership of Principal Gai Collett and its enrolments are increasing to the extent that the department has had to adjust the boundaries to ease the pressure on enrolments. Tammy Whitham is this year's President of the Killara Parents and Citizens Association, which, along with the school community, is doing a terrific job, but they are at their wits end trying to get the department to make a decision about whether the school will be included in the forward capital works program.

That sums up the failings of this bill, which purports to be about transparency. The reality is that any member in this place who has a problem with the capital works of a school cannot ascertain where that school is on the list, even if one gets to meet any of the interesting bureaucrats who deal with departmental property. To be fair, I understand there is a political component but in terms of setting the overall priorities before the matter gets to the Minister's office for his advisers to use the whiteboard, it is almost like electing the Pope—the great mystery, the smoke-and-mirrors trick involved in choosing priorities—and it is unacceptable for communities, such as the Killara Public School community, which support their schools. They simply ask in return for the sorts of satisfactory school premises and buildings this legislation seeks to require of the non-government sector.

This may be terrific legislation but it highlights the need for the Minister to clean up his house. I make this plea, because the Minister already has it in writing, that Killara Public School would like access to the Minister or an adviser to discuss its building works. It is frustrating for people, particularly in Opposition electorates, to not have access to a Minister because they are too busy. I understand the pressures placed on Ministers, but supporters of public education should have the right, particularly in areas where there is strong competition with non-government schools, to discuss matters with the Minister and obtain answers so that they can continue to support the government school sector in this State. [*Time expired.*]

**Dr ANDREW REFSHAUGE** (Marrickville—Deputy Premier, Minister for Education and Training, and Minister for Aboriginal Affairs) [9.24 p.m.], in reply: I thank all honourable members for their contributions to the debate and strong support for the bill. This is significant legislation, which will make non-government schools more accountable for the taxpayer dollars they receive. As honourable members have indicated, there has been extensive consultation in the preparation of this bill and I thank the many stakeholders for their input and support for the bill. Brian Croke, Executive Director of the Catholic Education Commission, captured the essence of the bill when he said:

The Government and the taxpayers are entitled to see that schools measure up, that they provide quality teaching and that they teach the curriculum ... all schools have to meet certain requirements. They have to have safe buildings, have qualified teachers and teach what the curriculum demands ... if you can't prove you do that you can't run a school.

There has been some misinformation about teacher qualifications in relation to the bill. I want to make it crystal clear that the Government is committed to ensuring quality teaching in all our schools. Let me reiterate that non-government schools that currently employ teachers with outstanding qualifications but no teaching qualifications will be able to continue to employ those teachers. The bill requires that schools report to the community on teacher qualifications. This will be the same in government schools. Parents have a right to know that the teachers responsible for teaching the mandatory curriculum are qualified to do so. I assure honourable members that specialists such as chaplains, sports coaches and artists, who are not responsible for teaching the mandatory curriculum, can still be employed by non-government schools.

The Government makes no apologies for demanding greater levels of accountability. Our non-government schools should be teaching the Board of Studies curriculum, they should have high teaching standards, they should have transparency in enrolment, discipline and student welfare policies, and they should be reporting to their communities with annual reports. We are not asking the non-government sector to do anything more than our government schools. Section 27 of the Act provides that government schools have to comply with the requirements set for the non-government schools. This section has been part of the Act for many years.

Government schools already have the same broad requirements covered by the bill. They have to report to parents, have student welfare and discipline policies, meet building and facility standards, have qualified staff, use Board of Studies syllabuses, and have policies for the welfare of boarders. The difference is that these have been system policies, not statutory requirements. Under the bill those requirements will apply to all schools. The requirements aim to make sure that all schools are focused on the same quality standards. If the honourable member for North Shore cares to look at the school reports produced by government schools in her electorate, she will note that they include all these indicators.

In relation to other issues raised in the debate, the Opposition has expressed the view that the requirements are too bureaucratic. Let me assure honourable members that reporting will be flexible. Schools are being asked to report on core indicators only, which can be incorporated into existing reports. These core indicators respond to what parents want and have said they want. It is about empowering parents. The indicators and report format have been subject to very wide consultation. The honourable member for South Coast said she would "hazard a guess" that all schools already report. The reality is that the majority do but not all. The point of this bill is to ensure that all schools do report in the interests of students and families.

There was discussion also about the financial accountability requirements of the bill. State funding alone is almost \$600 million annually. This huge investment warrants appropriate accountability to the taxpayer. Parents want and need comprehensive information. Many of the stakeholders with whom we consulted have said that they would welcome disclosure because it will dispel myths about non-government schools. The report will not require detailed information. The school annual report will include an account of the proportion of income and expenditure that comes from the Commonwealth, the State, and private sources. A school community has the right to know what proportion of income and expenditure it provides.

The Opposition has been quite mischievous also in its comments about building standards. The statement about satisfactory buildings is part of the current Act and has been for many years. The Government is proud of the high standards of our education system across the State's 2,200 public schools. We have a world-class system and it is time that the Opposition supported our schools instead of knocking them all the time. We are maintaining our world-class system despite massive Federal Government funding directed to elite private schools at the expense of government schools. The Government is injecting \$1 billion into capital works in its third term of government. This section of the bill is about ensuring that schools are not set up in garages and church halls—obviously, not a satisfactory learning environment. Comments were also made about ministerial discretion.

The areas of ministerial discretion are no different from those in other parts of the Act that have been in place for years. The Minister approves the syllabus and rules for the HSC without any problems. Ministerial discretion was put into the current Act by the Coalition. The members opposite should do their research before criticising. The legislation will be of enormous benefit for the education system in New South Wales. We will have a more accountable and transparent non-government system, a move that will be welcomed by both parents and students. Again, I thank all members for their contributions and strong support for the legislation.

**Motion agreed to.**

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

## **ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) AMENDMENT (ALCOHOL) BILL**

### **Second Reading**

**Debate resumed from 18 February.**

**Mr ANDREW FRASER** (Coffs Harbour) [9.30 p.m.]: Although the Opposition will not oppose the legislation, I question the reason for its introduction. Legislation of this type was suggested by the NRMA during the Alcohol Summit. But statistics presented by the Government and other bodies do not indicate whether there is any data on blood alcohol readings in the range of zero to 0.2 in P-plate drivers who are involved in serious accidents. All honourable members know is that a high concentration of alcohol and high speed kills young people. The introduction of the legislation is a political stunt by the Government and the NRMA. It seeks to punish P-plate drivers for driving with any alcohol at all in their blood. What about the P-plate driver who is taking cough medicine? What about the young fellow who, after mowing his grandmother's lawn, has a nice lunch followed by a wine trifle or a few rum balls? If those P-plate drivers were breath tested and recorded a positive result, regardless of the blood alcohol level they would automatically lose their licences. It is lunacy.

The legislation is a knee-jerk reaction to problems that have not been properly assessed and to problems that the Government has allowed to get out of hand, such as the standard of construction of the Pacific Highway on the North Coast and the non-maintenance of roads on which young drivers test their testosterone by putting their foot down—some of whom end up crashing into a tree or a pole, or crossing onto the wrong side of the road thus creating problems for themselves and others. The Government has not considered, and seems to be unwilling to consider, other solutions to these problems. The NRMA put forward this legislation as an option at the Alcohol Summit without statistics to support it. I draw the attention of the House to correspondence I forwarded to Ross Turnbull, the Chairman of the NRMA, on 9 January.

It would be far better if the NRMA and the Government developed a co-operative project to utilise driver-training ranges in New South Wales for the proper training of our young drivers. I was fortunate to grow up in Newcastle, where my father was reasonably friendly with the officer in charge of the police driver training range at Adamstown, which had a skid pan and other facilities simulating all types of road conditions. If young

people were lucky enough, as I was, they received training in driving in all sorts of adverse road conditions, such as in rain and on oily, gravel and other dangerous surfaces. In my younger days when I decided to see how fast the car would go—it was normally my dad's car—that additional training probably saved my skin on more than one occasion over the number of years that I lived in the western districts of Moree, where there were basically two speeds: stopped and flat out. If the NRMA, in co-operation with the Government, were to pour some of its surplus cash into promoting driver-training ranges, young drivers would have a far better training regime.

The last time I visited the driver-training range in Armidale, which was constructed for emergency service drivers, it was overgrown with weeds. It was not being used for any good purpose. If a driver-training range were established in all major centres in regional New South Wales and the suburbs of Sydney, learner drivers would have a far better opportunity to learn how to handle a car in adverse conditions and on those occasions when they might happen to put their foot down. Two of my children have a driver's licence and I was prepared to pay \$300 to \$500 to ensure that they received training over and above the training that their mother and I gave them. My 17-year-old son, Angus, who likes to put his foot down and wear out the tires on his father's vehicle, had the additional driving opportunity when he was younger to drive a vehicle around the farm paddock.

**Ms Reba Meagher:** Do you get him off fines by using your letterhead?

**Mr ANDREW FRASER:** No, that would be something done by members on the Government's side of politics, not mine.

**Ms Reba Meagher:** I am basing it on the Tuckey experience. Just leave it at that.

**Mr ANDREW FRASER:** Does the honourable member know Mr Tuckey?

**Ms Reba Meagher:** No, but it was widely reported.

**Mr ANDREW FRASER:** I have fond memories of several members of Parliament, including one who chaired the Staysafe committee, who have ended up with egg on their faces as a result of their driving record.

**Mr Paul Gibson:** Mr Zammit.

**Mr ANDREW FRASER:** Yes. All honourable members would remember what Zorro got up to. I do not think any amount of driver training would have sorted him out. But my son, Angus, had the opportunity to get into an old car, drive around a paddock with dew on the ground or after rain learn how to operate a vehicle with some degree of safety. However, I would still prefer that he, as my son, be given the opportunity to learn at a specialist training centre. If we have specialist centres that teach kids how to drive motorbikes—one cannot get a motorbike license without completing such a course—why should we not have similar centres for kids to learn how to drive motor vehicles? Why cannot a co-operative arrangement be struck between an organisation such as the NRMA and the RTA to provide instruction to our young drivers? It is not a great cost to invest in the future of our kids. The claim is that every death on the road costs \$500,000, but who knows how much motor vehicle accident injuries cost the community. This legislation is a knee-jerk reaction to the Alcohol Summit, just as the drug injecting room—which has been proved not to work—was a knee-jerk reaction to the Drug Summit.

**Ms Reba Meagher:** Oh, yes, that was a really popular stunt, wasn't it?

**Mr ANDREW FRASER:** It was a very popular stunt.

**Ms Reba Meagher:** A big vote winner!

**Mr ANDREW FRASER:** It was a big vote winner.

**Ms Reba Meagher:** Tough decision, right policy.

**Mr ANDREW FRASER:** Wrong policy! The Government was prepared to introduce that measure, but there was nothing in the relevant legislation to provide for the detection of other drugs such as heroin, methadone, marijuana, ecstasy, speed, you name it. The Government is saying to young kids: if one sip of alcohol passes your lips—even if alcohol remains in your blood from the night before when you may have imbibed a little bit too much and even if you are well under the 0.2 reading, which is the current limit—you will



lose your licence. It is popular stuff! We will move to have the legislation reviewed in two years. The honourable member for Blacktown, who is in the Chamber, is the Chairman of the Standing Committee upon Road Safety, or Staysafe. I will send him a copy of the letter I wrote to Ross Turnbull. I challenge the honourable member for Blacktown to put forward my proposal to the Staysafe committee. It has some merit and people will be prepared to pay for it. I suggest also that those who learn to drive motorbikes undertake a defensive driving course. The establishment of a driver-training range may result in fewer injuries and deaths and less grief.

That would be a much better approach than the Government introducing this knee-jerk reaction legislation merely to enable it to say that it is doing something about a problem. There are no statistics to prove that those who drive with an alcohol reading of from zero to 0.02 grams of alcohol in 100 millilitres of blood actually cause death or injury on the roads. So I make that suggestion this evening and I ask the chairman of Staysafe to take it to his committee. As I said, the Opposition will not oppose the legislation because politically it would be death to do so. However, the Government should accept the amendment that will be moved in the other place to have the legislation reviewed in two years time to ensure that this measure is not a political stunt but a genuine attempt to improve road safety for future generations.

**Mr PAUL GIBSON** (Blacktown) [9.40 p.m.]: It is great to see in the gallery tonight Mr Gregory Stanton, who has a great interest in road safety and the trucking industry. I will take back to the Joint Standing Committee upon Road Safety, or Staysafe, the concerns expressed by the honourable member for Coffs Harbour. Staysafe members talk to many parents. Surely it is the better that drivers are totally sober than crippled or killed in an accident! The Road Transport (Safety and Traffic Management) Amendment (Alcohol) Bill will send a clear message that people cannot drink and drive. As the law presently stands, it is a little like someone saying, "I am just a little bit pregnant." People have said, "I can have one drink, or I can have one more drink and still get away with driving." Every metabolism is different.

This bill will send the clear message that people must not drink and drive. It is not a bad way to educate young people. The bill amends the Road Transport (Safety and Traffic Management) Act 1999 to prohibit learner drivers and provisional licence holders from driving with any alcohol present in their blood. The bill inserts a new section 9 (1A) into the Act to make it an offence for a person who is the holder of a learner or provisional licence to drive or attempt to drive a motor vehicle while there is present in his or her blood a concentration of more than zero grams but less than that 0.02 grams of alcohol in 100 millilitres of blood—which is to known as the novice range prescribed concentration of alcohol.

The new offence is punishable by a maximum of 10 penalty units, which is currently \$1100, in the case of a first offence, or 20 penalty units, which is currently \$2200, in the case of any subsequent offence. The bill gives legislative effect to a major recommendation arising from the Alcohol Summit that was held here at Parliament House in August 2003. I was pleased to be a member of the working party that developed this recommendation and presented it to the full summit for adoption. I thank the Minister for Roads, who chaired the working party, for encouraging the debate on this recommendation and for leading the working party to a unanimous endorsement.

The bill will put into place a finding of previous Staysafe committees—and this is important to note. For example, in 1982 the first inquiry conducted by the Staysafe committee, to which the honourable member for Coffs Harbour referred, looked at alcohol and other drugs, and road safety. That inquiry's report recommended a trial of random breath testing, with new penalties for excessive blood alcohol, increased conspicuousness of police, highly visible breath testing, media publicity, education, evaluation and monitoring, and modern screening and evidentiary equipment.

The Staysafe committee also made recommendations about other drink-driving issues, including calling for a zero blood alcohol limit for learner and first-year drivers, encouraging the provision and use of accurate self-testing breath analysis instruments in licensed premises, and requesting a trial of interlock devices to disable vehicles if drivers were unable to blow air free of illegal concentrations of alcohol before they started their vehicles. Now, more than 22 years later, we see that Staysafe's earliest recommendations were farseeing and correct, with the introduction by the Carr Government of interlock programs for convicted drink drivers and the introduction of a zero blood alcohol limit for novice drivers, as provided for in this bill.

Given that this recommendation was first made by the Staysafe committee 22 years ago, I fail to understand the reference by the honourable member for Coffs Harbour to a knee-jerk reaction. Legislation such as this is long overdue; it should have been introduced some time ago. The bill is not a knee-jerk reaction; it has

been spoken about for a long time. I chaired the Staysafe committee for four years a few years ago, and I chair it again today. Staysafe members have spoken about legislation such as this for a long time, so it is not a knee-jerk reaction, as the honourable member for Coffs Harbour has suggested.

I want it clearly understood that while debating the causes of road trauma and the means by which road safety can be improved, we must not forget that there are several major contributors to road deaths and injuries—they being alcohol, speeding and people not wearing seat belts. This bill goes to the heart of one of the major causes of road trauma—drinking and driving. When this legislation is proclaimed, young people, novice drivers and riders will be given a clear and unambiguous message: Do not mix alcohol and driving. That is the message pure and simple. There is no excuse. As the honourable member for Coffs Harbour said, it will not be an excuse that you had too much of Nan's trifle or that you took alcohol-based medication. It will not be an excuse that you were of the belief that you could have one drink and no more, and then drive.

Thanks to the Staysafe committee, we have had random breath testing in this State since 1982. Everyone knows that drink driving is a crime. Young drivers today have never known a world in which random breath testing was not a regular and recognised police practice. With the passage of this legislation, the message will be simple for young drivers in New South Wales: If you drink, you don't drive, and if you do drink and drive, you are a bloody idiot and you deserve what you get when you are caught. This new legislation will set the framework for a clear approach to dealing with the menace of drink-driving to our young people. However, it will only work—and I emphasise this point—if police are on the roadside to conduct breath testing checks and if the courts do not shillyshally about and give inappropriate and inadequate sentences, or even record no conviction at all, when police haul up a driver on a drink-driving charge.

The courts have a major role to play in all of this. Too often we read in the newspapers about a high-profile person, whoever he or she may be, being picked up on a drink-driving charge for having a blood alcohol concentration of more than twice the permissible limit, only to be given a section 10 by the courts—or, as we used to know it, a 556A. There have been cases reported of drivers with even higher ranges of alcohol in their blood being let off scot-free by the courts. The silly part of it all is that although we have looked at increasing fines and the number of penalty points a person can lose after being convicted of drink-driving, the fact is that a person can lose three points for parking in a no parking area whereas a person given a section 10 by the courts for driving with up to twice the legal blood alcohol limit loses no points! I welcome this legislation because it gives a clear indication to young drivers that they must not drink and drive. If people drink and drive, there is no doubt they will be caught. I welcome the legislation and support it.

**Mr WAYNE MERTON** (Baulkham Hills) [9.49 p.m.]: Few people can argue against the substance of this legislation. Clearly, most members of the community would insist that learner drivers and provisional licence holders drive without any alcohol present in their blood. Young drivers are over represented in alcohol-related accidents. Drivers in the 17 to 20 years of age category represent 6 per cent of the total number of drivers, but are involved in 17 per cent of fatal crashes involving drink-driving. Consequently, the Coalition strongly supports measures aimed at reducing the road toll. This legislation will send a strong message that alcohol and driving do not mix. The wheel has turned full circle. Currently young people are aware that it is wrong to drink and drive. That realisation represents a great change in the culture of driving, but unfortunately the statistics indicate that many people do not heed good advice. Tragically, young people end their own lives and the lives of other people in drink-driving accidents.

Medical research has shown that the effects of alcohol are more detrimental on drivers who are not highly skilled. Young drivers with basic skills will be more adversely affected by alcohol than experienced drivers with highly developed skills, but that does not in any way condone the behaviour of experienced drivers who drink and drive. The legislation will ban the consumption of alcohol by learner drivers and drivers who hold a provisional drivers licence, and there will be a zero alcohol limit imposed on young drivers. Currently the prescribed concentration of alcohol in the bloodstream is limited to .02 per cent in the novice range and .05 per cent for more experienced drivers, which represents a decrease from the previous limit of .08 per cent.

The Opposition has indicated its support for this legislation, but with one reservation. The Government should give consideration to practical issues. Young people who drink on a Friday night may find themselves in difficulty when driving at midday on the following Saturday. The practical effect of this legislation will be that young drivers who drink on a Friday night will not be able to resume driving until the following Sunday night or Monday morning. The question I wish the Minister to respond to in his reply is about which standard of proof will apply to a young person whose blood alcohol concentration is over the limit for a reason or reasons other than the consumption of alcohol.

The bill provides a defence if a learner driver or the holder of a provisional drivers licence can prove to a court that his or her concentration of alcohol in the bloodstream was not caused by the consumption of an alcoholic beverage but was caused by the consumption of foodstuff, medicine or mouthwash. I do not accept the excuse that a prescribed alcohol concentration in the bloodstream may be due to consumption of, for example, Auntie Mabel's trifle. As I understand it, the alcohol in food such as trifle would simply not be enough to register in a blood test. However, medication and other substances can result in the presence of alcohol in the bloodstream, rather than through the consumption of alcoholic drinks.

I ask the Minister to clarify in his reply whether the standard of proof which the defendant must meet in discharging the onus of proof that the alcohol concentration was not caused by the consumption of alcohol will be the civil standard, that is, proof on the balance of probabilities, or the criminal standard, which is proof beyond reasonable doubt. The Opposition believes that when an alcohol concentration in the bloodstream is caused by factors other than the consumption of alcohol, it is fair and equitable to apply the civil standard of proof. However, if the Government intends that a criminal standard of proof should apply, that may result in grave injustice of people have to face very serious charges. After all, the novice range prescribes a zero blood alcohol concentration. If alcohol is present as a result of taking medication, the civil standard of proof on the balance of probabilities should apply, and the defence in new section 11A should be accepted as an excuse. I ask the Minister to address this issue in his reply.

**Debate adjourned on motion by Mr Gerard Martin.**

### **SPECIAL ADJOURNMENT**

**Motion by Mr Carl Scully agreed to:**

That the House at its rising this day do adjourn until Thursday 26 February 2004 at 10.00 a.m.

**The House adjourned at 9.56 p.m. until Thursday 26 February 2004 at 10.00 a.m.**

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