LEGISLATIVE ASSEMBLY

Wednesday 27 October 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 "Auditor-General's Report—Financial Audits—Volume Three 2004—Total State Sector Accounts".

Ordered to be printed.

SMOKE-FREE ENVIRONMENT AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr FRANK SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [10.03 a.m.], on behalf of Mr Morris Iemma: I move:

That this bill be now read a second time.

This bill amends the Smoke-free Environment Act 2000 to phase out smoking in enclosed public places in licensed premises. It follows years of consultation and planning, including formal discussions with industry, health groups and the community as part of the joint working party process between November 2003 and June 2004. Several compelling reasons shape the decision to bring in further smoking bans. Since 1986, 34 scientific studies have been published in leading health journals throughout the world showing the harm done by environmental tobacco smoke.

One study showed that working one eight-hour shift in a smoky bar is equivalent to smoking half a packet of cigarettes. Myriad eminent research bodies and health bodies have affirmed that passive smoking causes harm, including the United States of America Surgeon General, the British Medical Association, the Australian Medical Association, the American Heart Association, the United States of America Environmental Protection Agency, the World Health Organisation, the Royal Australian College of General Practitioners, the National Heart Foundation and the National Health and Medical Research Council. There have been 20 successful Australian prosecutions for passive smoking in the workplace. Tobacco-related illnesses account for 54,000 hospital admissions annually at a cost of $180 million per annum or $500,000 per day.

Smoking is already banned in other Australian workplaces, including shopping centres, government buildings, restaurants, airports, airlines and so on. With similar bans in other States, we have a consistent national approach, protecting workers while giving proprietors time to adjust. The New South Wales plan has been carefully crafted to achieve 90 per cent of the health benefits from 1 July 2005 when smoking is banned in thoroughfares, dance floors, auditoriums, toilets, and all but one bar or gaming area in each premise. Partial bans will become law from the commencement of the legislation, including those restrictions that are currently part of the voluntary agreement which will come into effect on 1 January 2005, and then with increasing restrictions from July 2005 and July 2006, and a complete ban from 1 July 2007.

The phased approach considers the health of workers and the concerns of business proprietors who own and operate licensed premises or enclosed public spaces. Smoking bans have been debated in New South Wales since the formation of the Passive Smoking Task Force in 1996. In 2000 the Smoke-free Environment Act banned smoking in enclosed public places but exempted non-dining areas of licensed premises. The removal of these exemptions is the key part of this legislation. Similar smoking bans will be introduced in other States and

Territories: Tasmania from January 2006, Queensland from July 2006, the Australian Capital Territory from December 2006, South Australia from October 2007 and Victoria from July 2007.

Following the commencement of the New South Wales Smoke-free Environment Act 2000 an industry working party was formed to deal with practical implementation issues. This resulted in the issue of guidelines to prevent the spread of smoke to smoke-free zones. A further working group was convened in 2002 to develop measures to further reduce smoking in licensed venues. This led to Share the Air, a voluntary agreement with a two-year transition period for licensed premises to agree to ban smoking at counter areas, make one bar non-smoking in multibar venues and make one gambling or activity room non-smoking in multiroom venues with more than one room for each activity. The agreement also noted in-principle support for future legislation to mandate the restrictions.

There has been substantial compliance with the Share the Air agreement, and I commend New South Wales pubs and clubs for their willingness to change the culture of smoking in their premises. The restrictions in this bill that are proposed to commence on 1 January 2005 are substantially the same as the restrictions that were voluntarily implemented through the Share the Air agreement. The restrictions are: no smoking at a counter where drinks are ordered or served; in venues that have more than one bar room, one room must be smoke free and in venues that have more than one gaming room or recreation room, at least one of each room offering a particular activity must be smoke free.

From 1 July 2005 smoking will only be permitted in one room of a venue. That room must not exceed 50 per cent of the total area of bar, gaming and recreation area. If there is only one room in the venue, from 1 July 2005, smoking will be permitted in 50 per cent of that room. Smoking will not be permitted in toilets, lobbies, thoroughfares, dance floors, auditoriums or counter areas. From 1 July 2006, the smoking area will be reduced to one room not exceeding 25 per cent of the total area of the bar, gaming and recreation rooms. In single room venues, smoking will only be permitted in 25 per cent of that room. From 1 July 2007, smoking will not be permitted in enclosed public spaces in licensed premises.

A minor exemption will remain for certain sections of the private gaming or high roller rooms in Star City Casino. This exemption does not diminish the responsibility of the casino or any other licensed premises that is owed to employees under occupational health and safety legislation. The casino exemption will be reviewed every 12 months to determine whether it is justified to maintain parity with smoking restrictions in interstate casinos. The bill allows for regulations to be made about the issuing of guidelines to industry in relation to areas that are considered to be enclosed spaces. It is anticipated that some sections of the hospitality industry may require guidance on building renovations and arrangements to comply with the legislation.

The Government will continue to work co-operatively with the hospitality industry to help ensure compliance, just as it has worked with the restaurant industry to assist with compliance with earlier bans on smoking in enclosed dining areas. The provision for regulations and guidelines will allow for greater clarification, if necessary, of the terms set out in the legislation. The bill also makes it clear that the smoking bans do not apply to private residential accommodation in motels or hostels. It protects the Government from any claims for compensation arising from the enactment of the bill relating to the regulation of smoking in public places.

This bill builds upon the incremental steps the Government has been taking for almost a decade to reduce the prevalence of tobacco smoke in the environment. It is a vital public health measure that will save lives by reducing the exposure of workers and the public to environmental tobacco smoke. Implementation of the legislation will be accompanied by an extensive advertising campaign. Not only will the campaign advise people about the provisions of the legislation, it will encourage them to give up smoking. Support for the Quitline, media campaigns to induce quitting behaviour and the promotion of pubs and clubs as smoke-free work and recreation places are key strategies to reduce smoking-related harm in the New South Wales community. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

JURY AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [10.12 a.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Jury Amendment Bill 2004. One of the central attributes of trial by jury is that juries bring the conscience of the community to bear on issues in a trial in a way that a single judge cannot. However, recent cases have demonstrated the danger in a jury's verdict being determined not by the evidence and the relevant law, but by external factors, such as personal experiments or inquiries or prejudicial material bearing on the case. It is a fundamental principle of our criminal law system that an accused is given a fair trial and is judged on the evidence given in court. In the past 12 months the New South Wales Court of Criminal Appeal has overturned two major Supreme Court criminal convictions. One was a murder conviction—*R v K* [2003] NSWCCA 406—and the other was a conviction for sexual assault in company—*R v Skaf and Skaf* [2004] NSWCCA 37. In each case the Court of Criminal Appeal held that the jury's verdict had been tainted by the misconduct of jurors.

Recently, in the District Court in Sydney, a trial was aborted after 24 court days because jurors had disregarded the clear direction of the judge not to search the Internet, conduct private views at the scene of the crime or discuss the matter with anyone who is not a fellow juror. Each of these matters caused a retrial. A retrial creates significant hardships for the witnesses and their families, the accused, the police and every taxpayer, who has to fund these expensive trials. It is particularly distressing for victims of horrific crimes, such as sexual assault. As a result of the two recent cases in the Court of Criminal Appeal, the court and the jury task force recommended amendments to the Jury Act. The Criminal Law Review Division of the Attorney General's Department also sought the views of the Office of the Sheriff, the Law Society of New South Wales, the New South Wales Bar Association, the Public Defender's Office, the Legal Aid Commission, the Office of the Director of Public Prosecutions, the Chief Judge of the District Court and the Chief Justice of New South Wales in developing these legal provisions. The bill incorporates suggestions and recommendations arising from this consultation process.

The Jury Amendment Bill seeks to reduce the incidence of retrials resulting from jury misconduct. The creation of a new offence of juror misconduct is accompanied by non-legislative changes, including stronger directions from judges to juries and improvements in juror education. The bill will discourage jury misconduct and improve the procedures for investigating jury misconduct without discouraging participation in this important civic duty. There will also be broader prohibitions on soliciting information from a juror. There are three main legislative provisions to these amendments. Firstly, the bill creates a new offence of jurors conducting their own inquiries. Secondly, the bill expands the scope of the current offences of soliciting information from a juror and jurors disclosing information. Thirdly, and importantly, the bill empowers the Office of the Sheriff to investigate jury irregularities and report back to the court.

In relation to prohibiting jurors from conducting their own inquiries, an offence has been created in new section 68C that prohibits jurors from making an inquiry for the purpose of obtaining information about the accused or about any matter relevant to the trial. This prohibition applies to jurors in criminal trials and lasts until the jury has given its verdict or the judge has discharged the person. Prohibited inquiries are defined to include: asking a question of another person; conducting research, including use of the Internet; viewing or inspecting a place or object; and conducting experiments. It is also an offence to ask another person to conduct these inquiries. However, inquires authorised by the court, such as the handling of exhibits in the jury room, are not prohibited. It is also not an offence to make an inquiry of another juror. The maximum penalty for this offence will be two years imprisonment and a fine of 50 penalty units.

This offence will provide an appropriate deterrent to jurors who are tempted to disregard the directions of a judge. More serious instances of jury misconduct, such as the acceptance of a bribe, could be prosecuted as contempt of court or perverting the course of justice—offences that carry much higher maximum penalties. A new section 55DA provides that a judge may examine a juror on oath to determine whether a juror has made prohibited inquiries. A juror will not be able to refuse to answer questions from the judge on the basis that the answers may incriminate the juror. However, the longstanding protection against self-incrimination is retained by providing that the answers given cannot be used against the juror in future prosecutions. The certificate granted to prevent the admission of answers in a subsequent prosecution of the juror is modelled on the provisions of the Evidence Act 1995. These provisions allow a court to find out whether an irregularity has occurred, without a juror refusing to answer questions.

A juror may still be prosecuted on the basis of other evidence, such as the testimony of other jurors. In most cases there will be other evidence against the juror because it is likely that the judge's questioning would arise out of material drawn to the judge's attention. As to broadening the prohibition on soliciting information from jurors, the second main improvement made by the bill is to expand the scope of the current offences of soliciting information from a juror and jurors disclosing information. The current section 68A of the Act prohibits the soliciting of information from a juror about jury deliberations.

Section 68B prohibits the disclosure by the juror of any information about jury deliberations. Deliberations of a jury are defined to include statements made, opinions expressed, arguments advanced or votes cast in the course of jury deliberations. Items [2] and [4] of schedule 1 extend these prohibitions to encompass all aspects of the activities undertaken by the jury in discharge of their duties, and not simply the final deliberative process after retirement. This will extend the prohibition to include asking jurors whether they considered any extraneous material, and to question jurors about any part of their decision-making. The prohibitions against soliciting information from a juror and disclosing information by a jury do not extend to jurors making inquiries of fellow jurors.

The final improvement proposed by the bill is to provide a power to the Office of the Sheriff to investigate jury irregularities. Item [7] inserts a new section 73A, which empowers the Office of the Sheriff, at the request of the court, to investigate and report back to the court on a matter where a serious irregularity is suspected to have occurred. This new section will formalise a process whereby the trial court or appeal court can ask the Sheriff to investigate a suspected irregularity. It is the function of the Sheriff to inform the court of the nature of an irregularity. The court will use this information to determine whether to discharge a jury, or whether to allow an appeal against a conviction.

It must be emphasised that the principal function of the Sheriff's investigation is to inform the court of the nature of any irregularity that may have affected a jury's verdict. It is not the place of the Sheriff to investigate a criminal offence, although any information he gathers will be used to assist the police in any subsequent investigation. Where it is reasonably suspected that an offence under section 68C has occurred, the matter should be referred to the police for investigation and prosecution. The bill contains a comprehensive set of amendments that are necessary to deter jurors from disobeying judges' instructions. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT (PAROLE) BILL

Bill introduced and read a first time.

Second Reading

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

That this bill be now read a second time.

The object of the Crimes (Administration of Sentences) Amendment (Parole) Bill 2004 is to make various amendments to the Crimes (Administration of Sentences) Act 1999 with respect to the operation of the parole system and the workings of the Parole Board, which is a statutory body. Since it was first elected, the Carr Government has continually worked to improve the New South Wales parole system. The Government is of the view that the emphasis of the parole system should be on what is right for the community. The provisions of the Crimes (Administration of Sentences) Amendment (Parole) Bill 2004 will closely align the parole system with the expectations of the community. A particular focus for the Government has been on the interests of victims of crime. Victims groups have already welcomed the proposal and are anticipating the bill.

The Government's most recent legislative improvements to the parole system were introduced by means of the Crimes Legislation Amendment (Parole) Act 2003. Among other things, the Act made changes to the composition of the Parole Board. The Act introduced a presumption in favour of parole supervision in respect of a parole order made by a court. If a court now makes a parole order and the court does not impose conditions requiring the offender to be subject to supervision, unless the court expressly states otherwise, the parole order is taken to include supervision conditions. By this means the Government has increased the number of parolees under supervision by the Department of Corrective Services' Probation and Parole Service thereby giving added protection to the community and added support to offenders. The Act also requires the Parole Board to give reasons for its decision when it decides to release an offender on parole. The board is in this way accountable to the community.

Some aspects of the 2003 Act had their genesis in the tragic death of an inmate in early 2003. The inmate had been detained beyond his release date due to an administrative error. In response to this most unfortunate occurrence, the Minister for Justice asked Mr Vernon Dalton, AM, to investigate certain aspects of

the case, and Mr Dalton subsequently recommended that a number of administrative reforms be implemented to enhance the work of the Parole Board. Despite the Government's efforts, both recent and past, there remained scope for improvement to the system of parole and the workings of the Parole Board. Consequently, the Minister for Justice asked Mr Vernon Dalton to conduct a further inquiry. The Minister asked Mr Dalton to examine the structure, membership and procedures of the Parole Board and its secretariat with a view to ensuring that the board discharges its functions efficiently and effectively. Mr Dalton subsequently submitted a report for the Minister's consideration. Many of the provisions of the Crimes (Administration of Sentences) Amendment (Parole) Bill 2004 stem from the recommendations in Mr Dalton's report.

For the benefit of members, I advise that Mr Dalton is a former Chairman of the Corrective Services Commission, which was the authority under the old Prisons Act 1952 that was responsible for the administration of the Department of Corrective Services. Mr Dalton served as Chairman of the Corrective Services Commission from 14 December 1981 until 27 March 1987. After leaving this position, Mr Dalton served as the Director-General of the Department of Community Services. Following his retirement from the public sector, Mr Dalton served as chief of staff to the Hon. Virginia Chadwick, MLC, a Minister in the Greiner and Fahey Coalition governments.

Parole is a pivotal phase in the rehabilitation of an offender. The Government recognises, however, that not all offenders are eager to address their offending behaviour. The Government is of the view that an offender wanting parole should display a desire to behave lawfully and a willingness to address his or her offending behaviour. An underlying principle of the bill before the House is that parole is a privilege not a right. I shall now outline some of the more significant changes proposed in the bill. In recent years the Parole Board has acquired functions additional to its responsibilities in relation to parole. The board now determines such things as: whether to revoke a periodic detention order; whether to reinstate a revoked periodic detention order; whether to substitute home detention in place of a revoked periodic detention order; whether to revoke a home detention order; and whether to reinstate a revoked home detention order or prior revoked periodic detention order. These are important functions that the board now performs. So it is proposed that the Parole Board be renamed the State Parole Authority [SPA].

The bill also makes changes to the constitution of the proposed SPA. At present, the Secretary of the Parole Board is a member of the board. The secretary will not be a member of the SPA. The Government is of the view that, despite there being certain administrative advantages in having the secretary as a member of the SPA, it is inappropriate for the secretary to have the capacity to sit on a meeting of the SPA which deals with the substance of a particular case. The Government is, however, of the view that it is sensible for the secretary to sit on a committee which deals with purely administrative matters. The bill reflects these sentiments.

Importantly, the bill provides for at least one of the SPA's community members to be a person who, in the opinion of the Minister, has an appreciation or understanding of the interests of victims of crime. Such a community member is not to be confused with a victim's representative. Any such community member will not be an advocate for victims. The community member or members will simply add to the SPA's expertise in dealing with victims' issues. All SPA members should be cognisant of victims' issues. The inclusion of a community member or members with an appreciation or understanding of the interests of victims is intended to give victims of serious offenders, and victims generally, added confidence in the fact that their interests as victims, and in the case of victims of serious offenders, their victim's submissions, will be given appropriate consideration by the SPA in the decision-making process. The role of the SPA must be to act as a discerning group of individuals assessing parolees and acting in the public interest as the community gatekeeper.

The need to protect the community is a theme that flows through the bill. Proposed new section 135 relates to the general duty of the SPA. New section 135 (2) contains several matters that previously the SPA did not have to take into account in deciding whether the release of an offender was in the public interest. The new matters that must be taken into account are the need to protect the community, the need to maintain confidence in the administration of justice, the nature and circumstances of the offence, and guidelines established by the SPA in consultation with the Minister in relation to the exercise of the SPA's functions.

The guidelines to which I have just referred are intended to ensure that there is consistency in the process observed and outcomes derived by the variously constituted divisions of the SPA. As with the Parole Board, the SPA may be constituted into divisions to carry out its functions. Following the proposed amendment to section 184, a division of the SPA will consist of one judicial member, at least one community member, and one or more of the official members. The secretary will no longer be a member of a division. For the benefit of honourable members I advise that, for decision-making purposes, a division of the SPA is taken to be the SPA.

I wish to allay any concerns that the drafting of guidelines will encroach upon the SPA's independence. The bill provides for the guidelines to be developed by the SPA in consultation with the Minister. In contrast, the Queensland system provides for the Minister to make guidelines. The purpose of the SPA guidelines is to assist the SPA in making decisions. The guidelines are not intended to override evidence placed before the SPA, nor inhibit SPA members from exercising their discretion. The guidelines will deal with matters such as parole consideration and documents that may be provided to assist the SPA in reaching a decision. The guidelines will provide details of the kinds of things an inmate should achieve prior to being granted parole, such as a low-level security classification, which indicates acceptable behaviour and satisfactory progression in the correctional system. The guidelines will assist current and future members of the SPA to understand their role and the policy considerations that led to the development of the legislation under which the SPA is to operate.

In keeping with the emphasis on the protection of the community, new section 135 (3) provides that except in exceptional circumstances the SPA is not to release a serious offender on parole unless the Serious Offenders Review Council [SORC] advises the SPA that it is appropriate for the offender to be considered for release on parole. This provision recognises the fact that the information on which the SORC relies to prepare reports and to provide advice concerning the release on parole of an offender is accumulated over a lengthy period.

New section 135A sets out matters to be addressed in a report provided to the SPA by the Probation and Parole Service in relation to the granting of parole to an offender. The SPA will also address these factors in its decision. The Probation and Parole Service must examine such things as the risk of the offender re-offending while on parole and the measures to be taken to reduce that risk. The offender's willingness to participate in rehabilitation programs, and the offender's success or otherwise in such programs must be commented upon. The report is to address the offender's attitude to any victim of the offence, and to the family of any such victim. In section 135A the Government is ensuring that the SPA, which is essentially a decision-making body, is provided with the information that it needs from the Probation and Parole Service to make informed decisions.

I will briefly provide a description of the parole process for the benefit of honourable members who may not be familiar with the process. In the main, the Parole Board considers matters involving offenders who are serving sentences that are longer than three years for which a non-parole period has been set. The Parole Board meets in private to consider whether an offender should be released on parole. The board makes a decision on the basis of the written material placed before it. If the board decides to release an offender, and the offender is not a serious offender in respect of whom a victim wishes to make a submission, it will make a parole order. In the event that the Parole Board decides not to release an offender on parole, the offender is given the opportunity to appear before the board at a review hearing to present his or her case for parole. Offenders currently have an automatic right to appear before the board irrespective of the merits of their case.

In the case of serious offenders, there is a statutory requirement for the Parole Board to give notice to all victims of the offender whose names appear on the victims register that the board proposes to release the offender or that the board proposes not to release the offender and the offender has sought to make a submission at a review hearing. Each registered victim may then decide whether to make a submission to the board.

The Government is proposing to make changes to the procedures in respect of the consideration of an offender for parole. These changes, apart from being in the interests of general efficiency, are in the community interest and in the interests of the victims of crime. Sections 137 and 143 of the Crimes (Administration of Sentences) Act 1999 provide that, if an offender is not released on parole when the offender first becomes eligible for release, the Parole Board must reconsider the matter within each successive year unless the offender is no longer eligible for release on parole. Generally speaking, the Parole Board should reconsider each case towards the end of each subsequent 12-month period. The Parole Board is able to decline to reconsider a case for up to three years and can defer making a decision for up to two months.

In the past, the Parole Board has sometimes reconsidered cases early in the ensuing 12-month period after an offender has not been released on parole. In the Government's view, the early reconsideration of a case is contrary to the original intention of Parliament. Moreover, the practice consumes the resources of the board, the Department of Corrective Services, and the Serious Offenders Review Council when a serious offender is involved. The early consideration of cases may cause anguish to some victims. The making of a submission would be a difficult exercise for many victims.

Proposed new sections 137A and 143A will ensure that the SPA is to reconsider cases only at the end of each subsequent 12-month period. However, the bill makes provision for the different circumstances that may

arise. The 12-month requirement for the reconsideration of cases will not apply where the SPA is satisfied that the offender would suffer manifest injustice if it did not reconsider the case sooner, for example where an offender who has been undertaking a required rehabilitation program completes the rehabilitation program shortly after the SPA has considered the offender's case and decided not to grant parole because the offender has not completed the required rehabilitation program.

Regulations will prescribe the circumstances that may amount to manifest injustice. The 12-month requirement for the reconsideration of cases will also apply when the SPA revokes a parole order and the parole order is not revived at the mandatory hearing to review the revocation. In cases involving parole revocation, the 12-month requirement will commence from the date on which the offender is returned to prison. In the past, the Parole Board has seen an offender in person only when the offender has sought a review of the board's decision not to grant the offender parole. New sections 137C and 143C provide that the SPA may examine an offender for the purpose of considering the offender's case should the SPA consider that such an examination would be worthwhile. The SPA is not required to examine an offender but can choose to do so.

As I stated earlier, where an offender is not released on parole when he or she first becomes eligible for parole, sections 137 and 143 require the Parole Board to reconsider the offender within each successive year. The offender does not need to apply to be reconsidered—it happens automatically. However, some offenders behave so poorly that they know, or should know, that they have no prospect of gaining parole. The Government believes that it is reasonable for the Act to be amended to provide that where the SPA has refused to make a parole order at the end of a non-parole period, or where a parole order has been revoked and the offender returned to custody, the SPA should not be automatically required to reconsider the offender for parole each year.

The SPA should be required to reconsider an offender's case only if the offender applies for parole. The manifest injustice safeguard exists to protect the legitimate interests of offenders. By requiring offenders to apply for parole, the Government will reduce the number of cases to be considered by the SPA where all parties to the proceedings know that, given the circumstances, the offender will not be granted parole. The Government also believes that an offender should not be entitled automatically to a review hearing after the SPA has formed an initial intention not to release the offender on parole.

New sections 139 and 146 provide for the withdrawal of the automatic right to a review hearing. It is proposed that if the SPA forms an intention to refuse parole, the SPA will determine whether the offender should be entitled to a review hearing or whether the offender should be required to apply for a hearing, in which case the application will need to convince the SPA that a hearing is warranted. Whether a hearing will in fact be held will be at the discretion of the SPA.

The Government is of the view that the SPA is in the best position to determine whether an offender should be entitled to a review hearing. In some cases the SPA will recognise at the outset that a review hearing will be necessary in order to make a final decision in respect of parole. In other cases the onus will be placed rightly on the offender to satisfy the SPA by way of a written application that the offender's circumstances warrant a review hearing. Most people would agree, for example, that a sex offender should not be automatically entitled to a review hearing if the offender has refused to participate in the sex offender programs offered by the Department of Corrective Services. New sections 139 and 146 recognise, among other things, that the SPA has finite resources that should not be wasted on offenders who have made no attempt to address their offending behaviour.

The Government is aware that many offenders have poor literacy skills—indeed, some offenders are totally illiterate. Some offenders will have difficulty without proper assistance in applying for parole. Some offenders will also have difficulty without proper assistance in applying for a review hearing. I assure the House that the Department of Corrective Services will provide proper assistance to offenders to help them with their written applications. The department will develop appropriate user-friendly application forms. Of course, offenders will also be able to obtain assistance from outside the correctional system to complete application forms. At present, after having decided that an offender should be released on parole, the Parole Board must make an order that the offender be released on parole on a day that falls within a seven-day period. The seven-day period for a serious offender commences after the seven-day period in which an appeal may be made to the Court of Criminal Appeal.

New section 138 provides for the SPA to order the release of a non-serious offender on parole during a specified period that is longer than the current seven-day period. If a parole order is made earlier than the

offender's parole eligibility date, the specified period will begin no earlier than the parole eligibility date and end no later than 35 days after that date. Where the order is made after the parole eligibility date, the specified period will begin on the date that the parole order is made and end no later than 35 days after the date on which the parole order is made. Similarly, new section 151 provides for the SPA to order the release of a serious offender during a specified period. If the order is made earlier than 14 days before the offender's parole eligibility date, the specified period begins no earlier than the offender's parole eligibility date and ends no later than 21 days after that date. Where the order is made after the parole eligibility date, the specified period begins no earlier than 14 days after the date on which the order is made and ends no later than 35 days after that date.

In the case of a serious offender, members will note that the period available to the State in which to research, prepare, and lodge an application to the court in respect of a parole order thought to have been made on the basis of false, misleading, or irrelevant information has been increased from seven days to 14 days. The seven-day period was inadequate. The proposed changes to broaden the period in which an offender can be released on parole should not be seen mistakenly as a punitive measure. There have been cases when the Parole Board has not been able to release an offender on parole because suitable accommodation has not been available within the current seven-day time frame. The purpose of the proposed expanded time frames is to ensure that there is sufficient opportunity for the department to make suitable post-release arrangements for an offender.

Proposed section 141A and new sections 153 and 185 relate to submissions to the SPA. Proposed section 141A provides for the Commissioner of Corrective Services to make a submission to the SPA concerning the release on parole of an offender. The commissioner may make a submission in relation to a matter that has been considered, is being considered, or is to be considered by the SPA. In view of the nature of the information that may come to the commissioner's attention, the SPA will be required to have regard to any such submission from the commissioner. Under proposed section 141A, the SPA must take into account a submission from the commissioner in relation to an offender who has not yet been released on parole, irrespective of whether the SPA has made a decision to grant parole.

New section 153 provides for the State to make a submission to the SPA concerning the release on parole of a serious offender. The State may make a submission in relation to a matter that has been considered, is being considered, or is to be considered by the SPA. This provision will eliminate a difficulty that could arise at present when the Parole Board initially indicates that it intends not to make a parole order in respect of a serious offender and then later decides at a review hearing to make a parole order in respect of that offender. In such circumstances, the State would be denied an opportunity to make a submission to the board. New section 153 will eliminate this potential difficulty.

The functions of the SPA are restated in new section 185, which also provides that when exercising its functions the SPA must have regard to submissions made by the commissioner. The nature of the position of commissioner makes it highly likely that the commissioner will be privy to information relevant to a matter before the SPA. On certain occasions it will be appropriate for the commissioner to make a submission to the SPA based on that information. A submission by the commissioner may be in respect of any of the SPA's functions in regard to parole, periodic detention or home detention. Members will be aware that the SPA's primary role is to consider whether to release an offender on parole. The SPA is not empowered with a hands-on role in the ongoing management of an offender who is in custody. New section 232 (1) (a1) makes it clear that the commissioner is responsible for the care, control and management of offenders in full-time custody, periodic detention or home detention. It is important therefore for the SPA to have the ability to make a recommendation to the commissioner in respect of any matter that may be relevant to the granting of parole.

Proposed section 193B authorises the SPA to make submissions to the commissioner as to the preparation of offenders for release on parole, either generally or in relation to any particular offender or class of offender. The operational realities of the correctional system dictate that the commissioner not be bound by any such recommendations made by the SPA. Nevertheless, the proposed section recognises the fact that from time to time the SPA is expected to make observations of value to the management of the correctional system. I said earlier that the secretary would not be a member of the SPA. I also mentioned that currently there are administrative advantages to the secretary being a member of the Parole Board. For instance, at present the Secretary of the Parole Board can be called upon at short notice to help constitute a division of the board. The secretary's entitlement to be a member of a division is useful in cases where there is urgent cause to revoke a parole order. Nevertheless, as stated earlier, the Government has decided that the secretary should not sit as a member of the SPA at a meeting that deals with the substance of a case.

However, there remains a need for a process for the swift revocation of a parole order. Such processes exist in overseas jurisdictions such as Canada and New Zealand, and in domestic jurisdictions such as

Queensland. New section 172A provides a process for the swift revocation of a parole order. In the event that a division of the SPA cannot be constituted, the proposed section will enable the commissioner to apply to a judicial member of the SPA for an order suspending an offender's parole order and, if necessary, a warrant for the offender's arrest. The judicial member to whom the commissioner applies for an order will grant an order only if satisfied that the commissioner has reasonable grounds for believing that the offender has failed to comply with the offender's obligations under the parole order, or if there is a serious and immediate risk that the offender will leave New South Wales in contravention of the parole order, harm another person, or commit an offence. While the provisions of this section are likely to be used infrequently, the introduction of a mechanism for urgent situations is necessary in the community interest. Ideally, of course, it will be possible to constitute a division of the SPA in all urgent cases.

New section 172A also provides that the SPA is to review a decision to suspend a parole order within 28 days of the offender being returned to custody. The new section recognises the urgency that will be associated with applications for an interim suspension of a parole order. The section provides for applications to be made in person or by telephone, electronic mail, or facsimile transmission. The consideration of offenders for parole often causes victims alarm and anguish. The Department of Corrective Services is of the view that on occasions a victim may better deal with the prospect of the proposed release on parole of an offender if the victim has access to some of the information in the possession of the SPA. New section 193A gives a victim of a serious offender access to documents held by the SPA in relation to an offender, subject to certain safeguards under section 194.

Section 194, which deals with the security of certain information, currently states that a document need not be provided if in the opinion of a judicial member of the Parole Board the release of the document would adversely affect the security, discipline or good order of a correctional centre, endanger the person or any other person, jeopardise the conduct of any lawful investigation, or prejudice the public interest. Section 194 is to be amended to expand the grounds on which a judicial member of the SPA may prohibit the disclosure of a document to include the grounds that the document might adversely affect the supervision of offenders who have been released on parole, and that the document might disclose the contents of an offender's medical, psychiatric or psychological report.

When the Parole Board decides that an offender has failed to comply with his or her obligations under a parole order, the board may do one of three things: revoke the order; decline to revoke the order—in which case the board may issue what is known as a "board warning"—or decline to revoke the order but impose further conditions. If the board decides to revoke a parole order, it must state the reason for doing so. There is, however, no parallel section requiring the Parole Board to give reasons when it decides not to revoke a parole order. The Government is of the view that the SPA should be required to give reasons when it decides not to revoke a parole order where the commissioner or a probation and parole officer has applied for revocation of the order. It is to be expected that from time to time there will be occasions on which the SPA will reject a request for the revocation of an order. New section 193C will require the SPA to keep records of its decisions and to supply copies of them to the Minister, the commissioner, or the Probation and Parole Service on request.

The Crimes (Administration of Sentences) Act 1999 currently provides for an offender or the State to apply in certain circumstances to the Court of Criminal Appeal [CCA] for a direction as to whether in making a decision the Parole Board relied on material that was false, misleading or irrelevant. The requirement for appeals to go before the CCA has existed from the time of the introduction of the Sentencing Act 1989. The appeal-related provisions of the Sentencing Act 1989 later became sections of the Crimes (Administration of Sentences) Act 1999. At various times the Law Reform Commission and judges of the CCA have commented on appeals involving Parole Board decisions. The consensus has been that the requirement for matters to be determined by the CCA, which is constituted by three Supreme Court judges, is unnecessary.

The proposal to omit from the Act all references to the Court of Criminal Appeal and to insert instead references to the Supreme Court is common sense. It will provide for decisions of the SPA to be reviewed by the Common Law Division of the Supreme Court rather than by the CCA. It is possible that from time to time the chairperson of the SPA will be a retired Supreme Court judge. The Government believes, however, that the review of an SPA decision by a single Supreme Court judge in such circumstances will not be inappropriate as the Supreme Court will be reviewing a decision of the SPA and not a decision of the chairperson. The hearing of a review by the Common Law Division of the Supreme Court will clearly not diminish the integrity of the appeal process. Finally, the Corrections Health Service has been renamed under the Health Services Act 1997 as Justice Health. The name was changed to better reflect the organisation's role. The bill therefore makes various consequential amendments to the Crimes (Administration of Sentences) Act 1999, and I commend it to the House.

Debate adjourned on motion by Mr Andrew Humpherson.

PROTECTED ESTATES AMENDMENT (MISSING PERSONS) BILL

Second Reading

Debate resumed from 20 October.

Mr ANDREW TINK (Epping) [10.56 a.m.]: The object of the Protected Estates Amendment (Missing Persons) Bill is to amend the Protected Estates Act 1983 to enable the estates of missing persons to be subject to management under that Act. The bill fills a gap in the current law that has been a longstanding concern of many people, especially those who are in the distressing situation of having a friend, relative or business associate missing over a long period, and the groups who do marvellous work, often on a voluntary basis, to assist people who face such a catastrophe. Without taking away from any other group, I mention the great work done by the Salvation Army and the strong support it has demonstrated for such legislation; indeed, it has been part of the movement to introduce it.

I understand that currently there is a gap in the law if a person is missing for a long period and all their affairs are, so to speak, frozen in time. The current law requires that there must be strong evidence of a person having been missing for a number of years—I believe it is seven years—before the courts are prepared to effectively presume the person is dead and to allow a grant of probate to be obtained, which allows other people to take over the management of that person's estate. Unfortunately, however, the reality is that a number of people who have been missing for a long period have, for various reasons, left their estates in a position where there are dependants, wasting assets, and a whole range of issues that need to be dealt with. Therefore there needs to be active management of those person's estates, and I understand that the bill provides for that. It allows for the active management of estates of people who are missing, to stop the wasting of assets, and to assist the next of kin and dependants, business associates and the like, to have those assets dealt with in a responsible and timely way.

The scheme of the bill is to provide that court intervention is required. Under division 1A an application must be made to the court, and an independent judicial officer must be satisfied of a number of matters. The bill provides for categories of people who are able to make such an application. Essentially, they represent the list of those who are most likely to be affected by the consequences of a missing person's estate not being able to be managed. The court must be satisfied not only that a person is missing but that it is in the best interests of the missing person to have a declaration or order made in relation to his or her estate.

The definition of "missing" provides certain safeguards. Before a person can be declared missing, a court has to be satisfied that it is not known whether the person is alive, that all reasonable efforts have been made to locate the person and that persons residing at the missing person's last known address have not heard from the person for 90 days. Applicants must meet certain requirements before the court makes such a declaration. Item [8] of schedule 1 inserts new section 21C, which sets out in subsection (3) persons who can make an application for a declaration and order. Those persons are defined as people who are in a substantial personal or business relationship with the missing person or those who act in an official capacity as a public officer, such as the State Attorney General or the Protective Commissioner.

Another safeguard is that the management of a missing person's affairs will be in the hands of the Protective Commissioner. Rules, practices and standards of conduct import objectivity and impartiality, which should provide some comfort for those who may in some way be dependent upon the missing person and for those who have claims on the missing person's estate. The Protective Commissioner deals with issues impartially. As I am sure every member of this House knows, the role of the Protective Commissioner is not easy and is often the subject of complaint. I once heard the Protective Commissioner suggest at a briefing in the Waratah Room of this Parliament that his office does not always get things right, and he accepts that things could always be done better. That was a candid admission by someone who acts professionally. I am always heartened when people make such admissions and constantly try to find better ways of doing things by actively promoting feedback from members of Parliament. That has to be a very good sign.

Implementation of this bill will probably increase the workload of the Protective Commissioner. Given the arduous tasks that the commissioner is required to undertake from time to time, especially in relation to difficult or controversial estates, I hope that the resources allocated to the Protective Commissioner are commensurate with the extra responsibilities that this bill will place upon that office. It is very important to monitor closely the number of estates or the number of people whose affairs are brought under the control of the Protective Commissioner as a result of this legislation. If protected estates management develops into a

significant extra jurisdiction, it is important that sufficient resources are provided to enable the Protective Commissioner to deal with cases properly. If the Protective Commissioner and his staff have the time and the resources to pay the greatest possible attention to the affairs of missing persons and if their attention and resources can be applied early in the process, that will increase confidence in the Protective Commissioner's administration of this part of his jurisdiction. In the long term, I suspect that will also save money and avoid complex conflicts that sometimes emanate from an avoidable misunderstanding.

New section 28 (4) provides for the Protective Commissioner to have regard to any views expressed by the protected person regarding the person's preferred form of investment. Apart from that provision, there are other provisions in the bill by which the Protective Commissioner will be able to take into account the wishes of a number of parties. Those provisions highlight the potential complexity of the management of such estates, and the need for sufficient resources to be provided to ensure that those matters are handled correctly. The practical powers of the court provided in new section 32 (1A) indicate the fundamental importance and timeliness of this legislation. Among other things, the court is empowered to order the payment of debts, to make orders for the maintenance and benefit of the family of the protected missing person, and to make orders otherwise as it thinks necessary or desirable for the care and management of the estate of a protected missing person.

The specific powers given to the court highlight the nuts and bolts nature of the bill and the way in which it seeks to deal with a class of persons who are dependents in what is often a very distressing situation. New section 34 (2) and new section 35A provide for the termination of management and for orders consequential upon a missing person no longer being classified as missing. Having regard to all the circumstances, the Coalition has no objection to the bill. We look forward to it passing into law. The Coalition wishes the Protective Commissioner well in the management of this new and important part of his jurisdiction.

Mr PAUL LYNCH (Liverpool) [11.05 a.m.]: I support the Protected Estates Amendment (Missing Persons) Bill. It is a welcome and useful piece of legislation that would have been of practical benefit to people for whom I acted as a solicitor in the 1980s and early 1990s. It aims to deal with the management of estates of people who go missing. The scale of the problem emerges from the statistics. In New South Wales more than 8,000 people go missing each year, and the overwhelming majority are found. Within that majority 70 per cent are found within three days, 89 per cent are found within two weeks, and 99.7 per cent are found eventually. However, there are currently 500 long-term missing people in New South Wales, and that category is defined as people who have been missing for more than a year. The long-term disappearance category represents real problems for the families and friends of long-term missing people.

Apart from the trauma and emotion of dealing with the persons being missing, there is a very practical problem of how to deal with the assets or the estate of those persons. At the moment the law is very blunt in dealing with the situation. Presently the only way of dealing with it is to obtain a grant of probate from the New South Wales Supreme Court, and there are a number of problems associated with that. Probate may be granted only after death or presumed death. Of course, that is often particularly confronting for the family and friends of someone who is missing because often they do not believe that person is dead and certainly do not feel comfortable about going to court to argue and prove something that they do not believe and do not want to believe.

The process is also administratively difficult and often lengthy—sometimes it means waiting seven years, until death is presumed. It is not surprising that the process is not ideal. After all, the probate system was designed for cases involving death, not people who are missing and who, at most, are presumed dead. These difficulties have led to the present bill. The procedure provided in the bill is designed to be simple and clear to facilitate the management of the estate of missing persons. Not surprisingly, interested parties are strongly supportive of the scheme. In effect, this bill extends the currently existing scheme of the Protected Estates Act. Hopefully this will reduce the somewhat immense difficulties that are currently confronted by the friends and family of long-term missing persons. Their position is painful and harrowing enough without unnecessary legal complications.

The bill institutes a procedure to allow people to apply to the Supreme Court for a declaration that a person is missing. That is similar to the current position, in which a person may be declared a protected person. The parties who may seek to make such an application include the next of kin, business partners, the Attorney General or the Protective Commissioner. The making of such a declaration has a number of safeguards. Among other things, a declaration is based on a court being satisfied that it is not known if the person is alive, that all reasonable efforts have been made to locate the person, and that people with whom the missing person would be likely to communicate have not heard from them for 90 days.

If those requirements are satisfied, the court may make an order for the management of the estate and appoint an estate manager, if it is in the best interests of the missing person to do so. An estate manager appointed by the court may be the Protective Commissioner or any suitable person. Obviously, the latter category would include a member of the missing person's family or a friend. There is no other similar scheme in Australia. I understand that the only other similar schemes are in Canada and Guam. I commend the bill to the House.

Ms VIRGINIA JUDGE (Strathfield) [11.08 a.m.]: I support the Protected Estates Amendment (Missing Persons) Bill, which marks a huge leap forward in the treatment of missing people and their families, friends and loved ones. I commend the Attorney General, the Hon. Bob Debus, his ministerial staff and his departmental staff for working so hard to bring forward this legislation. The bill has been developed in consultation with the Family and Friends of Missing People Unit and other key stakeholders. Much is owed to the families of missing people for their input. When I undertook primary research on this bill my staff contacted the office of the Missing Persons Committee Inc. of New South Wales, which commented that "the amendment is long overdue".

We have heard much in this House regarding the legal tangle and administrative red tape that frequently can beset the family and friends of someone deemed to be missing. The only way for families to cut through that administrative nightmare was to obtain a grant of probate from the Supreme Court. That meant arguing that a missing person—someone's mother, partner, friend, brother or sister—was presumed to be dead. In some instances probate may not have been granted until the person was missing for seven years. As we have heard, being required to argue that a loved one is dead simply to manage the estate the person left behind is a huge task. It is not only extremely distressing for families and friends, who often do not want to accept, let alone prove, that the person is dead; it is also illogical, given that the majority of missing people are found alive. The process can take a long time, leaving families without any practical guidance on how to manage the missing person's effects in the short or long term.

Under the Government's proposal, applications will be able to be made to the Supreme Court for a declaration that a person is missing. The court will have the power to declare a person missing once certain safeguards have been met. That is, it is not known whether the person is alive; all reasonable efforts have been made to locate the person; and people with whom the person would be likely to communicate have not heard from, or of, the person for at least 90 days. The court will have the power to order that the person's estate be managed by either the Protective Commissioner or a private manager. The Missing Persons Committee of New South Wales commented:

> … the option to appoint a private manager is an extremely important one as this will allow the opportunity where appropriate for the estates of the missing persons to be managed by the families of the missing persons, thus empowering the families to undertake the necessary management.

The court must be satisfied that the person is missing, that the usual place of residence is in New South Wales, and, most importantly, that making the order is in the best interests of that person. The court will have the power to make any orders it thinks necessary so that the property and income of a missing person can be available for the payment of debts, or otherwise for the benefit of the protected missing person; the maintenance and benefit of the family of the protected missing person; and other purposes for the care and management of the estate. I will put a human face to pressure and heartache that families and friends of missing people endure so that we all understand why the Government has moved so incisively and sensitively on this important issue.

Submissions received by the Attorney General's Department listed instance after instance of the red tape and bureaucracy encountered by family members when someone goes missing. It is difficult to appreciate what effect this would have until one imagines oneself in the same situation. Imagine, for example, having to explain to different government bureaucracies why your missing husband, brother or sister is unable to lodge a tax return, sell a car or make rental payments. Imagine having to explain to a superannuation company that your missing daughter's mail needs to be sent to a secure location, only to have your written application requesting a change of address, complete with supporting evidence from the investigating police, rejected because a legal presumption of death is required—just to change her address.

Imagine having to watch your family home fall into disrepair and become infested with bats and vermin because after four years there is no conclusive proof that your missing father is dead. Imagine pleading with a bank not to foreclose on a mortgage because your missing son has failed to keep up his payments. Imagine having to go through all that again and again just to get simple things done that we all take for granted. Those are the real-life scenarios detailed in submissions from the families and friends of missing people. The

Government has moved incisively to overcome that legal and administrative nightmare, to allow an estate manager to act in a missing person's best interests while making it easier for families and loved ones to get on with their lives. I commend the bill to the House.

Mr DARYL MAGUIRE (Wagga Wagga) [11.15 a.m.]: The Protected Estates Amendment (Missing Persons) Bill amends the Protected Estates Act 1983 to provide for the management of the estates of missing persons. Currently the family and friends of missing persons can manage the affairs and estates of missing persons only after obtaining a grant of probate from the Supreme Court. Unless there is strong evidence that a person has died, probate may not be granted until the person has been missing for seven years. That makes it difficult for families and friends to manage and preserve the assets of missing persons. The bill creates a statutory scheme for administering estates of missing persons when it is not known whether a person is still alive. The proposed amendments provide a procedure to apply to the Supreme Court for a declaration that a person is missing, which is similar to the existing procedure whereby the person can be declared as a protected person if the person is a next of kin, domestic partner, business partner or employee.

The Attorney General and the Protective Commissioner are among those who may apply for the declaration and seek the appointment of someone to manage the missing person's estate. The court is able to make a declaration if it is satisfied that it is in the interests of the missing person to do so if the person has been missing for 90 days and it is not known whether that person is alive, and a reasonable effort has been made to locate the person. The Protective Commissioner or a private manager, such as a family member, may be appointed as the missing person's estate manager. The court and the Protective Commissioner will have the power to terminate an estate management order if satisfied that the missing person is alive. An estate management order will also suspend a power of attorney and the court will have the power to restore that if it sees fit. However, the Attorney General did not address the issue of increasing resources for the Office of the Protective Commissioner.

I raised that point because I served on the Public Bodies Review Committee, which held an inquiry into the Protective Commissioner and the Public Guardian. As a result of the inquiry the committee's report noted some 25 recommendations. One clear message that came from the inquiry was that the Office of the Protective Commissioner was underresourced. People who appeared before the committee expressed great concern that that office was reliant on the fees charged for management of protected estates. Great concern was expressed that people who were under the care of the Protective Commissioner and the Public Guardian were subsidising less fortunate people, that inappropriate fees were charged and that estates were diminishing at a rapid rate. I ask the Attorney General to respond to that concern. When more responsibilities are given to a department as important as the Protective Commissioner and the Public Guardian adequate resources should be provided.

When the committee presented its unanimous report to the House, it was supported by all parties. The committee's 25 recommendations adopted and approved by the House will deliver better outcomes for the most vulnerable in our community—people who have lost the ability to make a decision for themselves and who need to have the care of the Public Guardian and the Protective Commissioner. I ask the Attorney General to advise what he intends to do should this bill impact on the resources of that department. According to the Attorney General's second reading speech this bill will be the first of its kind in Australia, with similar schemes existing in only two other countries.

As a result of this legislation we will be caring for people who are unable to make decisions for themselves. After viewing the legislation and meeting legislators and carers in other parts of the world I agree that New South Wales is the first State to implement this legislation, which is a good thing. The Attorney General said that this bill was introduced as a result of consultation with interested parties and support groups who overwhelmingly supported the establishment of a clear and simple scheme for State administration as the current process is lengthy and often a hindrance in managing missing persons' estates.

The Opposition has consulted with the Law Society, the Salvation Army and the families and friends of missing persons. I, like the honourable member for Strathfield, want to put a human face to this vexed issue. Honourable members may recall a television program that was aired on *60 Minutes* some weeks ago that referred to Kylie McKay, a missing mother. Kylie disappeared from her family home without explanation. The family searched high and low throughout Australia to find her. I know Brenton McKay, who resides in Wagga Wagga. He has two wonderful young boys whom he is now raising as a single parent. While Brenton is working as a salesman in a trucking company the children are cared for by my neighbour, so I am aware of the difficulties that they face. In the television program Tara Brown said:

> Kylie disappeared without trace in June, 2002. She didn't leave a note. She didn't pack her bag. Her bank accounts haven't been touched. But there's nobody to confirm whether she's committed suicide or was murdered. Without one, her family believes she must still be alive.

As I said earlier, her family has searched high and low throughout Australia. A member of the family said:

> The waterways were searched. The Kincumber Mountain was searched. The sides of roads ...

Her family searched places that were almost impossible to penetrate and it received help in searching vegetation along the sides of roads. Kylie's family advertised in an attempt to locate her, and continues to do so. Two years on, Brenton and the boys have not been able to get on with their lives. A place is still set for Kylie at the dinner table and family members hold on to the never-ending hope that she will walk through the door. I do not know whether any assets are involved but the point that I am making is that this family is in limbo. If any assets are involved this bill will enable Brenton and his boys to deal with all the administrative details. Tara Brown said:

> The questions that remain unanswered over Kylie's disappearance have left her family living in limbo, because to them she is neither dead nor alive. But they're not alone. In Australia, 30,000 people go missing each year. That's one every 18 minutes Thankfully, most return or are found, but imagine the pain when they don't come back.

I agree with that statement. From time to time I have had discussions about the difficulties that are being experienced by this and other families when someone goes missing. This legislation will help them to deal with the tragedy that they face. They do not know what the future holds for them and they are not able to make decisions about their lives. If they make any decisions those decisions might impact on their loved ones, if and when they return. It is a difficult situation. If this legislation improves the lives of those families it will be welcomed by them, the organisations that deal with the complex matters that arise, and those who deal with the fallout as the result of people going missing.

Mr WAYNE MERTON (Baulkham Hills) [11.24 a.m.]: The Opposition does not oppose the Protected Estates Amendment (Missing Persons) Bill. Traditionally, missing persons have presented a problem for lawyers and courts for many years. When someone has been missing for seven years he or she is presumed dead. I am aware of cases where people have been missing for more than seven years, but their families have been unable to obtain sufficient evidence about their circumstances or to convince the courts that they should not be presumed dead. One case of which I am aware concerns constituents of mine in the Parramatta area.

When people go missing for seven years in most cases their families are able to present sufficient evidence to establish that they should be presumed dead and the Supreme Court makes such an order. However, some people have been missing for three years, five years or for even shorter periods and it is painfully clear to those who know them that it is unlikely that they will return or be found. Steps then have to be taken to finalise their affairs. This legislation deals with those circumstances. New section 21C specifically provides:

> **Declaration and order where person missing**
>
> (1) The Court may declare that a person is a missing person and order the estate of the person (or any part of it) be subject to management under this Act if the Court is satisfied that:
>
> (a) the person is a missing person, and
>
> (b) The person's usual place of residence is in this State—

in other words, he or she is domiciled in New South Wales—

> (c) it is in the best interests of the person to do so.

If those three criteria are met the court can then grant an order for someone to administer a missing person's estate. The section continues:

> (2) The Court may be satisfied that a person is a missing person only if it is satisfied that:
>
> (a) it is not known whether the person is alive, and.
>
> (b) all reasonable efforts have been made to locate the person, and.
>
> (c) persons residing at the place where the person was last known to reside, or relatives or friends, with whom the person would be likely to communicate, have not heard from, or of, the person for at least 90 days.

Such an order can be of a permanent nature if a person is not found. However, such an order can also be of an interim nature. This legislation refers to the fact that such an order can be revoked—a fairly clever and wise decision. The section continues:

> (3) An application for a declaration and order under this section in relation to a person may be made by any of the following persons:
>
> (a) the spouse of the person
>
> (b) a relative of the person
>
> (c) a business partner or employee of the person
>
> (d) the Attorney General
>
> (e) the Protective Commissioner
>
> (f) any other person who has an interest in the estate of the person

The bill makes reference to the fact that those people are able to make such an application. That would include any applicant who assumes the administration of the estate of a missing person. I ask the Attorney General to address that issue when he replies to debate on the second reading. Is such a person able to apply on behalf of the administrator of an estate?

Mr Bob Debus: Either.

Mr WAYNE MERTON: I have not had time to go over all the relevant points in this legislation but it specifically states that the court can make such an order for a grant of administration to those people. The bill states that an application may be made for a declaration but it does not specifically state that an order can be made for the people in those groups. So they can be appointed as an administrator of a missing person's estate. The bill says that an application may be made for a declaration but it does not state specifically that an order may be made for those groups to be appointed administrator of a missing person's estate. It says that an application can be made but it does not specify that the court can then make an application for a person to assume control of the missing person's affairs. I know that is the bill's intention and all other provisions suggest that that should occur but I cannot find the specific power in the bill that would make it happen. Perhaps it can be found earlier in the bill, but new section 21C (1) merely states that the court may declare that a person is missing.

The bill also refers to an order that the estate of the person or any part of it be subject to management under this Act if the court is satisfied on a number of counts. I can see the general powers in the bill but I cannot find the specific power that will grant control to the applicants. People have the power to make an application but I cannot see where the bill gives the court specific authority to grant them administration rights—or however it might be described. I assume that that is a minor technicality, and no doubt the Attorney General will assure me that the matter is perfectly in order. I would hate the legislation to be fundamentally flawed. I am certain that those who have examined the bill are satisfied about its adequacy.

The bill will offer enormous advantages and benefits to people whose friends, relatives, spouses and so on are missing. It will allow them to manage legally the affairs of the missing person in a manner that is recognised by those with whom they have dealings. Other honourable members described situations such as trying to manage the financial affairs of a missing person—for example, entering a bank with a chequebook and a few other documents and trying to persuade the teller that X has been missing for four months and no-one knows what is happening. The bill contains provisions relating to power of attorney. The next question is: How will this bill affect a power of attorney that is on foot? Will that power of attorney continue to operate? I assume that when an order is made to administer an estate as that of a missing person any power of attorney in operation will be revoked.

Returning to the specific situation I described, it would be difficult to persuade a bank to deal with the father, mother or spouse of a missing person in the absence of any legal authority to do so. One of the great virtues of this legislation is that it deals with the gap from the time the person goes missing until that person is deemed deceased because he or she has been missing for seven years. I am sure honourable members have seen houses left derelict—their lawns grow and the rates are not paid—when the owner goes missing. The affairs of that missing person are put on hold until that person has been missing for seven years and is deemed deceased. Until that time no grant of probate can be made on the presumption of death and, as the world turns, the person's

affairs stagnate. This bill is much needed and must be passed by Parliament. I have mentioned that the court and the Protective Commissioner will have the power to terminate an estate management order if they are satisfied that the missing person is alive. I have looked closely at the legislation, which contains a specific provision that an estate management order will suspend a power of attorney, although the court will have the power to restore this if it sees fit. So that matter is resolved in the bill.

This is worthwhile legislation that is probably long overdue. The bill amends the Protected Estates Act 1983. The presumption of death after seven years is a fundamental concept in law but until now there has been no attempt to resolve the complicated legal issues that arise when people go missing. Many of the missing probably return but someone must manage their affairs in the interim, and this bill offers a worthwhile means of doing that. The Opposition does not oppose the legislation. I note that the Salvation Army, which has lengthy experience in searching for missing persons and a high success rate in locating them, strongly supports the legislation. I am sure that that organisation is well aware of the difficulties facing people whose relatives are missing and who must deal with their loss while managing the affairs of their loved ones.

Mr BRAD HAZZARD (Wakehurst) [11.35 a.m.]: The Protected Estates Amendment (Missing Persons) Bill is long overdue. I do not often congratulate the Government, but the amendments to the Protected Estates Act are much needed. There can be nothing more ghastly than having a family member disappear. Overcoming the emotional stress is difficult enough but attempting to manage bank accounts, shares, motor vehicles, real estate and so on can be an enormous additional burden. A missing person can be presumed legally dead after seven years but in the interim there is a real problem period. The hiatus will continue until the legislation is passed and subsequently receives assent.

When someone dies an executor is usually appointed under a will, if one exists, or it may be necessary for someone to apply for a grant of administration. So either an executor or a trustee makes an application for a grant of probate or a person applies for a grant of administration in the case of intestacies. When somebody dies there is a hiatus during which technically no-one can touch the assets of the deceased. But this bill addresses the more complex issue of a person who has disappeared and is not yet able to be presumed dead in accordance with those provisions that allow distribution of his or her estate. That is a seven-year problem, if you like. As a legal practitioner, I have struck this problem over the years and it is a terrible nightmare for the families involved. I bring to the attention of the House an article that I noticed in the *Manly Daily* of 27 October this year. It was about a Fairlight couple who had experienced this problem and who were cited as being instrumental in driving some of the changes that the Government has introduced in this place. The article states:

> A Fairlight couple whose son went missing three years ago have been instrumental in changing the law that prevents families from managing their loved ones' estates unless they are presumed dead.
> Glenn Flint was 27 years old in November 2001 when he went missing. His parents, Pauline and Lindsay, think the disappearance was related to his epilepsy.
> The Flints soon joined the Missing Persons Committee and worked with the Family and Friends of Missing Persons, which is run by Attorney-General's Department.
> Soon after Glenn went missing, the Flints started receiving mail from the various addresses where he had rented with friends.

The article goes on to cite contacts with superannuation companies, Medicare and so on and to describe the difficulties the Flints experienced in trying to elicit information from those organisations. It further notes:

> When the Flints called Medicare to see if Glenn had used his card they were not allowed to gain access to the information and even police were not told.

That highlights another problem: the ability to find the information necessary to locate a relative or friend. One does not have the legal authority to find that information. Apart from dealing with assets, the investigations and the normal steps one would take to try to determine the whereabouts of a loved one is another layer that can present problems. The article stated:

> Mrs Flint said they had been lucky because Glenn did not own property or a car.
> "I deal with families through the committee and I've heard horrendous stories," she said.
> "Homes are left in a state of disrepair because they can't put a tenant in so they're earning no money to pay off the mortgage and suddenly the house is repossessed by the bank at a major profit.
> "Cars are left in driveways because they can't be insured. A spouse can be left with no money because everything was in one account."

Based on what Mrs Flint said and on what most honourable members know from dealing with members of the public in these circumstances, the bill is critical. It is likely to make a substantial difference to the lives of otherwise stressed and torn-apart families. The amendment to Section 24 effectively introduces the concept of "protected missing person" rather than simply "protected person". The Protected Estates Act 1983 allows people

to seek the assistance of the Protective Commissioner to look after their affairs. An order can be made appointing various people, usually relatives or close friends. When an order is made a regime is put in place that allows the protected person to have his or her financial matters managed. The new class of protected missing person adds another layer to that overall protective framework. The concept is simple but crucial.

Other speakers have addressed the question of who can make the application, and how it works. It is logical that the Supreme Court should hear an application by relevant interested parties or family members and make the order. Such orders ensure that the stress on the family after someone goes missing will be diminished. I compliment the staff of the Attorney General on their excellent drafting of this bill. I wish I had had the opportunity of a briefing from the Minister. I congratulate the Attorney General and his staff on presenting an excellent bill that will make a substantial difference to families whose family members are missing.

Mrs JUDY HOPWOOD (Hornsby) [11.45 a.m.]: The Coalition does not oppose the Protected Estates Amendment (Missing Persons) Bill. The purpose of the bill is to amend the Protected Estates Acts 1983 to provide for the management of the estates of missing persons. Currently, the family and friends of missing persons can manage the affairs and estates of the missing person only after they obtain a grant of probate from the Supreme Court. Unless there is strong evidence that the person has died, probate may not be granted until the person has been missing for seven years. Consequently, it is difficult for families and friends to manage and preserve the assets belonging to the people who are missing.

The bill creates a statutory scheme for administering the estates of missing people when it is not known if they are still alive. The proposed amendments provide for an application to the Supreme Court for a declaration that a person is missing, which is similar to the existing procedure where a person can be declared a protected person. A next of kin, domestic partner, business partner or employee of the person, the Attorney General or the Protective Commissioner are among those who may apply for the declaration and seek the appointment of someone to manage the person's estate. The court can make a declaration, if it is satisfied that it is in the interests of the missing person to do so, that the person has been missing for 90 days—that is, it is not known whether the person is alive—and all reasonable efforts have been made to locate the person.

The Protective Commissioner or a private manager, such as a family member, may be appointed as the missing person's estate manager. The court and the Protective Commissioner will have the power to terminate an estate management order if satisfied a missing person is alive. An estate management order will also suspend a power of attorney, although the court will have the power to restore it as it sees fit. According to the second reading speech of the Attorney General, the legislation will be the first of its kind in Australia, with similar schemes existing in only two other countries, Guam and Canada, as has already been mentioned.

In relation to this legislation I honour two people who live in Berowra in my electorate, Harry and Enid Fox, who, almost three decades ago, suffered the terrible trauma of the disappearance of their son and his girlfriend. To this day they have not been found. Their son's backpack was found in bushland at Galston gorge, but there has been no other indication of the fate of their son and his girlfriend. I have spoken many times to Harry and Enid Fox, who are active in and have done a great deal of valuable work for the Family and Friends Missing Persons entity. Families and friends of missing people have an extremely difficult and painful time. They always wonder what on earth has happened to their loved one or friend who has gone missing. That is why the Missing Persons Unit, which was set up by the Government, and this bill are so important. This important legislation will assist the families and friends of missing people to properly manage the affairs of those who are missing and are deemed to have died but whose fate has not been properly determined. I commend the bill.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [11.49 a.m.], in reply: I thank the considerable number of honourable members who have made contributions to the debate. The process of dealing with the estates of missing persons is, as all have agreed, distressing for families and friends, who at the present time effectively are forced to prove that their loved ones are dead. It is significant that many honourable members who have spoken in this debate have been, in a previous life, either solicitors or persons engaged in some way in social work and, therefore, are aware of the real and practical problems that confront the families of people who are missing. They would also be aware that the existing system is not only problematic, and sometimes its operation is excruciatingly painful for families of missing persons, but that it is also unsatisfactory in the way that it deals with the majority of cases of missing people, that is to say, those who are for a time missing but are then found to be alive.

I received a number of supporting letters from people working in this field once the intention to bring this legislation was announced. I am particularly pleased to have received special support from the scheme from

the Missing Persons Committee NSW Inc, a group that has advocated for the interests of those who are missing loved ones. It is one of the groups that have sent me letters of support in recent times. I would particularly like to give recognition to that small unit within the Attorney General's Department that has had carriage of this legislation and the formulation of policy that has brought it forward. The Family and Friends of Missing Persons Unit within the Attorney General's Department, headed up by Leonie Jacques, is to be congratulated on the work that it has done. It is true, as several honourable members mentioned, that legislation of this nature does not exist in many other places. In fact, so far as we can ascertain, it exists only in three provinces of Canada, in the State of Wyoming in the United States of America and in the United States Territory of Guam, in the Pacific. Nowhere else, so far as we are aware, is legislation of this sort presently in place. That is, to say the least, surprising.

I should deal with just a few matters that have been raised by honourable members in this debate. I assure the honourable member for Baulkham Hills that under this legislation the Supreme Court will be able to make whoever the court considers appropriate the estate manager. That is to say, the court will not be confined to appointing a person who happens to make an application under this legislation. It will be a matter for the court to determine, in the particular circumstances, what are appropriate arrangements for estate management. That already is the case in relation to protected estates. So the question raised by the honourable member is easily answered.

Several honourable members spoke of the extra resources that might be needed by the Protective Commissioner. In that respect, I am able to point out that it is proposed to amend the Protected Estates Regulation to allow the Protective Commissioner to charge the same fees for the administration of estates of missing people as it presently charges in relation to protected persons. Two fees are payable for the estates of protected persons: a management fee, which is calculated as a percentage of the total value of the estate, with the present fee being 2.1 per cent of the estate for the first year of management, with 1 per cent of that capped at $2,200, and with the management fee reducing to 1.1 per cent of the value of the estate for every year that follows; and there may be an investment fee, which is, at present, 0.5 per cent of the total amount invested in the Office of the Protective Commissioner's investment funds. Those fees are calculated daily and are deducted at the end of each month. The practical effect of the structure of the fees is that the amount of fees payable varies according to the size of the estate, and that of course is appropriate.

The new fee structure, which commenced on 1 October 2003, significantly reduced the fees that were payable in any particular instance. That was, in turn, possible because of the injection of public funds. In 2003 and again in 2004 about $9 million was provided to the Office of the Protective Commissioner. That, coupled with the capacity of the fee structure to be adjusted to the size of an estate, ensures that financial resources for the Office of the Protective Commissioner are always sufficient to enable the commissioner to take care of the responsibilities of the office and that that will be so into the future. It is to be borne in mind that it is not expected that a large number of cases will be assigned to the Office of the Protective Commissioner at any particular time. Many of the cases that will be subject to this legislation will end up under the administration of a family member, a business partner or whoever the court has determined to be an appropriate person.

I should emphasise that the vast majority of submissions that have been received as part of the consultation process leading to the introduction of this bill focused on circumstances in which it simply is not known whether a person is alive or dead. It is certainly possible that a person who is looking after part of his or her estate—for instance, operating a bank account—might be regarded as missing by family and friends because that person is not in contact with the family and friends. This law is not aimed at those who fail to remain in contact with family or friends. This is not a law that will be applied to those who, as it were, choose to be unavailable to their family. If there is reasonable evidence to suggest that a person is alive, the scheme proposed by this bill will not be applied by the court.

The bill is squarely directed at those cases in which it is simply impossible to establish what has happened to a missing person: the person has vanished, is making no attempt to contact family or friends and is making no attempt to use the person's assets, and the families and friends are, as a consequence, deeply distressed and presented with many practical day-to-day difficulties—sometimes stressful and serious difficulties. This legislation is designed to overcome, as far as is possible, and deal with the terrible emotional stresses involved. I have some pride in commending the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BUSINESS OF THE HOUSE

Bill: Suspension of Standing and Sessional Orders

Motion by Mr David Campbell agreed to:

That standing and sessional orders be suspended to allow the Retail Leases Amendment Bill to proceed through all stages at this sitting.

RETAIL LEASES AMENDMENT BILL

Second Reading

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [11.58 p.m.]: I move:

That this bill be now read a second time.

The Retail Leases Amendment Bill amends the Retail Leases Act 1994. The Retail Leases Act 1994 established a legislative framework for regulating the relationship between landlords and small to medium sized retailers. It introduced minimum standards for the leasing of retail space and created a mechanism for dispute resolution. The legislation's track record speaks for itself. Since its establishment in 1994 the Retail Tenancy Unit has handled over 37,500 inquiries from landlords and retail tenants, resulting in over 3,800 informal mediations and over 1,600 formal mediations. Ninety per cent of these mediations have successfully resolved the matters in dispute.

It is noted also that since the introduction of the Act fewer than 0.004 per cent of the retail leases in New South Wales are formally mediated through the New South Wales Tenancy Unit in any one year. The amendments in the bill implement the recommendations of a national competition policy review of the Act. The review found that the Retail Leases Act 1994 does not have the effect of restricting competition, and recommends retention of the legislative scheme on net public benefit grounds. While the Act imposes some conditions on retail leasing, the associated compliance costs are considered to be minimal and are offset by the associated benefits. The legislation was found to provide a net public benefit.

However, the report did recommend changes: first, to the recovery of lease preparation expenses by landlords from tenants, and, second, to six-monthly statements of expenditure on outgoings. The amendments will prohibit landlords from recovering the costs of preparing and entering into a lease from tenants, except the costs associated with specific requests from tenants. This change will make the negotiating process more transparent, and allow the tenant to see more clearly the cost of entering into a lease. Small business tenants will be surprised no longer by large legal fees and other bills after they sign a lease.

The bill also removes the requirement on landlords to provide an outgoings expenditure report every six months. This reporting requirement was found to be costly to landlords and to provide little benefit to tenants. The requirement to provide written expenditure reports on an annual basis remains. These reforms will assist in creating a more even-handed, better-informed, and more transparent environment for the negotiation of retail leases for small business. In another place the Government has introduced an amendment to the original bill to remove any possible ambiguity relating to the transitional provisions. The amendment to the bill will make it clear that the new provisions of the bill will apply to all renewals and extensions to retail leases that take effect after the legislation commences. The bill does not affect the grant, renewal or extension of the Retail Leases Act before the legislation comes into effect. I commend the bill to the House.

Ms KATRINA HODGKINSON (Burrinjuck) [12.02 p.m.]: I state at the outset that the Opposition will not oppose the Retail Leases Amendment Bill. The object of the bill is to amend the Retail Leases Act 1994 to prohibit, with certain exceptions, lessors under retail shop leases from recovering lease-preparation expenses from lessees and to remove the current requirement for lessors to make available to lessees six-monthly statements of actual expenditure on outgoings to which lessees contribute. The Retail Leases Act 1994 was subject to a national competition policy [NCP] review and this bill is the result of that review. The Retail Leases Act 1994 regulates the relationship between landlords of retail spaces and small- and medium-sized retailers. The final report of the review, which was released in February 2004, found that, although some provisions regulated the rights of landlords and retail tenants that tended to create anticompetitive outcomes in the retail leasing market, they should be retained on the basis that they provide a net public benefit by the promotion of an efficient and fair marketplace.

The provisions identified were in the nature of compliance costs and exclusion of certain types and size of retail shop businesses from protection under the Act. The key NCP recommendations from the review of the Retail Leases Act 1994 final report of February 2004, commissioned by the Department of State and Regional Development, were that section 13 of the Retail Leases Act 1994 be amended to prohibit landlords from recovering lease preparation costs from tenants, except the cost of any alterations to the lease requested by tenants. In particular, the review committee noted that New South Wales is currently the only State that allows landlords to recover lease preparation costs from tenants.

The committee also found that no net public benefit is associated with that particular requirement. The committee noted that the current arrangements impose significant costs on tenants without any balancing benefits for those tenants, consumers, or the broader community. The committee found also that tenants had little control over how much landlords are entitled to recover under the existing provisions. A net public benefit for the proposed amendment was found on that basis, and I agree with that finding. As a retailer of some 15 years standing I find it interesting to discuss these types of issues with other retailers and to discover how far the lease preparation costs have taken them. Quite often they are surprised to find out that they are responsible for those costs. The NCP review noted that the removal of that provision in its entirety could disadvantage tenants by making landlords reluctant to make any alterations to a lease sought by tenants. In those circumstances the committee considered that it could be reasonable for landlords to be allowed to charge a tenant for the cost of any alteration to the lease requested by the tenant.

The committee recommended that section 27 of the Retail Leases Act 1994 be amended to remove the current requirement for landlords to provide tenants with a six-monthly statement of actual expenditure on outgoings. As has been stated in another place and by the Minister in this place, that is a sensible and workable amendment to the bill. I know that the review committee found that a net public benefit was no longer associated with the provision of six-monthly reconciliation statements for ongoing expenditure. They added to compliance costs for landlords and they are of no real overall benefit to anybody.

That amendment has received extensive support from various third party interest groups with whom I have consulted on the bill, and I have consulted widely. I know that the many chambers of commerce with which I have consulted, including Chatswood, the State Chamber, Yass, Hornsby and various others, have concerns about the amendments in the bill. I thank them for their contributions and their replies to my correspondence. I note that a couple of interest groups have expressed their concern about the bill, and it is important for the sake of argument and to ensure that interest groups know they are being heard to place some of those concerns on the record. Third parties that have expressed concern include the Law Society and the Shopping Centre Council.

The Law Society wrote quite thoroughly, as it always does. I commend the organisation for taking such an active interest in legislation that comes before this place. It referred to lease preparation expenses and it is concerned that proposed new section 14 (4) (a) to (c) enables lessors to require payment from a prospective lessee or the lessee of a reasonable sum in respect of lease preparation expenses incurred in connection with making an amendment to a proposed lease. The Law Society is concerned that proposed new section 14 (4) (a) to (c) may result in prospective lessees wanting to debate lease terms before committing to a lease. They say that there is also scope for disputes as to whether a particular lease term correctly reflects an agreement referred to in proposed new section 14 (4) (b), and thus falls within the exceptions provided in that paragraph. They say that those comments are equally applicable to the amendments to section 45 of the Act, as proposed by item [9] of schedule 1 to the bill. Section 45 applies to the same regime that is set out in section 14 concerning lease preparation expenses and renewal or extension of a lease.

The Law Society has put forward three alternative cost regimes that are preferred by its committee. Briefly, the Law Society states that one of its alternative cost regimes would be to have no amendment to the existing legislation. The Law Society points out that, under the present regime, there is no prohibition upon the lessor passing on its legal cost of lease preparation to the lessee and that it is in fact current practice in most lease transactions for the lessor to do so. The Law Society also states that it can be argued that determination of this issue by the market is consistent with the Government's policy of promoting competition and that such a system operates under Western Australian legislation by virtue of section 9 (2) of the Commercial Tenancy (Retail Shops) Agreements Act 1985. The Law Society also states that it is important, particularly in evaluating this option, to note the protection given to lessees by section 199 (4) of the Legal Profession Act 1987.

The Law Society's second alternative cost regime is to amend the legislation to provide that each party pay its own costs. The Law Society states that this option promotes the bill's object of prohibiting lessors from

recovering lease preparation costs from lessees, and that the removal of the exceptions set out in section 14 (4) reduces the scope for disputes. The Law Society notes that this option is consistent with the current system in the Australian Capital Territory, where section 23 of the Leases (Commercial and Retail) Act 2001 provides that each party is to pay its own costs in respect of the lease and that the party that seeks registration of the lease is to pay the additional costs, such as stamp duty and registration fees.

The third alternative regime put forward by the Law Society of New South Wales is that each party is to pay a proportion of the cost of preparing a lease. The Law Society states that the legislation could be amended to provide that each party pay a specified proportion of the lease preparation costs and that an example of that system is the South Australian legislation, which provides that the lessor is not prohibited from seeking payment of 50 per cent of its preparatory costs of the lease or its renewal in certain circumstances. The Law Society refers to section 15 (3) of the South Australian Retail and Commercial Leases Act 1995. The Law Society made other comments relating to the bill, but the ones I have mentioned are the key points the Law Society was concerned to ensure were mentioned in this House.

As I stated previously, the Shopping Centre Council of Australia has expressed concerns that are similar to those mentioned by the Law Society. In the interests of a full debate, I will draw attention to the points that the council has made. The Shopping Centre Council has said there are some problems with the bill. The definition of "lease preparation expenses" is unclear and the expression "or other expenses incurred by the lessors" is very wide and is also not defined. The exclusion of the registration fees under the Real Property Act leaves uncertain whether stamp duty is included. Although the Duties Act makes the lessee liable for payment of stamp duty under a lease, if the lessee does not pay that duty and the lessor has to enforce the lease, arguably by this bill the lessor will not be able to recover stamp duty from the tenant, should the lessor decide to pay the stamp duty to enforce the lease in court.

Further, if the lessor prepares a lease but the lessee then withdraws from negotiations, the lessor cannot recover any cost of doing so, which is obviously not fair if the lessee has otherwise paid a deposit—for example, prior to entering into a retail shop lease—and has agreed to be responsible for such cost. This situation is specifically preserved by section 13 (3) of the existing Act, which entitles the lessor to recover legal or other expenses incurred in the preparation of a lease when the person "enters into and then withdraws from negotiations with the lessor or in respect of the lease". The council believes that there is no reason why that section should not be retained.

The Shopping Centre Council of Australia also states that there are further problems with the amendments to section 14. The prohibition on lease preparation expenses is said to be "in connection with the granting of a retail shop lease". The definition of lease preparation expenses relates to the "entering into of a retail shop lease". It is not clear whether the draftsman intended there to be a difference between those two provisions. The council also states that specific provisions in new section 14 (4) and (5) will also prove to be unworkable in practice. First it will be difficult to separate what costs are in respect of lease amendments and what costs are in respect of "entering into a retail shop lease" in any particular circumstance. Second, it will slow down lease negotiations, whereas previously when dealing with amendments the lessee would want to know what the "reasonable sum" is likely to be. Third, amendments to remedy a failure to include or omit a term, which is referred to in new section 14 (4) (b), will be the subject of a dispute, as the parties could easily have different interpretations of the wording of a term they had agreed on in principle, such as a particular type of rent review provision.

The Shopping Centre Council of Australia believes that the proposed amendments are unnecessary and cumbersome. The council also believes that the existing provisions of the Act in section 13 are an effective way to protect a tenant from exploitation. I have read those comments onto the record for the sake of facilitating a full debate. It is important for interest groups to be given an opportunity to have their concerns ventilated in this House. The Coalition supports retailers and people who are prepared to fight to ensure that their businesses are given a fair go. Obviously small business people have to deal with many issues on a daily basis—compliance costs, government regulations, payroll tax, superannuation costs, workers compensation costs and occupational health and safety laws—without imposing upon them the added burden of having to pay the cost of establishing a lease. Their concerns should not be overlooked. Having raised the concerns of stakeholders, I indicate that the Opposition does not oppose the bill.

Mr PAUL McLEAY (Heathcote) [12.15 p.m.]: I support the Retail Leases Amendment Bill. My comments will be directed chiefly to the provisions that apply to the recovery of lease preparation costs and the repeal of the requirement for half-yearly statements. The main purposes of the bill are to meet the New South

Wales Government's commitments under national competition policy and to further improve the position of small retailers in their dealings with landlords. The Retail Leases Act 1994 has been reviewed as part of the Government's commitment under national competition policy to review legislation that potentially restricts competition. The Act was reviewed through an extensive process of consultation with key industry, community, and other interested stakeholders. While the review found that the Act did not restrict competition and that the framework should be retained because it produced a net public benefit, the review recommended some changes.

Consistent with the recommendations of the review, the Government has approved the amendments to improve the fairness and efficiency of the Act. First, section 13 of the Act will be repealed, and section 14 will be amended to prohibit landlords from recovering lease preparation costs from tenants. Second, section 27 of the Act will be amended to remove the current requirement for landlords to provide tenants with a six-monthly statement of actual expenditure on outgoings. In relation to the proposed amendments of section 13 and section 14 of the Act, the review found that the current arrangements impose significant costs on landlords, without any countervailing benefits for tenants, consumers or the broader community. Tenants were also found to have little control over the amount of costs that landlords are entitled to recover under the existing provisions. Based on a net public benefit, grounds for the amendment were found to exist.

In relation to the proposed amendment of section 27 of the Act, the review found there was no longer a net public benefit associated with the provision of six monthly reconciliation statements for outgoing expenditure. The provisions were found to impose compliance costs on landlords associated with the preparation of written budgets and associated reports, and the review considered that these costs would be effectively passed on to tenants and possibly consumers, with little additional benefit for tenants above what is already provided through the provision of annual reconciliation statements. On that basis, tenant and landlord groups, including the Shopping Centre Council of Australia, the Property Council of Australia, and the Australian Retailers Association, supported the abolition of the existing six-monthly reporting requirement.

The proposed reforms will help to cut red tape and reduce associated costs for businesses, and they will provide a more effective and equitable environment for promoting profitability in the retail trade sector, with expected benefits for small business retailers in the retail leasing arrangements, for landlords in the retail accommodation industry, and benefits for the broader community generally. By reducing compliance costs for business, the reforms are expected to reduce the likelihood of those costs being passed on to consumers in the form of increased prices for goods or services. These amendments are a win-win for landlords and tenants because tenants will benefit from reduced lease preparation costs and landlords will have reduced administration costs by not having to prepare six-monthly reconciliation statements for outgoings.

The proposed amendments are more good news for small businesses in New South Wales. The small business sector has accurately been described as the lifeblood and the engine room of the economy. The amendments to the retail leasing framework will directly benefit small retailers. This is another example of the Carr Labor Government's hard work and support for small businesses in New South Wales. As a result of the Government's hard work, there are now more small businesses in New South Wales employing more people than ever before. This State has the largest small business sector in the country, with more than one million people employed in non-agricultural firms that employ fewer than 20 staff.

Small businesses continue to grow and thrive in New South Wales because the Carr Labor Government's micro-economic reforms continue to reduce the cost of doing business. The economic reforms introduced during the eight years to June 2003 have seen average real reductions in electricity charges of up to 17 per cent, port charges of 31 per cent, water charges of 44 per cent, and freight rail charges of 44 per cent. In addition to the reductions in government charges, taxes have also fallen. The Government has cut payroll tax; under the Coalition Government it hit 8 per cent, today it is only 6 per cent. Apprentices and trainees had been exempted from tax and the tax-free threshold has been increased to $600,000. Since 1999 other key cuts to business have included the abolition of the debits tax, the reduction of the general insurance stamp duty rate to 5 per cent, and the suspension of the electricity distribution levy. The New South Wales Government supports business because businesses create jobs. The Government will continue to create an economic business climate that supports businesses succeeding and growing.

In other good news for small business, I inform the House that yesterday Mr Tony Burke, a former member of the other place in this Government, was appointed as Labor's shadow spokesman for small business. I know he will take to that task with enormous enthusiasm and I am sure he will work with his New South Wales colleagues, including the Minister for the Illawarra, and Minister for Small Business, David Campbell, as well as the honourable member for Illawarra, who has spoken in this debate. Minister Campbell continues to do

an outstanding job in this State. He is a team player, he works with us all and supports us all, and we do likewise with him. I am sure he will show the same support for Tony Burke and take the challenge to the Howard Government with gusto. In summary, these reforms will assist in improving the negotiating position for small to medium size retailers by creating a transparent, more even-handed environment for the negotiation of retail leases. I commend the bill to the House.

Ms NOREEN HAY (Wollongong) [12.22 p.m.]: I add my congratulations to the former Government member of the other place, Tony Burke. I am absolutely convinced that he will do a magnificent job in his shadow portfolio. Retail tenancy legislation has been in place in New South Wales since 1994 in the form of the Retail Leases Act. That legislation has provided a basis for good leasing practices in the retail industry, provided for a more equitable bargaining position between the parties to a lease, and provided a cost-effective and timely dispute resolution process. The Retail Leases Act 1994 established a legislative framework for regulating the relationship between landlords and small- to medium-size retailers in retail leasing arrangements.

The Act introduced minimum standards for leasing of retail space and created a dispute resolution mechanism. The Act applies to all businesses that satisfy the size and lease term criteria and are located in either a shopping centre or in a shop facing a street. It is estimated that 55,000 retail leases in New South Wales are currently covered by the Act. The framework for retail leases was introduced in response to pressure from the retail leasing industry for measures to ensure a just and equitable retail leasing environment, with a view to protecting small-to medium-size retailers and overcoming the disadvantage small retailers face in negotiating with better resourced landlords.

Since the introduction of the legislation it has been strongly supported by both landlords and tenant industry bodies as providing a basis for good leasing practices in New South Wales. The legislation's track record speaks for itself. Since its establishment in 1994, the Retail Tenancy Unit has handled more than 37,500 inquiries from landlords and retail tenants, resulting in more than 3,800 informal mediations and more than 1,600 formal mediations; and, as the Minister said, based on current figures, 90 per cent of the mediations conducted by the Retail Tenancy Unit were successful in resolving matters in dispute. The proof of its operational effectiveness is clearly demonstrated by the relatively low incidence of disputes between landlords and tenants.

As the Minister said, currently less than 0.004 per cent of retail leases in New South Wales are formally mediated through the New South Wales Retail Tenancy Unit in any one year. Since the introduction of the Act there has been a range of amendments, with some of the most significant reforms introduced in 1998. First, more specific disclosure statements were designed to ensure that property owners and managers offering a lease, retail merchants taking up a lease, and merchants taking over a lease on assignment are much better informed about the terms and conditions of leases and the commercial obligations of the parties.

The 1998 amendments introduced a requirement for retail merchants to make a disclosure statement to the landlord declaring whether they have taken independent advice on the commercial terms of the lease and whether they are able to meet all the conditions of the lease, including the ability to pay the rent and other outgoings. The amendments established a fairer process for the determination of current market rent and the right of a tenant to reasonable compensation for a shop fit-out if the lease is terminated on the grounds of demolition, whether or not the demolition occurs. However, the greatest achievement of the 1998 amendments was the draw-down of the unconscionable conduct provisions of the Trade Practices Act, which provided affordable access to justice on matters of unconscionable conduct.

The adoption of the unconscionable conduct provisions in the retail leases legislation provided a mechanism that enables both merchants and landlords to pursue their commercial decisions with regard to retail leasing, as long as they comply with the legislation and do not behave in an unconscionable manner in their dealings with one another. The Retail Leases Act has been reviewed to determine whether it restricts competition. That public stocktake of the framework surrounding retail leases presented an important opportunity to consider how well the Act achieved its objectives. The review found that the retail leasing framework is working well. The framework received overwhelming support for its retention from industry and community and professional groups, and it was found to produce a net public benefit.

The objectives of the Act remain relevant and there is sufficient justification for the continuing use of the framework to govern retail leasing in New South Wales. In order to streamline and improve the framework for both landlords and small businesses, two reforms have been recommended. The bill introduces those reforms; and they will help to further cut red tape and provide a more effective and equitable environment for

retail leasing, thus promoting a more profitable retail sector in New South Wales. I congratulate the Minister for Small Business on taking this important issue on board and I commend the bill to the House.

Mr DARYL MAGUIRE (Wagga Wagga) [12.28 p.m.]: The Retail Leases Amendment Bill makes two main amendments to the Retail Leases Act 1994. The bill amends section 14 to stop landlords from recovering from lessees the cost of preparing and entering into a lease, other than costs incurred in making amendments to the lease at the request of the lessee. The bill omits sections 27C and 27D, thereby removing the requirement for landlords to provide an outgoings expenditure statement every six months. I have a retail background and I know that these amendments to the Act will be welcomed by small businesses and retailers. The removal of a requirement for an outgoings expenditure statement is non-controversial and is certainly supported by most parties consulted by the Coalition.

The Opposition does not oppose this bill but I want to refer to a scenario that I would like the Minister to consider. This bill is aimed at retail leases, which are an important part of the economic base in New South Wales and in Australia. They make an enormous contribution to employment and to our social and economic wellbeing. I would also like the Minister to consider commercial leases that are entered into by people other than retailers, who are not covered by any legislation. I refer to a problem that has been brought to my attention that involves retail as well as commercial operations.

Owners of retail leases can air their disagreements and concerns about a particular lease and an independent arbitrator can make a decision in relation to that lease. However, people in the commercial sector cannot. The only way that they can resolve their problems is through solicitors and the courts, which comes at an enormous cost to them. Small businesses and commercial operators operating in a commercial building might have a retail front. Today I give as an example a business that manufactures furniture and has a retail outlet. That business operates under a commercial agreement, not a retail agreement.

This small business man who manufactures furniture has in place a five-year plan which has enabled him to move to the city, lease commercial premises, build furniture at the rear of the building and retail it at the front. In June 2002 he agreed to lease a commercial building. The building was only partly constructed and the site had not been completed. The agent assured him that the work would be finished and that his lease would commence on 1 August 2002. He needed that assurance because his manufacturing business depended on the retail outlet at the front of the building. He entered into the lease and began manufacturing furniture.

Twenty-one months after the commencement date of his lease that work had still not been done and he was forced to put the matter into the hands of his solicitor. He had no other avenue of appeal. He could not complain to the real estate agent, who deals with the paperwork and leasing arrangements, and he could not complain to the owner. The matter dragged on and he was totally frustrated. In 2004 he came to see me. He tried to get the local council to approve the building. He entered into the contract before the building was completed on the promise that the work would be done. It was written into the contract but it was not completed.

He asked council, first, to approve the building and, second, to allow him to implement his five-year plan which would enable him to market his products in his shopfront and use the car park on Sunday to sell second-hand and restored furniture. That did not occur and, as a result, his business suffered. During that time he carried out all the necessary work. He repaired the building, laid the turf and completed the landscaping because the landlord and the agent refused to complete the work that they had promised to do. His only avenue of appeal was to take expensive legal action to obtain a result. People who hold commercial leases must be able to have their complaints heard in a fair and reasonable manner and at a reasonable cost.

Tenants holding residential leases have an avenue of appeal under the Residential Tenancies and Tribunals Act. Tenants and landlords have an opportunity to raise their grievances with the Department of Fair Trading. As a result of the proposed amendments to the Retail Leases Act retailers will be able to take their complaints before relevant bodies and have them heard. People with commercial leases have nowhere to go. It is impossible for small manufacturers, such as the one to whom I referred, to fight large corporations or investors who have great wealth, assets and resources and to obtain an outcome that is fair and reasonable. I ask the Minister to take into consideration the complications for small business men of commercial leases. I ask the Minister to assist them in resolving these complexities and to enable them to have their complaints heard in a fair and cost-effective manner.

Mr BRAD HAZZARD (Wakehurst) [12.36 p.m.]: The Liberal-Nationals Coalition does not oppose the Retail Leases Amendment Bill. However, it is opportune to reflect briefly on why the Retail Leases Act, the

subject of these amendments, was introduced in 1994. By definition there is often a great deal of difference in the relative commercial strengths of lessors and lessees. The 1994 legislation really only addresses retail lease outlets. There are a number of other commercial leasing arrangements but that is the broader description of retail leases. Retail leases are a sub-group of the broader commercial leasing arrangements.

As a Liberal and as someone who believes in the value of free enterprise, a return for effort, and a return for a preparedness to take a chance, to get out into the marketplace and do business, it is my view that, as far as practical, the Government should stay out of commercial arrangements between parties in the business community. In 1994 it was recognised that there had been some changes. Large groups of companies developed large shopping centres. In that environment a real problem emerged in that the weaker party—the tenant or the lessee—was subjected to whatever fees and charges the lessor imposed.

The Liberal-Nationals Coalition introduced the Retail Leases Act in 1994, which at the time was the subject of a great deal of community debate as to how far the Government should go to try to protect individual commercial enterprises. Some would say that the Government did not go far enough and some would say that it went too far. Even today that is the view that is held by people in various sections of the community. In the end the Government made some effort to correct the power imbalance between lessees who, by definition, are generally smaller enterprises than the larger conglomerates who tend to run retail centres. Without reflecting personally on individual companies, I note in passing that big companies—Westfield, AMP and so on—have the opportunity to develop larger retail centres.

The legislation established certain safeguards for retail tenants; I am not sure that some of them were practical. The basic formula used to be that most commercial tenants would request at least a three-year lease, possibly with a three-year option and perhaps even a further three-year option. But the legislation developed the concept that leases should last a minimum of five years unless a solicitor's advice was sought. I know of tenants who did not, and do not, want to pay legal fees to get advice about matters with which they are already familiar. Some smaller lessees are very business savvy and possibly do not need some the protections in the Retail Leases Act 1994, but others do. The situation has played out over the years, sometimes to the advantage and sometimes to the disadvantage of lessees. But at least the legislation created awareness and served as a reminder to lessors that if they get too silly about the provisions and requirements they impose on lessees, at some point governments of both political persuasions are prepared to consider trying to empower lessees and level the differential between lessors and lessees.

The 1994 Act was, as the House is now well aware, subject to a national competition policy review, which highlighted some of these issues. It was decided that, on the one hand, some amendments should be made but, on the other hand, those changes could have certain negative consequences. So the amending bill ultimately made only very minor amendments to the original Act. The differential imbalance between lessor and lessee was finally addressed in 1994 towards the end of the Coalition Government's time in office. Then Minister Ray Chappell, the member for Northern Tablelands, had carriage of the legislation and was very keen to provide some opportunities to redress that imbalance. The review uncovered only a couple of minor matters, which the shadow Minister has addressed. However, I must mention the question of key money and legal costs. New section 14 (1) states:

> A person must not, as lessor or on behalf of the lessor, seek or accept the payment of key-money or lease preparation expenses in connection with the grant of a retail shop lease and any provision of a retail shop lease is void to the extent that it requires or has the effect of requiring the payment of key-money or lease preparation expenses in connection with the granting of the lease.

A further provision makes a slight exemption in the case of modification or alteration of a lease that is done at the tenant's request. Essentially, the bill turns on its head the orthodoxy of the lessee paying the lessor's costs. I think, on balance, that is a good thing but one sometimes wonders whether prescriptive legislation has the desired effect. For example, it will not take two seconds for some of the large groups that run shopping centres—who still have a lot of power—to work out that they have only to increase the rent ever so marginally over the period of the lease to recover the legal costs and whatever might otherwise have been labelled "key money." Perhaps the Carr Labor Government thinks the bill is somehow addressing this issue but I am not sure that it is. I do not mean to reflect unfairly on the Carr Government in this case because I think it is probably trying to address this issue. But perhaps it has no sense of connectedness with the reality of the power differential between lessor and lessee.

I believe the development of centralised shopping centres run by large conglomerates has produced some issues that the Government must address. It needs to strike a balance between supporting the private sector in developing essentially fabulous services for the community and simultaneously providing real safeguards and

protections for lessees, who put their life savings and their blood, sweat and tears into establishing businesses only to find themselves at the total mercy of often distant, very large conglomerates with very large shopping centres. I have seen, both as a member of Parliament and as a lawyer, lessees move into a vacant shop in a retail centre, with great hopes and excitement and bearing an enormous financial burden. They work long hours to establish and build the business and are then treated in some cases with little more than contempt by the shopping centre managers.

Some incredible provisions can be inserted in commercial leases and subset retail commercial leases that are so onerous they destroy people's lives. I think particularly of provisions that are often created in a vacuum, with no consideration of their impact on the lessee. For example, lessees might be required to update the shop every three to five years. They could spend $100,000, $200,000 or $300,000 updating the premises in accordance with the views of the shopping centre management about how the centre should develop. The Labor Party purports to be doing something for lessees. Yet, in reality, this bill removes $500, $600 or $700 from the cost of the lease up front and then throws lessees to the wolves for the balance of the lease.

I am not suggesting that that is the intention of the New South Wales Labor Party or the Labor Government. But New South Wales Labor in government should be pursuing and addressing some bigger-vision policy issues. One of those issues is the way in which harsh provisions can be incorporated in commercial retail leases. I know of people who have had to walk away after 5 or 10 years in business. Those people put their heart and soul, their life savings and any accumulated profits into invigorating and renewing their business and growing goodwill. That is a crucial issue. Any small business person will say that retail is not just about generating income but about developing goodwill and having something to sell as that person gets older or moves on to another business. That is when it all falls apart.

I can think of a coffee shop in a particular shopping centre—which I will not name—that generated excellent goodwill. It was developed by a Greek family, who worked very hard on the business over many years. They built a great reputation in the local community. They served fabulous coffee and good food and had a great friendly spirit. Their business did not fit with what the shopping centre management had decided for that centre. They did not have the fiscal support to change the lay-out of the inside of the shop, and were effectively driven out of the coffee shop. The family had worked in the coffee shop in that centre for as long as I can remember, and suddenly one day it was gone.

I say to the Carr Government, and to both sides of politics, that a review of how best to protect retail lessees in these big centres is timely, whether under the national competition policy or otherwise. How can we ensure that we strike the balance between supporting free enterprise—the initiative of individuals—and encouraging business, and protecting the very people whose entire livelihoods are wrapped up in businesses? The issues dealt with in this bill are small chips compared with the very serious issues facing retail lessees in New South Wales today.

Mr WAYNE MERTON (Baulkham Hills) [12.50 a.m.]: The Opposition does not oppose this legislation. The question of shopping centre leases and the Retail Leases Act was first visited by a Coalition Government in 1994. To be frank, it is not easy to reconcile the interests of landlords, the lessors, and tenants, the lessees. Tenants want to meet certain criteria and landlords have inherited rights as owners of the real estate. The question of trying to balance those priorities is one that taxed the Coalition Government in 1994 when it introduced the legislation that is being revisited in 2004. The Retail Leases Act 1994 introduced a number of reforms so far as tenants were concerned, and a number of conditions were imposed on landlords. For example, in relation to rent variation clauses, the landlord had to elect how the rent was to be adjusted and did not have the luxury of enjoying multiple choice or multiple factors to increase the rent.

In other words, a rent could be adjusted on a consumer price index [CPI] basis, a fixed percentage basis or a current market valuation basis at each rent review period. Landlords could not choose the greater of the CPI increase, the fixed percentage increase or the current market rental. They had the option to vary the method of rent review at each rent variation period. For example, a landlord could nominate the CPI the first year, the current market rental the second year, and a fixed percentage increase the third year. There were no ratchet clauses. If a landlord elected the current market, and the current market rental decreased in any period of time, the rent would also decrease. The landlord did not have the luxury of saying that the rent would be not less than it was during the 12 months prior to the rent review period.

That has been the law since 1994. In addition, a certificate endorsed by an independently instructed solicitor was attached to the lease stating that the lease document had been explained to the lessee and

specifying the term of the lease. If a certificate was not issued the landlord was deemed to have granted the tenant a minimum five-year lease, irrespective of what was specified on the lease. I presume that over the years some landlords who rented out shops have not had an independent certificate affixed to the lease on behalf of the tenant, and have found that, by virtue of the legislation, a one-year, two-year, three-year or four-year lease automatically created a tenancy of five years. In essence, they were big changes.

It seems that this bill is an attempt to look at the perimeter of the issue. I have no doubt that a number of tenants in shopping centres have done very well. But, as the honourable member for Wakehurst said, many have also done disastrously. I am not here to attribute blame. In many cases people are ill-prepared. With no business or retail experience they seize the opportunity to have their own business—many cannot get in quick enough—and then the cold reality of running a commercial entity soon becomes obvious. The rent and outgoings are paid, sales do not come in, and many people simply go broke. For many families it has been a recipe for disaster when they have borrowed money and mortgaged their homes. Some have never recovered. In those circumstances one cannot require a landlord to be responsible or liable.

Within the ambit of free trade no-one compels a tenant to sign a lease for a shop. That is another issue, and one that has caused some distress. Some landlords are highly geared and have debts and outgoings to pay, and unless the rent is forthcoming it is difficult for them to meet those debts. Let us not assume that every retail lease is in a complex of 100 shops: it could be a single shop or a strip of shops. This bill provides that a landlord who rents a shop cannot recover from a lessee the cost of preparation of the lease. As the Minister for Roads knows, when he was a lawyer the landlord used to send out the lease and, without an option, the tenant would sign it if he wanted a shop. He would cop it sweet because he had to pay the landlord's costs of preparation of the lease.

Mr Carl Scully: Did you give advice or did your paralegals give advice?

Mr WAYNE MERTON: No, I used to deal with these matters because they are important. No doubt the Minister would have done so also, because there are ramifications later down the track when someone knocks on the door.

Mr Carl Scully: I did my own conveyances, but you didn't! You had paralegals.

Mr WAYNE MERTON: No, not at all. I did it very well, and I did it for many more years than you did.

Mr Carl Scully: You had a sausage factory!

Mr WAYNE MERTON: No, I did not have a sausage factory. You have probably had plenty of experience of eating sausages but, judging by your weight, it would not show.

Mr Carl Scully: If I ate sausages I might look like you!

Mr WAYNE MERTON: No, not at all. If you looked like me it would be an improvement. The day they make seaweed sausages you might eat them. This legislation simply provides that if the landlord prepares the lease, the landlord has to pay for it, unless the tenant wants some amendments to it. The cost of the lease will be included in the rent after the landlord has worked out the cost of preparing it. This bill will not achieve anything. It is interesting that the Government has introduced it when there are so many more important issues relating to retail tenancies that it is not grappling with. It is trying to balance the rights of the tenant and the landlord.

A lot can be done. It is most interesting that the Government sees fit to introduce legislation that deals with only one aspect of leases, that is, the cost of preparation of the lease. That cost is a small proportion of the overall expenditure incurred by both landlords and tenants. The Government amendment means well, but it does not try to address the real issues that affect the retail leasing sector day in and day out. The Government should look at some of the other important issues. However, the Opposition will not oppose the bill. At least it deals with that one aspect of retail leasing.

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [1.00 p.m.], in reply: It is interesting that the honourable member for Baulkham Hills undermined what was said earlier by the shadow Minister. However, I acknowledge the Opposition's

support for this bill. The honourable member for Baulkham Hills and the honourable member for Wakehurst commented on the history of the bill. The Act being amended is a 1994 Act, introduced by the Government at that time as a consequence of a private member's bill introduced in another place by a member of the Labor Opposition, the Hon. Bryan Vaughan. I mention that because until the contribution of the honourable member for Baulkham Hills, there had been a seriously bipartisan approach to this legislation in an attempt to achieve the difficult balance that must be struck. These amendments result from a review of national competition policy. They are being introduced to ensure that New South Wales complies with national competition policy principles and to ensure that a penalty is not imposed by Treasurer Peter Costello as a consequence of this State not passing these amendments.

The honourable member for Wagga Wagga related a sorry story about a business in the his area. I take on board his comments about commercial agreements. However, his comments emphasise to all of us that people must be made aware of the importance of understanding the rules before they enter into an agreement. I note the honourable member for Wagga Wagga nods, indicating his agreement with that comment. I accept that it was a sorry saga, but it underlines the fact that honourable members of this place should be advising constituents to always read the fine print and understand the terms of an agreement before entering into it. Most of us would agree that we should not necessarily accept the word of an agent or the owner of a building. We must understand the ground rules before entering into arrangements.

These amendments are good for small to medium size retailers and landlords alike. In New South Wales—which has the largest retail sector in Australia, accounting for approximately 32 per cent of the national market—a thriving retail sector is vital for the State's economy. These amendments continue to improve the framework governing retail leases in New South Wales. They build on the framework set up by Labor when it was in Opposition in 1993-94. The amendments are yet another good example of the strong work of the Carr Government in supporting small businesses in New South Wales. I note the comments of the shadow Minister that the Opposition supports that work for small business, on this occasion following a national competition policy review. The honourable member was quite complimentary of the work that the New South Wales Government has done on this occasion, although that contribution was undermined somewhat by what was said by the honourable member for Baulkham Hills.

As we heard in the contribution of the honourable member for Heathcote, the Carr Government's economic reforms have reduced the cost of doing business in New South Wales. The Government supports businesses because businesses create jobs, and the Government's support for business is showing results around the State. I conclude by acknowledging that the honourable member for Wollongong made some valid points about unconscionable conduct. Those comments reflect her commitment to equitable treatment for all and a sense of natural justice. For the most part, there has been a commonsense approach to the debate on this bill. I repeat that the Government's amendments support both retailers and landlords. That is important. 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 1.05 p.m. The House resumed at 2.15 p.m.*]

DEATH OF DR ELIZABETH ANNE KERNOHAN, AM, A FORMER MEMBER OF THE LEGISLATIVE ASSEMBLY

Mr SPEAKER: I have to advise the House of the death on 21 October 2004 of Elizabeth Anne Kernohan, a former member of the Legislative Assembly.

Members and officers of the House stood in their places.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Report

Mr Speaker announced the receipt, pursuant to section 26 of the Commission for Children and Young People Act 1998, of the report entitled "Annual Report 2003-04".

Ordered to be printed.

PETITIONS

Milton-Ulladulla Public School Infrastructure

Petition requesting community consultation in the planning, funding and building of appropriate public school infrastructure in the Milton-Ulladulla area and surrounding districts, received from **Mrs Shelley Hancock**.

Murrumbateman Public School

Petition requesting re-establishment of Murrumbateman Public School, received from **Ms Katrina Hodgkinson**.

Skilled Migrant Placement Program

Petition requesting that the Skilled Migrant Placement Program be restored, received from **Ms Clover Moore**.

Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **Mr Greg Aplin**, **Mr Alan Ashton**, **Mrs Shelley Hancock**, **Mrs Judy Hopwood**, **Mr Malcolm Kerr**, **Mr Steven Pringle** and **Mr Andrew Tink**.

Lake Wollumboola Recreational Use

Petition opposing any restriction of the recreational use of Lake Wollumboola, received from **Mrs Shelley Hancock**.

Crime Sentencing

Petition requesting changes in legislation to allow for tougher sentences for crime, received from **Mrs Shelley Hancock**.

Willoughby Traffic Conditions

Petition requesting a regional traffic plan for the Pacific Highway at Willoughby, received from **Ms Gladys Berejiklian**.

Road Tunnel Air Filtration

Petition asking the Government to ensure that all Sydney road tunnels are fitted with air filters, received from **Ms Clover Moore**.

Old Northern and New Line Roads Strategic Route Development Study

Petition requesting funding for implementation of the Old Northern and New Line roads strategic route development study, received from **Mr Steven Pringle**.

Coffs Harbour Aeromedical Rescue Helicopter Service

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

Yass District Hospital

Petition opposing the downgrading of existing services at Yass District Hospital, received from **Ms Katrina Hodgkinson**.

Breast Screening Funding

Petition requesting effective breast screening for women and maintenance of funding to BreastScreen NSW, received from **Mrs Judy Hopwood.**

Greater Murray and Southern Area Health Services Merger

Petition opposing the merger of the Greater Murray and Southern area health services, received from **Mr Daryl Maguire**.

Alcohol and Drug Services

Petition requesting increased and expanded inner city alcohol and drug services, received from **Ms Clover Moore**.

Mental Health Services

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

CountryLink Rail Services

Petitions opposing the abolition of CountryLink rail services and their replacement with bus services in rural and regional New South Wales, received from **Mr Andrew Fraser**, **Mr Andrew Stoner** and **Mr John Turner**.

South Coast Rail Services

Petition opposing any reduction in rail services on the South Coast, received from **Mrs Shelley Hancock**.

Country Rail Booking Offices

Petition opposing the closure of country rail booking offices, received from **Mr Daryl Maguire**.

Bus Service 300

Petition requesting improved bus services including expansion of the 300 series bus service to adequately serve the inner city, particularly during peak-hour travel, 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**.

Bus Service 352

Petition requesting extension of bus service 352 to operate on nights and weekends, received from **Ms Clover Moore**.

Murwillumbah to Casino Rail Service

Petition requesting the retention of the CountryLink rail service from Murwillumbah to Casino, received from **Mr Neville Newell**.

Albury Electorate Policing

Petition requesting an increased physical police presence in the Albury electorate, received from **Mr Greg Aplin**.

Isolated Patients Travel and Accommodation Assistance Scheme

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

Hawkesbury Electorate Sewerage

Petition praying that funding be provided to construct a reticulated sewerage system for Glossodia, Freeman's Reach and Wilberforce, received from **Mr Steven Pringle**.

Water Carting Restrictions

Petition opposing the decision by Sydney Water Corporation to restrict the operating times for water carters and not allow Sunday cartage, received from **Mr Steven Pringle**.

Lismore Fire Service

Petition requesting the provision of a permanently staffed fire service in Lismore, received from **Mr Thomas George**.

Social Program Policy Subsidy

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

State Forests

Petition opposing any proposal to sell State Forests, received from **Ms Katrina Hodgkinson**.

Wagga Wagga Electorate Fruit Fly Control

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

Sow Stall Ban

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

Pet Sales

Petition requesting a ban on the sale of pets from pet retail outlets, and that such sales be restricted to qualified registered breeders and pounds, received from **Ms Clover Moore**.

Cat and Dog Meat Sale

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

Hawkesbury-Nepean River System Weed Harvester

Petition requesting the purchase of a weed harvester for the Hawkesbury-Nepean river system, received from **Mr Steven Pringle**.

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

Ms GLADYS BEREJIKLIAN (Willoughby) [2.31 p.m.]: I move:

> That the General Business Notice of Motion (General Notice) of which I gave notice today [Chatswood Mental Health Clinic] have precedence on Thursday 28 October 2004.

The notice of motion of which I gave notice today should be given priority tomorrow, because without any regard for community consultation the Carr Government, in particular the Minister for Health, will be slamming shut the doors to the Chatswood Mental Health Clinic on Monday 1 November 2004. Time is running out for the 300 mental health patients, their families, clinical staff and everyone who cares about the future of community-based mental health care in this State. This matter needs to be debated tomorrow because the Minister must act to ensure that the services delivered at the site in Chatswood will continue to operate beyond next Monday.

The Minister must agree to meet with local mental health groups and leading clinicians who have stated repeatedly that eliminating community-based mental health services is a retrograde step. I have spoken to parents of patients and to representatives of locally based mental health support groups who are distressed about what is occurring. They want, and deserve, the right to have their concerns raised in this House. I urge all members of this Chamber who care about the future of community-based mental health care to support the motion being given priority.

Mr CARL SCULLY (Smithfield—Minister for Roads, and Minister for Housing) [2.33 p.m.]: The Minister for Health has indicated that he is more than happy to have this matter debated and he has a good story to tell. The Government agrees to the reordering of business.

Motion agreed to.

QUESTIONS WITHOUT NOTICE

ELECTRICITY AND WATER INFRASTRUCTURE

Mr JOHN BROGDEN: My question without notice is addressed to the Premier. Given that the Auditor-General's report today stated that "charges may need to increase" to cover the Government's $10 billion black hole in essential electricity and water infrastructure, will the Premier rule out categorically any increases in electricity and water bills for households and businesses?

Mr BOB CARR: No government can rule out increases in government charges. No government has ever been in a position to do that. Is the Leader of the Opposition saying that charges should be frozen for the next 10 years? No government is in a position to say that it will freeze charges for the next 10 years, or freeze charges indefinitely. The fact is: there is no black hole.

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

Mr BOB CARR: The Auditor-General ought to be congratulated, because he has endorsed the Government's infrastructure plan.

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

Mr BOB CARR: The Government is going further than the Auditor-General prescribed, as I seek to demonstrate to the House. The Auditor-General said:

> An additional $10 billion is required over these years in providing essential infrastructure.

The fact, however, is that the Government is allocating more than the Auditor-General prescribed. In the next four years the Government will spend on the State's infrastructure $30 billion—and it is fully funded, funded in full, no argument.

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

Mr BOB CARR: In the past four years expenditure was $25 billion; in the next four years it will be $30 billion. That is a steeper rate of increase than the Auditor-General prescribed.

Mr SPEAKER: Order! The Leader of the Opposition will cease interjecting. I call the honourable member for Southern Highlands to order for the second time.

Mr BOB CARR: By the way, in real terms our current capital program is almost 33 per cent larger than the average for the 1990s; about 66 per cent larger than the average for the 1980s—and I am talking about real terms—and about 200 per cent larger than that for the 1970s.

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

Mr BOB CARR: This year alone the Government is spending $3.6 billion in the general government sector, and that is for schools, hospitals, roads and the like, and $3.8 billion in government-owned businesses and utilities. I will compare that with expenditure under the Greiner and Fahey governments. Between 1988 and 1995 those governments spent a total of $31.66 billion on infrastructure in real terms.

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

Mr BOB CARR: Since 1995, in the term of this Government, that figure has increased to $61.44 billion.

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

Mr BOB CARR: That is an increase in real terms of 35 per cent—an increase in real terms on what the Opposition did when it was last in government. I am happy to present further figures. We welcome the Auditor-General's report. The Auditor-General says positive things about the Government's record in debt retirement and about its management in general. We particularly welcome his projections of what is required in extra spending on the State's capital. I am pleased to say that we are on track to exceed what he prescribes.

Mr SPEAKER: Order! There has been an unacceptable level of noise in the Chamber caused by members interjecting and calling out. Much of the interjection is unintelligible and impedes the efforts of the Hansard staff to understand what is being said. A number of members are on calls to order; some are on several calls. If those members do not conform to the standards of the House I will have no hesitation in ensuring they are properly dealt with.

HEALTH SERVICE RESTRUCTURE

Mr STEVE WHAN: My question without notice is directed to the Minister for Health. What is the latest information on community consultation on the health service restructure?

Mr MORRIS IEMMA: In July I announced a series of reforms to the State's health system that are designed to streamline the health bureaucracy and redirect up to $100 million a year towards front-line clinical services. Our reforms will deliver a more efficient and streamlined health system, with 17 area health services being amalgamated into eight areas. Those reforms will also encourage the building of better clinical networks, the enhancement of academic and teaching links, and they will improve the distribution of the health workforce. One of the foundation principles of the reforms is to provide clinicians, health consumers and local communities with a greater say in the planning and delivery of their local health services.

Across New South Wales thousands of people have selflessly invested their time and effort to support their local health facilities. The local hospital is a foundation stone of the community. For that reason the Government has actively encouraged community input into how it might guarantee that local voices continue to be heard in the development of health services. In order to do so, the Government appointed the Hon. Ian Sinclair, AC, and Ms Wendy McCarthy to lead a statewide clinical and community advisory group with the task of listening to community views and reporting to the Government on the functions, composition and operations of advisory councils.

For six weeks in August and September the Sinclair-McCarthy group held 62 public meetings at 35 locations across the State. More than 2,300 people attended the meetings—clinicians, consumers, carers, staff, volunteers, members of local health participation groups and other bodies. The advisory group also received 190 written submissions. It reported that there was widespread support for proposals to strengthen the involvement of clinicians and community representatives in health care decision making. The advisory group reported:

> There was widespread support for the redirection of administrative savings to frontline patient care.

It also reported that there was:

> … genuine interest from clinicians and members of the community in the NSW Health reforms as a whole and in the proposed establishment of Area Health Advisory Councils …
>
> Irrespective of differences in attitude and perspective all participants were keen to ensure that the changes would deliver significant benefits to the community.

The Government is keen to harness that enthusiasm and direct the community's energy into helping to deliver better health services. The Government welcomes the advisory group's report as a blueprint for the new councils and for setting the future direction of community involvement in the planning and delivery of health services. In recognition of the importance of these advisory councils, the Government believes they should be enshrined in legislation rather than established as purely administrative bodies. I seek leave to table the report of the clinical advisory group and the Government's response.

Leave granted.

As a result of the Sinclair-McCarthy consultation process the Government intends to include in legislation the roles and functions of advisory councils. The legislation will set out the obligations of councils as follows: to advise clinicians, health consumers and the local community on the policies, plans and initiatives of the area health service for the provision of health services; to seek the views of clinicians, health consumers and the community as to the policies, plans and initiatives of the area health service and to advise the area chief executive of those views; to advise the chief executive on how best to support, encourage and facilitate the organisation of community health service consumer and clinician involvement in the planning of health services in the area; to confer with the chief executive about the performance of the area health service against agreed performance targets; and to liaise with other area health councils in relation to both local and statewide initiatives for the provision of health services.

The Government is committed to preserving existing health advisory structures, including medical staff councils and local community health participation groups. The four geographically largest area health services—Greater Western, Greater Southern, Hunter and New England, and North Coast will have an advisory council of up to 13 members. The remaining advisory councils will have 9 members, although membership may be increased to 13 in special circumstances. Each will have a balance of clinician and consumer community representation with the requirement that the majority of members live within health service boundaries. There cannot be a requirement for all members to live in the area as that might prevent the appointment of key clinicians who work in the area.

The proposals will also enable the appointment of members of local Aboriginal communities to those health councils. Appointments to the health councils will generally run for four years. The Government will ensure their renewal by setting a maximum term of eight years. Area chief executives will be required to attend all council meetings. The performance agreements of all chief executives will contain key performance indicators for the way in which they relate to their advisory councils. Advertisements seeking expressions of interest for council membership have now been lodged with major metropolitan and rural newspapers and application forms are available on the web site of the Department of Health. Chairs will be appointed shortly after the new area health services are established on 1 January 2005, with other members being appointed shortly thereafter.

At a time when the Government is committed to a reform agenda for health, I am committed to keeping the community at the heart of our health system. The establishment of area advisory councils, enshrined in statute, is central to that commitment. I urge all those who have an interest to come forward and nominate for involvement with their local area health councils. At this point I thank the community advisory group for its work on this report—the co-chairs, the Hon. Ian Sinclair and Wendy McCarthy; and members Professor Judy Lumby, Noel O'Brien, Professor John Overton, Dr Sue Page and Tom Slockee. I am grateful for their efforts and I commend the report to the House.

SAFE-T-CAM TRUCK MONITORING SYSTEM

Mr ANDREW STONER: My question without notice is directed to the Minister for Roads. Given that one of the main functions of his Safe-T-Cam truck monitoring system is to detect unregistered vehicles and

given the admission by the Roads and Traffic Authority [RTA] that the system fails to read correctly number plates in 22 per cent of cases, will he immediately order an independent inquiry into the obvious failures of the system?

Mr SCULLY: Clearly, the Leader of The Nationals is asking a question following last Friday's accident. It is important that the House expresses its condolences and conveys its thoughts to the family of the person who was killed last week. It was a great tragedy. I share the concern of the Leader of The Nationals and people on both sides of the House. Many people are asking questions and they expect answers to them. Last night I had a detailed meeting with the chief executive of the Roads and Traffic Authority [RTA] and the head of heavy vehicle enforcement. I said that the community was expecting answers about how well the RTA performed, how the vehicle was detected and the history of the driver. I also said that I wanted a detailed investigation undertaken of the history of the driver and the vehicle.

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

Mr CARL SCULLY: That report should be made available to the Coroner as soon as possible. I know that there is a temptation to jump to conclusions. I understand that speculation is rife, and that is not something that is evident only among members of Parliament. A coronial inquiry is being conducted and detailed police investigations are under way. The Roads and Traffic Authority will co-operate fully with the Coroner and the police. We have probably the most comprehensive heavy vehicle enforcement systems in the country. Does that mean they are perfect? No. Does that mean they are failsafe? No. Does that mean that vehicles will never slip through? No. If those opposite ever have the honour of sitting on this side of the House they will be in the same position: they will never be able to say, "We will guarantee a system that will never, ever let a vehicle slip through." The Leader of The Nationals asked about Safe-T-Cam. We have 22 safety cameras in place and no other State or Territory has them. In fact, the Coalition parties introduced safety cameras when they were in government, and we have expanded their number.

[*Interruption*]

The Leader of The Nationals has asked a question and I am happy to give him as much information as I have. South Australia is currently reviewing whether it should implement Safe-T-Cam systems but at present no other State or Territory has them. We have 300 heavy vehicle inspectors. No other State or Territory has anywhere near that number. We have seven heavy vehicle checking stations, which is more than any other State or Territory. We have 42 mobile vans fitted with a system called TruckScan. Those opposite may not know what that is. They are technically complex telecommunications devices that are available to highly trained RTA inspectors, who use them to check the registration details of vehicles and drivers on location. Clearly, the truck in question was using the road network at some point. A relevant consideration will be how that vehicle was detected and how the RTA and its inspection and enforcement regimes responded.

Mr Andrew Stoner: Point of order: My point of order is about relevance. My question was quite simple: It was about an inquiry into Safe-T-Cam. The trucking industry says it's a joke.

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

Mr CARL SCULLY: As I said, the person who will conduct this inquiry is the Coroner. Clearly, a relevant consideration is the performance of the Roads and Traffic Authority vehicle enforcement systems. That point has been raised. As the Minister for Police knows, police enforcement considerations will also be relevant criteria. No matter what system is in place, if a person is fully intent upon behaving in a criminal manner that person, with some degree of certainty, will be able to get on the road with a truck that is unregistered and uninsured. I have told the RTA that I expect to have systems in place that minimise that risk. But I cannot get up in this House and say, in all honesty, that we will introduce a system that will never, ever allow that to occur. So I assure the House—

Mr Andrew Tink: Point of order: The Minister for Roads is talking about one case. The question plainly referred to a failure to read truck number plates in 22 per cent of cases. The question goes to the systemic failure—

Mr SPEAKER: Order! I have heard enough.

Mr Andrew Tink: It is 22 per cent of cases, not the one case before the Coroner. It is an important point of order about relevance.

Mr SPEAKER: Order! The honourable member for Epping will resume his seat.
Mr Andrew Tink: He is not answering the question.

Mr SPEAKER: Order! The Minister is addressing the issue.

Mr CARL SCULLY: This is a little dishonest—

Mr John Brogden: Yes, it is.

Mr CARL SCULLY: —from you. Members opposite come into the House after holding a press conference. The shadow Minister for Roads, the honourable member for Ballina, went on radio 2GB on Monday and referred to the specific driver and elements of his driving history.

Mr Donald Page: No, I didn't.

Mr CARL SCULLY: You did. There is a record of you making those comments.

Mr Donald Page: Point of order: I make it quite plain to the Minister that I did not refer to the specifics of this case, and I made that plain at the beginning of the interview.

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

Mr CARL SCULLY: Okay, Rehame got it wrong: it was someone else. Perhaps Sir Earle Page made some reference from the grave. The shadow Minister has been making comments in the media and raising concerns about this issue arising from the tragic accident that occurred last Friday. The Leader of The Nationals asked today whether Safe-T-Cam is working as effectively as it should. Obviously that is a relevant consideration arising from that accident on Friday that the Coroner—

Mr John Brogden: Why don't you just have an inquiry?

Mr CARL SCULLY: It is being investigated by the RTA.

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

Mr CARL SCULLY: Quite appropriately, the RTA needs to provide all its information to the Coroner, which it will be doing.

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

Mr CARL SCULLY: When the Leader of The Nationals explains the urgency of his motion on the lack of heavy vehicle enforcement I would like him to talk about the legislation on speed limiters that the Government will be introducing, the legislation on compliance and enforcement, the point-to-point cameras that we have put in place, and the fact that we have established a regime that is tougher than that of any other State or Territory. He should not try to score political points on a matter that should be investigated properly by the Coroner.

MONEY LAUNDERING LEGISLATION

Mr BARRY COLLIER: My question is directed to the Attorney General. What is the latest information on money laundering in New South Wales and related matters?

Mr BOB DEBUS: I thank the honourable member for Miranda for his question. As he knows from his experience before he entered the House, illegal arms sales, smuggling, drug trafficking and prostitution rings can generate massive amounts of tainted money and assets.

Mr Peter Debnam: Which bit was he involved in?

Mr BOB DEBUS: He was a prosecutor, you dill. The OECD has estimated that the annual figure for the laundering of drug money alone exceeds $1,100 billion globally. The International Monetary Fund has estimated that the aggregate size of money laundering could be between 2 per cent and 5 per cent of global domestic product. The annual value of money laundering globally is estimated to be as high as $US 2 trillion. Estimates for Australia range up to $9.5 billion. In Australia the majority of laundered funds are the proceeds of revenue evasion but a substantial amount is the proceeds of criminal activities, mainly drug trafficking.

Australia has been a world leader in the battle against money laundering. Australia was one of the first countries in the world to enact relevant legislation. State and Commonwealth jurisdictions have made money laundering a criminal offence, and established systems to trace cash and asset transfers, and provided funds to manage the confiscated proceeds of crime and enable their redeployment for law enforcement and the administration of justice. In this State we have given NSW Police and the New South Wales Crime Commission unprecedented powers and resources to disrupt criminal networks. But continuous reform is needed. Electronic commerce and new payment systems pose challenges for our policing of money laundering activities, and criminal networks are constantly looking for new routes through which to launder their funds.

That is why all Australian jurisdictions agreed to review money laundering laws at the Leaders Summit on Terrorism and Multi-jurisdictional Crime held in April 2002. That national review looked at the money laundering laws of each jurisdiction and aimed to identify ways to improve the existing confiscation schemes so they can be used more effectively to prosecute those who profit from crime or who provide funds or other material assistance to criminals. The national review made it clear that our laws needed tightening on a national basis. Law enforcement agencies are also telling us that prosecution under existing money laundering offences has been difficult, that the laws are not operating effectively and that action is required.

New South Wales has participated fully in the review and considered its results carefully. As a consequence, I can advise the House that the Government will introduce as soon as possible a range of measures designed to tighten our money laundering laws and ensure that they are tough and effective. First, we will expand the ambit of money laundering to cover proceeds of serious offences committed both interstate and overseas. Current New South Wales legislation limits money laundering prosecutions to the proceeds of offences committed in this State, but money laundering is obviously a crime without borders and our legislation must reflect that fact. Second, it will be an offence to deal with money or property being reckless as to whether it is money or property that is the proceeds of crime. Third, the prosecution will not have to prove in future that an offence was committed by a particular person, only that the proceeds resulted from serious crime.

These aspects of the changes we propose will make it much easier to prosecute people, at a technical level, who undertake shady dealings, even if it cannot be shown that they knew exactly where the money or property came from. Organised criminals often spread responsibility for money-laundering activities between members of organised crime networks to prevent detection and inhibit the tracing of profits. Members of those organisations may be ignorant of each other's identities and roles, but not of the fact that they are engaged in criminal money-laundering. The law must take account of aspects of how criminals operate and structure their activities. The proposed changes will ensure that the law is effective in those circumstances.

Fourth, the law will cover people who knowingly or recklessly deal with money or property that subsequently becomes an instrument of crime. This means we will be able to follow the chain of criminal responsibility, and cover people who provide criminals with the wherewithal to undertake their crimes, whether by financing criminal activities or providing criminals with the physical means to commit crime. In other words, we want to ensure that the investment in crime is outlawed. Fifth, we will put in place a new lower level offence of dealing with money or property where it is reasonably suspected to be the proceeds of crime. The penalty will be up to two years imprisonment. The new offences will be effective weapons against a wide a range of criminals and the hangers-on who profit directly or indirectly from crime.

As I said, it is important that our laws in this area are continually monitored and upgraded to take into account the ever-growing sophistication of organised criminal networks. We must remain abreast of trends in other jurisdictions. The proposed reforms in New South Wales are consistent with the findings of the national review, and other jurisdictions are also taking steps to implement the reforms. They are also consistent with the recommendations of the international Financial Action Task Force on Money Laundering, of which Australia is a member. By taking the steps I have outlined, New South Wales will act to ensure that there are no gaps in the Government's powers to prosecute money launderers, and that not only can we punish criminals but we can prevent them from profiting from their crimes.

MS AMBER FOY DISABILITY ACCOMMODATION

Mr JOHN BROGDEN: My question is directed to the Premier. Given that Carmel Tebbutt has ignored more than 30 letters in two years from the mother of Amber Foy, a 30-year-old woman with cerebral palsy who is inappropriately living in a nursing home with people more than twice her age, will the Premier now intervene to provide Amber Foy with a place in group housing?

Mr BOB CARR: I made comments yesterday about the appropriateness or otherwise of raising individual cases in this fashion.

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

Mr BOB CARR: I pointed out in my supplementary answer yesterday that a family of youngsters ranging between four years of age and 14 years of age had been hurt, distressed and traumatised by their case being publicised—

Mr John Brogden: Wrong!

Mr BOB CARR: That is the Department of Community Services report: it knows the family, it knows their case, and it said the same thing. I have a leaked email from the Opposition. This is how it treats the people it regards in these cases. The email is sent from the Opposition's media and policy advisor to the shadow Minister for Education and Training about a distressing case. It states, "Do you have any—"

Mr John Brogden: Point of order—

Mr BOB CARR: "Do you have any talent available for us?" I think that is deplorable. I will investigate the case raised by the Leader of the Opposition.

Mr John Brogden: My point of order specifically relates to the fact that the Premier seems to be able to flout your rulings on regular occasions when other members—

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

Mr Andrew Fraser: Point of order: My point of order relates to Standing Order 105, which states, as we have heard in this House before, that when a point of order is taken, the member speaking will be seated until the Chair rules on the point of order. Yet again we have seen the Premier ignore your calls, and you ignore his behaviour.

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

Mr Andrew Fraser: I ask you to draw the Premier to—

Mr SPEAKER: Order! I gave the Leader of the Opposition the call. The honourable member for Coffs Harbour will resume his seat.

NATIONAL COMPETITION POLICY

Mr JOHN PRICE: My question is addressed to the Premier. What is the Government's response to the Productivity Commission report released earlier today?

Mr BOB CARR: Of the many Labor reforms that have created Australia's remarkable economic boom of the 1990s, one that stands out is the competition policy crafted by Bob Hawke and continued by his successors.

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

Mr BOB CARR: By the way, there was optimal co-operation in the production of competition policy from my distinguished predecessor in this House, Nick Greiner—the one serious Liberal Party leader in New South Wales. As part of that review, the Federal Government commissioned the Productivity Commission to

look at competition reform to date, identifying our successes and focusing on areas where future gains in productivity can be made. A draft version of that report has been released today. I can say that it backs the case we have been putting for fundamental reform to Australia's health system. I might add that it also backs what we have been saying about a national approach on greenhouse emissions.

The Productivity Commission report has found, surprise, surprise, that many of the current problems of the health system across Australia—rising costs, inefficiencies and access difficulties—are either caused, or made worse, by the overlapping roles and responsibilities of different levels of government. That is precisely the case I put last week. The report also advises that Australia can save approximately $8 billion a year—that is its estimate—if it improves the delivery of health services by only 10 per cent. That is a saving almost the size of the whole NSW Health budget—$10 billion a year—every year if we can secure that amount of reform. The report also has a warning. It says that the ageing of our population could add as much as $1,000 billion to public spending over the next 40 years. So we have got to get the policy right now, while we have time. This report is an unmissable opportunity to get reform happening. The Productivity Commission has laid out a proposal to do just that. At page 42 of the overview the report states:

> CoAG should initiate an independent public review of Australia's health care systems as a whole. This should be the first step in the development of an integrated reform program …

The overview suggests the review should include the consideration of:

> The determinants of future demand for and supply of health services; health financing issues (including Federal/State responsibilities and their implications); co-ordination of care (including with aged care); the interaction between private and public services; and information management.

It states further:

> It could also incorporate the proposed CoAG review of medical work force issues.

Those sentiments have been endorsed by the President of the Australian Medical Association, Dr Bill Glasson, who said today on the Mike Carlton program:

> We do have major issues with the system … there is no clear lines of accountability. The buck passing and blame shifting that occurs drives us clinicians mad …
>
> If, at the end of the day, we review all this and say "Listen, the best way to have it is to have one system and one funder then so be it".

I am sure honourable members will have read the column by Ross Gittins in today's *Sydney Morning Herald* supporting my views. He states:

> The division of responsibilities creates endless scope for the two levels of government to shift costs between each other …

I am encouraged by those endorsements. My one caveat with the Council of Australian Governments recommendation would be to say that we must avoid another report on this issue. My recommendation would be to see Commonwealth and State and Territory governments engage respected former Premiers Nick Greiner, Wayne Goss and Robin Gray to mediate between the levels of government to produce practical and immediately achievable reforms. I am encouraged by comments the Prime Minister and his staff have made since last week that suggest this is being seriously looked at. Former Premiers Wayne Goss and Nick Greiner were there at the very birth of national competition policy, so they would be well qualified. I understand that both are very willing to undertake what I would describe as a mediation effort. I welcome the Productivity Commission report, reinforcing as it does my call for fundamental reforms to our national health system. The moment is here; let us seize it boldly.

HIGHWAY PATROL RESOURCES

Mr DONALD PAGE: My question without notice is to the Minister for Police. How can the Minister say he is targeting highway patrol resources when a police submission I have states that 34 per cent of the northern region's resources are put into patrolling just 3.5 per cent of the region's roads and that 43 per cent of highway patrol hours are not directed to core highway patrol business?

Mr JOHN WATKINS: I am happy to receive a question from a member of The Nationals about the highway patrol. This is the third question The Nationals have asked in the past 12 months. On the two previous occasions on which they asked questions about the highway patrol they were wrong, so I am very wary when I

receive a question from The Nationals about policing matters in New South Wales. The Government and NSW Police are fully committed to road safety in this State.

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

Mr JOHN WATKINS: Police know better than anyone the impact that road trauma has on the people of this State, the families travelling our roads, particularly the roads of northern New South Wales. That is why I have approved NSW Police conducting a statewide review of traffic law enforcement arrangements. That review is currently being undertaken by Deputy Commissioner Dave Madden, and its draft recommendations should be with me by the end of November. The review will cover a wide range of traffic and road safety issues, including highway patrol deployment and workload, strategic planning for road safety, expenditure of Roads and Traffic Authority funding, and the application of traffic intelligence and technology.

One of the aims of the review is to ensure that the processes for targeting and deploying highway patrol vehicles and officers are fully effective. That is what the police want, that is what the Government wants, and that is what the community of New South Wales wants—both on the North Coast and throughout New South Wales. I could go on about certain details of highway patrol—and I will, because certain inaccurate statements have been made in recent times by The Nationals.

The number of officers undertaking highway patrol duties is dependent upon a range of factors. But I have to make the point that the Commander of Traffic Services advises me that since 1995—that is, since this Government came to power—there are now more sedans available for highway patrol duties than there were prior to that time. There are also five random breath testing trucks that are available in New South Wales that were not available prior to 1995. The simple truth is that highway patrol resources are being targeted more strategically now than ever before.

Mr Donald Page: That is not what this submission says.

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

Mr JOHN WATKINS: I can also report to the House that this Government has delivered a whole range of new technologies to the highway patrol in recent years.

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

Mr JOHN WATKINS: Those new technologies include new random breath testing devices that were launched earlier this year and make the whole process far quicker and easier, and we are also using high-profile blitzes. I await the outcome of the review being undertaken by Deputy Commissioner Madden. It will be shared with the police and the community of New South Wales because there is a common purpose in trying to drive down the level of road trauma on New South Wales roads, both here in Sydney and throughout country New South Wales.

RURAL AND REGIONAL TOURISM PROMOTION

Mr JOHN BARTLETT: My question without notice is directed to the Minister for Tourism. What is the latest information on the Government's plans to encourage tourism in rural and regional New South Wales?

Ms SANDRA NORI: A couple of months ago when I spoke to the House about the launch of the latest Sydney campaign I said that in September this year we would be launching a brand new, never done before, comprehensive television campaign for the whole of regional and rural New South Wales. We did just that. The new campaign started off in September. We kicked it off with an advertisement for the Heart of Country—that geographical region between the Victorian border and Queensland, generally speaking west of the Divide, including Outback Country, but east of the Outback. Most honourable members would think of it as the Central West.

The new campaign required the shooting of footage across 60 per cent of New South Wales. It is the most comprehensive film shoot we have done for a tourism promotion. It kicked off the groundbreaking $4 million rural and regional campaign. As I have said, the Heart of Country campaign was the first. The second was the High Country, and High Country advertisements are currently screening in cinemas. The Outback and South Coast campaign will kick off in February and the North Coast campaign will commence after Easter. The aim of those campaigns is to extend the shoulder periods.

We have divided the State into five quintessential experiences—experiences that makes sense to the consumer in the target markets we are trying to reach. The five quintessential experiences and regions are not about providing the consumer with an encyclopaedia of every nook and cranny in New South Wales. It is about enticing them to want to enjoy the quintessential experience that any one of those five regions offers. Like the Sydney television commercials, we now have the footage and the marketing infrastructure to allow us to implement our plan to take advantage of future trends in the tourism market—namely regional tourism, the growing retiree market and the impact of low-cost carriers and where they decide to go—or, more importantly, where they decide not to go.

We have put these advertisements to focus groups, and they have all tested exceptionally well. One is particularly relevant to the Heart of Country, and I will quote a couple of things that are considered to be the take-out from the focus groups:

> Country New South Wales is a great place for a holiday; you'll love it. Lots of things to do, many little towns to visit and, friendly, real people. It offers excitement, discovery and adventure.

That is absolutely on target with our aim for this campaign. The television advertisements reached an audience of 4.8 million people on their first night, and by the time the campaign is rolled out it will reach 9.3 million people. The Heart of Country campaign alone has so far resulted in more than 2,000 calls to actions, and more than 10,000 hits on our web site.

I am very pleased to relay to the House a letter we received from a small operator in Hill End, which is not exactly the largest town in New South Wales, thanking us. The operator has been getting around five to seven inquiries a day and is now booked out for the next few months—and that is before the campaign even starts rolling! I would like to quote Andrew Burnes, who recently was appointed by the Federal Government to the Tourism Commission board. He congratulates the Government on what it is doing and says how his business has doubled since April, and is expected to double yet again in the next six months. Andrew is the former Chairman of the Australian Tourism Export Council, so when I hear his comments I take great heart, because he is someone who understands tourism—unlike the honourable member for Wagga Wagga, who last night in this Chamber put on one of the most ignorant displays I have ever seen.

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

Ms SANDRA NORI: It is worth putting that on the record, because I know this mob opposite are not interested in tourism.

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

Ms SANDRA NORI: The honourable member for Wagga Wagga tried to make out that Tourism New South Wales had failed to have discussions with the tourism industry and Wagga Wagga council over this campaign. I will not take the House through the full list, but let me take the House through just a couple of things that were done to consult with the Wagga Wagga region. Workshops held in April and July were attended by regional tourism organisations and specific briefings on the campaign were presented to Riverina regional tourism organisations, which included representatives of Wagga Wagga City Council. Briefings were held prior to the launch. I wonder who set up the honourable member for Wagga Wagga.

In one of the meetings attended by representatives from Wagga Wagga, the meeting endorsed a contribution $30,000 to the production and distribution of the associated Heart of Country map, which is a key component of the campaign. Do not tell me that Wagga Wagga was not consulted. They thought it was so good that they put money into it. That is only part of it. The honourable member went on to say that Wagga Wagga is not given sufficient promotion and that it misses out. If the Speaker allowed me to hold up the map the honourable member would clearly see that Wagga Wagga is on it. I can assure him that Wagga Wagga is on the map. Wagga Wagga is referred to four times in this promotion. The honourable member should change his optometrist.

NORTHERN BEACHES EXTENDED BIKEWAY

Mr DAVID BARR: My question without notice is directed to the Minister for Roads. Is he prepared to work with the northern beaches councils on a feasibility study for an extended bikeway on the northern beaches?

Mr CARL SCULLY: Yes, of course. The Roads and Traffic Authority would be more than willing to work with the northern beaches councils. In fact, many honourable members would be familiar with the discussions I have had with them about cycleways. The Government is keen to do all it can to promote pedestrian and cycling activity, and their interaction with motor vehicles. In the past two years the RTA has committed several hundred thousand dollars to the northern beaches. This year I understand that Pittwater will get around $35,000 to do some work on Pittwater and Jackson roads. I know that Manly Council is building a small on-road cycleway between North Steyne and the Manly swim centre. But more needs to be done. One of the things we are happy to examine in the longer term is cycleway links between Gordon and Mona Vale, Chatswood and Warringah Mall, and the Harbour Bridge and Warringah Mall. The honourable member's idea of the RTA working with the three northern beaches councils is a good one. I am happy to pass on his request and ensure that the RTA works with those councils.

ELECTRICITY SUPPLY INDUSTRY APPRENTICESHIPS

Ms VIRGINIA JUDGE: My question without notice is directed to the Minister for Energy and Utilities. What is the latest information on apprenticeships for young people in the electricity industry in New South Wales?

Mr FRANK SARTOR: I have the pleasure of reporting some very good news. This year the electricity supply industry has appointed 200 new apprentices and trainees throughout New South Wales with the commitment to employ another 200 next year. This year's 200 will join 610 apprentices and trainees currently employed by State-owned electricity businesses. This builds on an overall electricity distribution staff increase of 19 per cent since 1998. Electricity businesses have made a deliberate decision to renew their networks and to improve their work forces in tandem. This means a lot for young people and for local communities. In 2004 Country Energy created 60 apprenticeships for men and women of all ages, from school leavers to those in their late thirties. That means money flowing straight into local businesses and services. Country Energy pays $100 million in wages into the pockets of 3,000 employees every year right across regional New South Wales.

The 60 new apprentices join the more than 200 apprentices who have commenced training with Country Energy since 2001. Country Energy now has apprentices across the State from Bombala and Albury in the south to Cobar in the west and Kyogle in the north. They are receiving training and skills to set themselves up for long-term careers in their communities. I particularly highlight Country Energy's recruitment of indigenous apprentices through its award-winning Indigenous Employment Program. This year, eight indigenous apprentices joined the 10 indigenous apprentices appointed by Country Energy in 2003. I commend the program to members of the House. It is good to see a growth in front-line staff across the electricity distribution network of 19 per cent in the past five years.

ROADS AND TRAFFIC AUTHORITY TRAFFIC CONTROL TRAINING PACKAGE

Mr CARL SCULLY: Yesterday the honourable member for Upper Hunter asked me why the Roads and Traffic Authority allegedly was charging $100 per volunteer for traffic control training. I have received advice from the Roads and Traffic Authority to the following effect:

> The RTA only provides traffic control training to RTA staff. For other persons private providers are licensed by the RTA to provide training and this is on a fee-for-service basis.
>
> Emergency Services have identified the need to provide their members with training to undertake traffic control.
>
> The honourable member for Northern Tablelands, Mr Richard Torbay has made representations … regarding support for traffic control training for emergency service workers.
>
> The RTA has offered to directly train a limited number of emergency service personnel to give them the qualifications to conduct traffic control training within their own organisation. The RTA will be providing training to approximately 20 emergency staff trainees to enable them to deliver the training. The RTA will not be charging any fee for this training and is not aware of the basis of the Question in the House.

Questions without notice concluded.

FILM INDUSTRY

Ministerial Statement

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [3.25 p.m.]: Members of the House will be well aware of the New South Wales Government's support for our film industry and for local businesses associated with the industry. Next week *Hero*, the biggest ever Chinese film to be released in Asia, opens in Sydney. *Hero* created a sensation at the United States box office, with a record opening for an Asian film. Now it is the turn of New South Wales to see this spectacular martial arts movie. The film is a credit to Australian and New South Wales post production companies that are responsible for its fabulous special effects. I congratulate the New South Wales company Animal Logic on its visual effects, Atlab on its rushes and digital colour, and Soundfirm Sydney.

Other New South Wales companies involved in this blockbuster include Spectrum Films, Negative Cutting Services, Optical and Graphic, Frame Set and Match, Trackdown and Video 8. Local small businesses provided essential services such as subtitles, translation and post production management. The success of our companies highlights another aspect of the local film industry: the quality of our post production houses. Increasingly, Asian film-makers are using New South Wales post production companies. Films like *Warriors* from Korea and *Blind Shaft* from China, together with Taiwanese and Indonesian films, have used our local expertise. This is tremendous news for the future growth of our film industry and for local jobs.

[*Interruption*]

The honourable member for Wakehurst is interjecting, as always. He has no concept of the importance of the arts, and film particularly, to the economy. He has no concept that local jobs can be created from this industry, and that reflects a lack of ideas and a lack of commonsense in the Opposition frontbench on these types of issues. Our growing reputation for post production is also good news for young people who want a career in this industry. We have been so successful that New South Wales companies, such as Soundfirm Sydney, have opened production offices in Beijing. We are creating exports in this industry, something we do not hear any comment about from the Opposition. It is great also to see that most of our companies involved in post production of *Hero* are now working on a follow-up feature, *House of Flying Daggers.*

Mrs JILLIAN SKINNER (North Shore) [3.27 p.m.]: As the shadow Minister for the Arts I would like to respond to the Minister's quite extraordinary claim for credit for this film. His claims are fascinating. I speak to many people in the film industry, particularly those engaged in post production. I acknowledge the 400 post production film companies in my electorate and adjoining electorates, particularly Willoughby. I acknowledge also the honourable member for Hornsby for introducing me to people from Down Under Studios. I thank the film producers, scriptwriters and others for working with us in policy development to cover the shortfall of the Carr Government, which they tell me has absolutely abandoned them. It provides no assistance and support, yet the Minister comes into this place, tells porkies, and claims credit for our film industry that is doing it hard on its own.

I am very pleased to be working with the film production companies. They are very excited about the work that we are doing together. However, it is a great shame that the Carr Government has abandoned them. Their advice will be coming through to me in the very near future and, out of necessity as a result of the Carr Labor Government ignoring film production companies, the Coalition will come forward with some very exciting film policies. As is the wont of the Carr Labor Government in relation to all matters, it exaggerates and peddles lies in this House and its spin doctors pretend that things are not bad. Overcrowded hospitals, school closures, water restrictions and electricity blackouts contradict give the lie to the porkies that are being told by this Government in this House. The film production industry is scathing and insulting about its treatment at the hands of the Carr Labor Government.

ELECTORAL DISTRICT OF DUBBO

Death of Anthony Michael McGrane

Mr SPEAKER: I report the receipt of a copy of the death certificate of Anthony Michael McGrane, lately serving in the Legislative Assembly of New South Wales as member for the electoral district of Dubbo.

Vacant Seat

Motion by Mr Carl Scully agreed to:

That the seat of Anthony Michael McGrane, member for the electoral district of Dubbo, has become and is now vacant, by reason of the death of the said Anthony Michael McGrane.

CONSIDERATION OF URGENT MOTIONS

Sheep Industry

Mr PETER BLACK (Murray-Darling) [3.31 p.m.]: This is a matter of great urgency, and it has been a matter of great urgency since 14 October. The Nationals have known since last Thursday that this issue was being mooted, yet they have obstructed discussion on it. It is absolutely despicable that it has not come on for debate, and that is entirely the fault of The Nationals. This is a very important matter, and what we are seeing is the coastal Nationals at their worst.

Mr Barry O'Farrell: Point of order: The honourable member for Murray-Darling has been a member of this House long enough to know that he cannot use this forum to engage in that type of attack, particularly when it was the Labor Leader of the House who prevented the issue from being debated last Thursday. It was the Leader of the House who cut him off at the knees last Thursday. He should not blame The Nationals for that.

Mr SPEAKER: Order! That is hardly a point of order.

Mr PETER BLACK: With great respect, I am establishing urgency. This matter is urgent and has been urgent since 14 October. I do not understand The Nationals—a political party that is split down the middle. The Nationals should be supporting acceptance of this issue as a matter of urgency and should be supporting New South Wales graziers in relation to the sheep and wool export products sanctions. It is as simple as that. The matter is of critical urgency.

Mr Andrew Stoner: Point of order: My point of order relates to the requirements for the honourable member for Murray-Darling to establish the urgency of the motion he proposes. The House gives him an opportunity to do so, but not to point the finger of blame at The Nationals or at any other party. He has to establish why the matter is urgent.

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

Mr PETER BLACK: Is it any wonder that rumours are circulating in the Parliament from two different sources that Larry Anthony is getting ready to take over the Lismore electorate and the State leadership of The Nationals! This matter is urgent because the actions of the People for the Ethical Treatment of Animals [PETA] in the United States of America have called into question the worth of the Free Trade Agreement that has been trumpeted by The Nationals. On 14 October it was clearly stated in the *Land* that more boycotts are on the way, yet The Nationals do not want to discuss the matter. The facts were stated in the *Land* newspaper last week and The Nationals should have read them. The issue that is the subject of my motion is urgent

.

Mr Steve Cansdell: Point of order: My point of order relates to relevance. I do not understand what the matter of urgency is. I have not gained any direction from listening to the honourable member for Murray-Darling.

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

Mr PETER BLACK: I rest my case! Coastal Nationals, or perhaps coastal notionals, do not understand the issue. They admit that they do not understand the issue. The issue concerns the sheep industry in New South Wales.

Mr Thomas George: Point of order: My point of order relates to relevance. I take exception to what the honourable member for Murray-Darling has said about The Nationals members who represent coastal electorates. I challenge him to any sheepshearing competition he likes.

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

Mr PETER BLACK: I can tell the honourable member for Lismore that Wally Mitchell was out mulesing yesterday at Louth. I think I would know more about mulesing than anybody from Lismore, and I will

deal with that matter in more detail during the debate. This matter is urgent because over the past several days all sorts of material has been circulated in the United States of America about the Australian sheep industry, particularly about mulesing and Australia's live sheep exports. If my motion is accepted I will demonstrate the importance of live sheep exports to western New South Wales. Apparently the coastal Nationals do not know anything about it. The issue boils down to the importance of recognising that drought-stricken western New South Wales depends on the exportation of live sheep.

We cannot allow PETA to encourage more than two dozen firms in the United States to refuse to accept Australian sheep industry products. The situation is being made worse by the unholy alliance between the Australian Democrats and the Greens in the New South Wales Parliament and elsewhere and the petitions that they are gathering to prevent the future exportation of live sheep. That is an absolute nonsense. The issue concerns the New South Wales sheep industry, which is of vital importance to western New South Wales. The issue must be confronted in the same powerful way as that in which the United Kingdom's attack on the Australian kangaroo industry was rebutted. The issue is of critical importance, and it beggars belief that The Nationals do not want to discuss the matter. [*Time expired.*]

Safe-T-Cam Truck Monitoring System

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.36 p.m.]: The subject matter of the motion I propose for consideration is extremely urgent because there are wide-ranging concerns throughout the community about unregistered, unsafe, speeding heavy vehicles on New South Wales roads. The motion is urgent because of forums such as *www.fullyloaded.com.au*.

[*Interruption*]

The name sounds like a reference to Blackie, the honourable member for Murray-Darling, as has been said. That web site ran a discussion entitled "Why Safe-T-Cam is crap". One driver stated:

> Our national network is a joke. The guys on the bridge will tell you what a [expletive deleted] up Safe-T-Cam is. It is not uncommon for them to not be able to even find a photo from another Safe-T-Cam site let alone interface.

Miss Cherie Burton: Point of order: The Leader of The Nationals is debating the substance of the motion as opposed to explaining why his motion is urgent. He is dealing with the details of the issue, which is clearly outside the standing orders.

Mr SPEAKER: Order! I remind the Leader of The Nationals that this is an opportunity for him to deal with the reasons his motion should be given priority rather than the substance of it.

Mr ANDREW STONER: It is urgent because there are drivers in this State who regard Safe-T-Cam as a joke. It is urgent because there is massive avoidance of Safe-T-Cam. It is urgent because Safe-T-Cam is unable to distinguish between number plates of vehicles. There has been a huge community reaction to a recent tragic accident. Many drivers have commented on unregistered heavy vehicles speeding. It is clear that the system in New South Wales is not working. This matter is urgent because Safe-T-Cam may prove to be a very expensive white elephant. It is urgent because the effectiveness of optical character recognition technology, which is used to read number plates, is being called into question. Apparently Safe-T-Cam is unable to distinguish between Q and O or E and F.

Miss Cherie Burton: Point of order: My point of order again relates to relevance. The Leader of The Nationals continues to digress into a discussion of the substance of the motion. He persists in outlining the details of his speech. He should confine his remarks to showing why the matter is urgent. He should adhere to the guidelines. I ask you to direct the member to adhere to the guidelines.

Mr SPEAKER: Order! The Leader of The Nationals should convey to the House why he believes the motion he proposes for consideration is more urgent than the motion of which the honourable member for Murray-Darling has given notice.

Mr ANDREW STONER: This matter is urgent because in March 2003 a study indicated that 22 per cent of instances of trucks going through Safe-T-Cams were not recorded properly because the registration plates could not be distinguished. Therefore, potentially there is a massive failure rate in identifying unregistered heavy vehicles on the State's highways. This matter is urgent because I have been informed that co-operation

between the Roads and Traffic Authority and NSW Police in getting unregistered vehicles off the road quickly is not working. The two agencies are not talking to each other. This matter is urgent because there are frequent breakdowns in the Safe-T-Cam network, especially at Broken Hill and Casino, and that limits the effectiveness of the entire network of 22 cameras.

This matter is urgent because time and again we hear of truck drivers tailgating, turning out the lights on their vehicles, taking diversions around Safe-T-Cams, or driving on the wrong side of the road to avoid their vehicles' registration plates being photographed. This happens frequently on the Hume Highway at Gundagai. I am not talking about the majority of truck drivers; I am talking about the minority, the rogue element of cowboys on the roads. This matter is urgent because under this Labor Government there have been cuts to Highway Patrol resources. The Northern Region Highway Patrol was cut from 4.7 million kilometres in 1998 to just 4.2 million kilometres in 2003; a cutback of 500,000 kilometres, if members opposite want to do the sums. That is a cutback in deterrence and enforcement on the roads. This matter is urgent because it demands a full, independent inquiry into heavy vehicle enforcement in this State. [*Time expired*.]

Mr Donald Page: Point of order: Mr Speaker, in the past when two important matters were before the House, the Leader of the House has seen fit to allow both matters to be debated. Because both these matters are important, I ask that you allow both to be debated today.

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

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

The House divided.

Ayes, 50

Ms Allan	Mr Greene	Mrs Paluzzano
Mr Amery	Ms Hay	Mr Pearce
Ms Andrews	Mr Hickey	Mrs Perry
Mr Bartlett	Mr Hunter	Mr Price
Mr Black	Mr Iemma	Dr Refshauge
Mr Brown	Ms Judge	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 Torbay
Mr Corrigan	Ms Meagher	Mr Tripodi
Mr Crittenden	Ms Megarrity	Mr Watkins
Ms D'Amore	Mr Mills	Mr West
Mr Draper	Mr Morris	Mr Whan
Ms Gadiel	Mr Newell	*Tellers,*
Mr Gaudry	Ms Nori	Mr Ashton
Mr Gibson	Mr Orkopoulos	Mr Martin

Noes, 31

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

Pairs

Ms Saliba	Mr Brogden

Mr Yeadon Mr Roberts

Question resolved in the affirmative.

DISTINGUISHED VISITORS

Mr SPEAKER: I acknowledge the presence in the gallery of the Hon. Nick Greiner, a former Premier.

SHEEP INDUSTRY

Urgent Motion

Mr PETER BLACK (Murray-Darling) [3.51 p.m.]: I move:

That this House supports the New South Wales sheep industry.

Let history show that members of the once great National Party—formerly the Country Party and now The Nationals—voted against my urgent motion to discuss the emergency in the sheep industry. That would never have happened under the leadership of the honourable member for Lachlan, the Hon. Ian Armstrong.

Mr Thomas George: Point of order: It is important to place on record that Government members refused to debate both urgent motions, which are important issues in this State.

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

Mr PETER BLACK: I cannot believe what I just heard. This debacle would never have happened if The Nationals were led by the honourable member for Lachlan, the Hon. Ian Armstrong, or the honourable member for Ballina, Mr Don Page. Weak leadership of The Nationals has led to today's debacle at a critical time in the history of the Australian wool industry. Last Thursday week I learned from an article in the *Australian* that the firm Abercrombie and Fitch, which has 749 stores and an income of $AUS1.66 billion, announced a ban on Australian wool in its stores. Honourable members must remember that Australia is the biggest exporter of wool in the world.

Incidentally, 85 per cent of Australia's wool exports comprises wool from merinos. Abercrombie and Fitch announced a ban on Australian wool. An American organisation known as People for the Ethical Treatment of Animals [PETA] caused that firm to ban Australian wool exports. Others and I found material relating to PETA, and I refer now to one of the statements it has made about Australian wool. This is what Americans are saying about Australia's wool industry:

> Most people have no idea that sheep raised for wool are often mutilated and castrated without painkillers, then disposed of by being shipped thousands of miles on open-deck multitiered ships through all weather extremes, and eventually slaughtered while fully conscious.

Not that many years ago we heard the same sort of nonsense about our kangaroo industry. I assure honourable members that the once great Leader of the National Party, the Hon. Ian Armstrong, fully supported me in relation to the kangaroo industry. People from overseas came to Australia and said that we were all going around slaughtering kangaroos by bashing them on the head with a four-by-two, and they issued other propaganda. This is the same sort of attack. An article in last week's *Land* reveals that PETA is about to announce more boycotts of Australian wool by the United States of America. What a sorry state of affairs! PETA, an organisation that has 800,000 members, is publishing that sort of propaganda on its web site. That not insignificant organisation had this to say about wool:

> Some of the consumer problems associated with wool:
>
> » It is susceptible to mildew and moth damage.
>
> » It is not always machine-washable and cannot be directly ironed.
>
> » It often damages easily and is not durable.
>
> » It tends to be expensive.
>
> » It causes allergies and/or extreme itching for many people.
>
> » It's very water absorbent, and doesn't dry quickly.
>
> » It stains easily, but doesn't clean well.

» It's prone to retaining foul odours.

» It shrinks with every wash.

That is the kind of propaganda that PETA is publishing on its web site—propaganda with which we have to contend. The story gets worse. The Australian Democrats, the Greens and the Lord Mayor of Sydney support that organisation. I have a document that states:

> Sydney Lord Mayor, Clover Moore, Federal Greens leader Bob Brown and the Democrats leader Andrew Bartlett are among a group of 58 prominent people to sign a petition to end the live animal export trade.

That is one of the reasons PETA said that the United States should not accept Australian wool. A press release was issued in the United States on 4 May 2004. PETA's President, Ingrid Newkirk, wrote a letter dated 30 April to the Australian Ambassador, Michael Thawley, in which she stated:

> Dear Mr Ambassador:
>
> People for the Ethical Treatment of Animals (PETA) is the world's largest animal rights organization, with more than 800,000 members and supporters, some of whom are Australian, many of whom have visited or are interested in visiting Australia, and all of whom are dedicated in protecting animals worldwide from cruelty and abuse.
>
> We recently became aware that the rainstorms that hit East Gippsland last week resulted in the painful deaths from hypothermia of more than 2,000 sheep. One farmer, Saun Beasley, who lost 1,200 18-month-old sheep, was quoted as saying:
>
> "They get wet and after standing in the corner of a paddock for two days in a howling gale, the wind chill kills them ... It's just part of the deal.

PETA is concerned about mulesing. Mulesing may be a painful operation for a sheep, but what are the alternatives? When the honourable member for Lachlan was Minister for Agriculture many years ago he visited Fowlers Gap. I am sure that the honourable member for Lachlan remembers that incident. Charlie Carter, the manager, went from Fowlers Gap to an Aboriginal community to the west of Alice Springs and he was brought back to Weinteriga, a pastoral property on the eastern bank of the Darling River halfway between Wilcannia and Menindee because 6,000 merinos had not been crutched and were fly-blown.

At that time there were no protests by animal liberationists, the RSPCA, PETA or anyone else in relation to those 6,000 maggoty sheep. Normally there are seven million sheep in western New South Wales but that figure has been reduced to two million. The live sheep export trade is of vital importance to Australia. I have a submission from the Pastoralists Association of West Darling which advocates the lifting of the ban on the export of live sheep between May and October. I fully support that organisation. Portland, the second or third port after Fremantle for the export of live sheep, has a management problem. People ring up and ask, "Do you have 15,000 wethers?" Of course, those sheep are not put through the usual inspections before being exported and they occasionally contract diseases from overseas boats.

This problem involves exporters more than it involves graziers. Western New South Wales depends on the export of live sheep, in the main the Collinsville or Bungaree breeds. For the benefit of coastal members of The Nationals, Australian butchers are loath to take those breeds of sheep as they are not crossbred and they are not the short, lumpy breeds that are to be found in the eastern area of New South Wales. The ones here are peppered breeds but the Collinsville and the Bungaree tend to be rejected by local butchers and the Australian abattoir industry. That is why so many of them are exported.

I am reluctant to say this because I recognise that the RSPCA has played an important role in Australia's development, but I refer the House to two documents from that organisation. The first says that the RSPCA does not know what to do about mulesing and the second says that if we must have it perhaps we must have it, but under certain conditions. At the end of the day, I think those who defend the issues important to the people of western New South Wales in particular, and who defend the interests of our sheep industry in general must come to terms with the fact that our sheep industry is vital to the economy of this State. I have just been passed a note, which asks, "What breed of sheep do the Nats take out on dates?" That is not nice. If the ban on mulesing were to proceed the National Farmers Federation estimates that a minimum of two million sheep in New South Wales would die from flystrike each year.

Mr IAN ARMSTRONG (Lachlan) [4.01 p.m.]: This is an extremely important subject not only for the sheep and agricultural industries but also for the economies of New South Wales and Australia as a whole. Let

me set a few facts straight. The division was called by a member who represents a coastal electorate. Probably the closest he has ever got to a sheep is eating a lamb chop! I suspect that he was simply interested in playing silly-bugger politics.

Turning to the core issue in this debate, the honourable member for Murray-Darling referred to several reports from People for the Ethical Treatment of Animals [PETA], one of which condemns wool. Let me tell honourable members a few things about wool. Wool is a natural product. It has low combustibility and is fire safe. It is the warmest product per ounce of any fibre in the world. It is one of the cleanest and most enduring fibres, with a reasonable longevity. I am wearing a pure wool suit, which is about eight years old. It is made from super 100 per cent wool, which is one of the finest wools produced in this country; it probably came from Tasmania. This suit cost about $450 eight years ago and I am still wearing it. That is not bad economy.

As for mulesing, the official policy of the RSPCA is to support a modified mulesing practice in which wool is left on the sheep's tail when an alternative is not possible. I understand that PETA's publicity campaign refers to the removal of flesh from the hindquarters of the sheep. That is totally incorrect. Only approximately one inch of skin is taken from the fold that runs from the anal canal to a point midway between the sheep's anus and hock. In some cases the tail is stripped but that practice is not recommended and 99 per cent of producers have not followed it for many years. The honourable member for Murray-Darling pointed out—I am sure that the honourable member for Barwon will do so as well—that the alternative to mulesing is to have flyblown sheep, which is extremely cruel.

I raised sheep for almost 40 years and produced some of the best stud sheep that this country has seen, including a couple of grand champion polls. So I understand the issues very well. Flystrike during a moist summer is one of the most horrific things one can imagine. For example, when a ewe lambs she is weakened and it takes her a little while to get back on her feet. When she does she will find that her whole rear end is infested with maggots, which then chew away at the flesh and eat into the sheep. If a sheep develops a cancer on its ribs—perhaps it suffered a knock—within a matter of hours in summer it will become flyblown and the maggots will eat that sheep. The sheep dies not from being eaten but from the septicaemia that this eventually causes. So the living sheep literally rots away. It is a walking flyblown, maggoty animal. Does somebody suggest that we should not try to prevent that from happening?

Before mulesing, flystrike was controlled with the heavy use of chemicals. Lucijet was possibly the best product invented to prevent fly strike. It was very effective. The chemical was sprayed onto the sheep about every six weeks—every four weeks in a bad year—and if the dog was within about 20 feet it would be killed. I once licked my fingers after spraying and was spitting blood within 30 minutes. It was one of the most volatile poisons ever known but it was the major means of preventing flystrike. So the alternatives are, first, to stop the practice of mulesing and in a bad year allow up to 25 per cent to 30 per cent of the flock to die from being eaten and poisoned by maggots or, secondly, to try to minimise the risk and cut the losses back to about 15 per cent by reintroducing the spraying of harsh chemicals such as Lucijet. The latter will have a dramatic effect not only on dogs and the general environment but on animals, such as foxes, that eat the sheep's carcass. What about the occupational health and safety considerations? It is simply not on to bring into a shed for shearing, crutching or drenching sheep that have been sprayed with a deadly chemical.

That is the dilemma. PETA is playing silly politics with issues that it does not understand. It is using the sheep industry to lift its profile at the expense of the Australian economy. In so doing it is besmirching the good name of Australian farmers, who follow some of the best animal husbandry practices in the world today, under the supervision of the RSPCA and organisations such as the National Farmers Federation, New South Wales Farmers Association, the Sheep Breeders Association of New South Wales and the Australian Society of Breeders of British Sheep. They are respectable organisations that are interested only in producing the best sheep with the best weight gains, cutting the most wool and producing the healthiest meat possible.

It is in the interests of all involved in the industry—from the producer to the processor—to produce the healthiest and happiest sheep possible. That is how we improve productivity. That is why Australia is the leading sheep producer in the world today. Sheep are not indigenous to Australia but in the past 150 years Australian producers have developed them into magnificent animals. The Merryville stud in Yass is credited with having influenced more than 70 per cent of the world's wool-cutting sheep—that is an official figure—such is Australia's influence over the global sheep industry and the respect we have in the international marketplace. The livestock export trade is important to us all. It is a $1 billion industry involving more than 9,000 rural and regional Australians. It comprises about 50 per cent of all sheep produced in Western Australia and almost 100 per cent of cattle produced in the Northern Territory.

We are talking about sheep today. About 50 per cent of the lambs that drop this spring in Western Australia will be exported. Australia's animal welfare standards are equal to the best in the world. This year an Australian animal welfare strategy and a code of national animal welfare standards for the livestock export trade will be implemented. We are doing a huge amount to help developing countries in the Middle East upgrade their conditions and reduce cruelty, but we cannot do it all at once. For example, we have a vet based in Bahrain to help with technology transfer and education. In Egypt we have upgraded an abattoir to improve animal handling and, consequently, increase animal welfare. In Jordan we are beginning a program that improves traditional animal processing techniques, increasing efficiency and reducing animal stress. In Indonesia we are introducing technology that enables more humane handling and reduces animal stress. In the Philippines we are training butchers in techniques that improve processing and animal welfare.

Animal welfare is a priority. It is in our interest. On each airconditioned ship carrying livestock to the Middle East the air is changed twice as often as it is in an airliner—or in this Chamber! There is a veterinarian and stockmen on board to care for every sheep. Each sheep has food and water on demand—more than we have here—and can lie down to rest. As I said, the air on board is changed twice as much as on a commercial airliner. There are special pens for sick animals to get special care. After the *Cormo Express* incident a national inquiry into the trade resulted in the Keniry Report. It was welcomed by the industry, which also embraced the eight recommendations to be implemented by the end of the year. In summary those recommendations include:

- vets on ships for all long haul voyages
- the development of a new National Animal Welfare Code of Practice and Standards
- the establishment of a National Livestock Export Standards body
- increased government involvement in regulatory control (including surprise audits and inspections)
- the introduction of an individual consignment risk management approach for all shipments which will ensure that all potential risks affecting animal care are minimised
- upgraded assembly depots
- progress on the establishment of a permanent quarantine facility in the Middle East/North Africa region to ensure a "safe haven" in the event of emergency
- a further A$1 million a year investment in improving animal welfare outcomes in the Middle East

I wonder how many of these political opportunists who call themselves the People for Ethical Treatment of Animals [PETA] own dogs or have big dogs in apartments—

Mr Ian Slack-Smith: And cats!

Mr IAN ARMSTRONG: Cats as well. I wonder how many of their dogs are full of arthritis. I condemn these fools who have brought this about. I congratulate the Australian industry, particularly on what it has done in the past and on the new processes it is introducing to make sure that our livestock is managed in the safest and most humane way in the world. [*Time expired.*]

Mr STEVE WHAN (Monaro) [4.11 p.m.]: United States of America retailer Abercrombie and Fitch has announced that it is boycotting Australian wool. Previous speakers have given good descriptions of the retailer's ridiculous comments about mulesing. Those comments show how little they know about the need to prevent flystrike in sheep, and how cruel it is to allow it to occur in a flock of sheep. This radical activist group People for Ethical Treatment of Animals [PETA] has initiated a range of campaigns around the world, and this is the latest. The group is clearly demonstrating an amazing lack of knowledge. PETA has said that mulesing is grossly inhumane, a claim that is not borne out by what occurs in Australia and in the field.

Mulesing is endorsed by the Australian Veterinary Association, together with many others about whom we have already heard. PETA should not be taken seriously. Unfortunately, some retailers are doing so, and the media seems to be taking the claims seriously or as light entertainment. The sheep industry is important to New South Wales and we cannot allow it to be damaged by this group of extremists. As I understand it, PETA threatened the United States retailer Abercrombie and Fitch with a newspaper and web site campaign if it did not boycott Australian wool products. PETA did not put forward a case but is said to be targeting at least a dozen other United States retailers of Australian wool.

But the group has absolutely no credibility. PETA has run a campaign encouraging college students in America and Canada to consume beer instead of milk because it believes animal products should not be consumed. In a Milk Suckers campaign it attempted to convince students at other levels of schooling in America to drink beer or other liquids instead of milk. It tried to tell secondary students that dairy products are bad for their health. PETA has been criticised by many people in America for that campaign, including Mothers Against Drunk Driving. PETA distributed cards to secondary students in the United States of America saying that milk would lead to acne, phlegm, weight gain and gas—a ridiculous campaign.

PETA has campaigned against the Boy Scouts of America; it has attempted to stop it from giving badges to their scouts for fishing because it believes fishing is cruel. PETA says it teaches young people that hooking, maiming, suffocating and killing fish is acceptable. It has attacked video games, such as Bassmaster, claiming it inspires violence against fish. It even claimed in the United States that Jesus was a vegetarian and that he only ate fish after the resurrection. One has to wonder why He was calming the oceans so that people could fish—another ridiculous campaign. PETA demanded in another ridiculous campaign that Hamburg and Frankfurt change their names so that they do not reflect the consumption of animal products. PETA has also campaigned against the consumption of pig meat and an amazing range of other matters. One has to wonder what the members of PETA eat and wear.

From my quick look at its web site it seems to be more a soft porn site than anything else, using scantily clad female models to promote the consumption of products other than animal products. The campaign against Australian wool is a cheap publicity stunt to try to push a claim that is clearly wrong; it is the result of extremist views on animals and animal products. PETA has run a range of its campaigns in the United States of America and it is now attempting to bring them to Australia. Australian farmers and the Australian community should say that they will not put up with that sort of rubbish here.

The Australian media should treat its campaign for what it is: a joke. It is a cheap attempt to gain publicity and support for an extremist view on animal welfare, one that is not supported by reasonable groups concerned about the welfare of sheep and other animals. This House now has the opportunity to take up this matter and to make a clear statement that it supports our wool industry. We want to make sure that our wool industry continues to produce the export earnings we rely upon in Australia. Rural communities need those exports. This sort of ridiculous extremist group cannot come into Australia, ignore the impact of flystrike on the wool industry and try to launch a campaign that will impact on the livelihoods of our farmers.

Mr IAN SLACK-SMITH (Barwon) [4.16 p.m.]: This House supports the New South Wales and Australian sheep industries. I congratulate the honourable members representing the electorates of Murray-Darling, Lachlan and Monaro on their contributions against this dangerous campaign launched by some irresponsible, ill-informed morons from America. As the honourable member for Murray-Darling said, they are supported by the same ill-informed morons in Australia—Bob Brown, Andrew Bartlett and Clover Moore—and it is obvious they do not have a clue what they are talking about. They have never seen a sheep die in complete agony with maggots through its body due to fly strike.

Only a few members in this place have performed a mulesing operation, which is not very spectacular. Honourable members who have ever knocked a bit of skin off the top of their hand, arm, knee or leg would know it is not that painful. The ill-informed morons in the People for Ethical Treatment of Animals [PETA] have said that the operation of mulesing entails the removal of flesh. It does not. It simply involves the removal of loose folds of skin from around the tail area of a sheep. When the operation is completed the sheep is left with a bare patch. But a little pinch and pain should be compared to a seven-day slow, agonising death due to flystrike. I would prefer the former to the latter. Knocking off a bit of skin is not painful; it is only when the flesh is cut that it is painful.

The sheep industry in Australia is important. In addition to sheep producers virtually every town in my electorate of Barwon and every rural community in New South Wales benefits in some way from the sheep industry. For example, those involved in fattening lambs, live exports, fencing, hardware, chemicals and labour, as well shearers, wool classers, pinners, rouseabouts, carriers, abattoir workers, saleyards workers and stock and station agents all gain some benefit from the industry. This makes our communities strong and viable. I know about the export of livestock because two years ago I was an accredited exporter of live cattle.

It is interesting that these morons—including Bob Brown, Andrew Bartlett and Clover Moore—are totally against the live export of stock, and sheep in particular. In 2002 we exported eight million sheep; in 2003 we exported 4 million sheep. The same number of sheep are being exported to world markets, but Australia is

not now able to export live sheep. Australia has the most humane rules and procedures for the export of sheep. As the honourable member for Lachlan said, our rules on the exporting of sheep are very stringent. The same numbers of live sheep are being exported to world markets, especially in the Middle East, but they are coming from places like Africa, China and India—countries that have scant regard for animal welfare. Australia is not now in the live sheep export market because idiots like those I have mentioned are trying to stop our export industry.

As the honourable member for Lachlan said, the ships used to export live sheep from Australia are airconditioned, and they have on board a veterinarian, food, airconditioned sick bays, et cetera. If the mortality rate exceeds the normal rate for sheep in a paddock, which is about 2 per cent, the veterinary surgeon must notify the ministry of that immediately. Despite our stringent rules, Australia's share of the live sheep export market has been taken over by other countries that have scant regard for the welfare of animals. The Coalition supports the sheep industry, the export industry and mulesing. As far as we are concerned, we put commonsense ahead of some ill-informed morons who are out to destroy the economy of Australia.

Mr GERARD MARTIN (Bathurst) [4.21 p.m.]: I am pleased to join my colleagues on both sides of the House in speaking on this important topic. As we have been told, the United States retailer Abercrombie and Fitch announced it was boycotting Australian wool, driven by a campaign by the radical activist group People for the Ethical Treatment of Animals [PETA]. PETA claims its campaign against the Australian wool industry is based on the "grossly inhumane practice of mulesing". Unfortunately, the boycott is based on misinformation and intimidation. Both PETA and Abercrombie and Fitch have been panicked into their stance and have failed to understand the facts. It is important to point out the difference between mulesing and the alternative.

Let us have a look at the science behind mulesing. Mulesing is a surgical practice that provides sheep with lifelong protection against flystrike. This painful and life-threatening condition, flystrike, is caused by a unique and aggressive Australian blowfly. As we know, blowflies lay maggots on sheep or in the folds of skin, particularly around the hind, or breech, area. The maggots then eat the flesh and insides of the sheep, often resulting in a very slow and painful death for the animal. Mulesing is a quick and clean surgical procedure, most often performed on young sheep, to prevent wool growth and reduce wrinkling in the breech area. Pertinently, it has been shown by many studies to reduce the incidence of breech strike by more than 80 per cent when compared with unmulesed sheep under the same conditions. So there is no argument about its effectiveness.

Mulesing is mainly performed on Merino sheep, and it is estimated that in Australia 90 per cent of those are mulesed. Surgical mulesing does not leave any chemical residues in the wool of the sheep, which is very important to the export of Australian wool on the international market. Also, it does not require the use of chemicals that might have long-term effects on the health or productivity of the animal. The honourable member for Lachlan graphically described the old chemical alternative to mulesing and its impact not only on the sheep but also on the farmers who were using the chemical. Unlike PETA, the Australian sheep industry and the State and Federal governments are genuinely concerned about animal welfare and are taking rational, science-based steps to continually improve practices. That fact has not being acknowledged in this debate.

From an industry training point of view, over the past 10 years the Livestock Contractors Association and the New South Wales Department of Primary Industries have developed the mulesing awareness, mulesing training and mulesing accreditation workshops. Those workshops are the basis of the national mulesing project, which is funded by Australian Wool Innovation Ltd. The Australian wool industry is the world's largest wool producer, and it obviously has the welfare of its animals as a high priority. As well as the national mulesing project, Australian Wool Innovation Ltd [AWI], is investing more than $7 million in animal health research and development. So it is not sitting on its hands.

AWI is currently funding research into the use of analgesics for mulesing as well as non-surgical mulesing techniques. The research is being carried out by the CSIRO in Armidale and it is in its first year of work. If the research shows potential, AWI has indicated it will help provide the resources needed to fast track the development of practical new applications. The AWI also has funded two significant research projects to explore the use of natural products to remove wool follicles or flatten skin wrinkles in the breech area of sheep. Research also has focused on genetic solutions to the problems of breech strike, including breeding work to help develop resistance to internal parasites. It is important that we do not believe the hype that is being put out in the Australian community. It is significant that the RSPCA is distancing itself from PETA. We know that the RSPCA takes a fairly hard line on animal welfare. Often it is at odds with some farming industries. However, on this issue, it is at one with the farming community. On 15 October the RSPCA said:

> In particular geographic regions, where there is high risk of flystrike and it has been established that there is absolutely no acceptable alternative to mulesing, the RSPCA considers mulesing a necessary means of eliminating or minimising the pain and suffering caused by flystrike.

The facts are there. If people look at the real facts on this issue, they will find that mulesing is a much more humane way of treating this problem with sheep than is the alternative. [*Time expired.*]

Mr PETER BLACK (Murray-Darling) [4.26 p.m.], in reply: I thank the honourable member for Lachlan, the honourable member for Monaro, the honourable member for Barwon, and the honourable member for Bathurst for taking part in the debate today. I will mention a number of the points made by the honourable member for Lachlan about the RSPCA. I quote the RSPCA on this matter:

> RSPCA Australia does not endorse or accept mulesing as an essential sheep husbandry procedure. In particular geographic regions, where there is high risk of flystrike and it has been established that there is absolutely no acceptable alternative to mulesing, the RSPCA considers mulesing a necessary means of eliminating or minimising the pain and suffering caused by flystrike. In these instances the mulesing must be performed by an experienced and competent person.

In a separate press release on the PETA matter, the RSPCA goes on to say:

> The RSPCA has moved to distance itself from the campaign against Australian wool being run by People for the Ethical Treatment of Animals [PETA], the group that has pressured major American retailer Abercrombie and Fitch to boycott Australian wool in its 749 US shops. RSPCA National President, Dr Hugh Wirth, states that radical and extreme animal rights groups set back the work of his organisation, the RSPCA. "Well, you just can't sit down with animal rights people. They are irrational. They will not discuss anything with you because they claim to occupy the high moral ground."

Regrettably, that is a matter of fact with some of these people. On the subject of mulesing, a number of issues were raised by the honourable member for Lachlan and the honourable member for Barwon. In the west of the State, where properties tend to be large, many graziers carry a pistol in the tool box on their bikes when doing their water runs because every now and again one or two lambs will be missed and they will get flystrike. People going round their properties occasionally will have to put down some of the flyblown sheep. I can assure the House, as has been said by all members who have taken part in the debate today, that death by flystrike is terrible. However, it is a fact of life that attends improvements in the wool-growing nature of our sheep.

Let us face it, if we go back 100 years with the birth of the Kidman empire, sheep shore only about five pound of wool. Today it is much more. With the increase in wool length, the decrease in microns, the increase in density, and all the other arguments, flystrike obviously will be far more prevalent unless the requisite steps are taken to avoid it. It is a matter of regret to me that the minute this much-vaunted American free trade agreement is up and running these issues come to the fore. I have always had doubts about the American free trade agreement because, as one leading academic from the University of New South Wales at Kensington has said, so far as our cattle industry is concerned, by 2015 it might be worth half a cow per property per year; it will not be worth too much. If the American boycott succeeds, if these other 20-plus shops that they are talking about join the boycott, the American free trade agreement will be totally irrelevant. The Americans are not big consumers of Australian wool, but they will run boycotts against Australian wool into Europe and some of our major Asian markets.

Sadly, this debate started off on a bad note with splits in the Opposition. But it is of interest to me to note that both speakers for the Opposition came from country New South Wales, not coastal New South Wales. It is evident that both of them have had long years in the industry. As I said, we have to go back to the circumstances of flystrike, Charlie Carter, and the alternatives to mulesing and live sheep output in our great industry. The honourable member for Barwon wondered how many of these would be do-gooders have dogs and cats. He wondered what they ate and the processes in the abattoirs that produce the meat consumed by the average pet dog within the boundaries of Sydney. At the end of the day we do not need these people interfering in our industry. We have a commonality of purpose, at least with respect to the country elements of The Nationals and Country Labor.

Motion agreed to.

BANKSTOWN AIRPORT UPGRADE

Matter of Public Importance

Mr ALAN ASHTON (East Hills) [4.33 p.m.]: I ask the House to note as a matter of public importance community concerns about the proposed upgrade of Bankstown Airport, which has existed on its present site

since World War II and is the largest employer in the city of Bankstown. Over the years residents and the airport have co-existed, but often the relationship has been strained by the continual take-offs and landings of small aircraft on the flight path over residential areas and the lack of curfew on operations. In December 2003 Bankstown Airport was sold by the Federal Government to BAC Airports, and operates as Bankstown Airport Limited [BAL]. The operator of Bankstown Airport Limited is controlled by the Airports Act 1996.

Residents of the greater south-west and the area surrounding Bankstown Airport were concerned about the proposed upgrade both before and after the sale. The Carr Government has made it clear that it will play no role whatsoever in assisting Bankstown Airport to become Sydney's second airport. In July this year Bankstown Airport Limited released two significant documents about the upgrade of Bankstown Airport, the preliminary draft master plan [PDMP] 2004-05 and the 2005 airport environment strategy. These documents are the master plans for the operation of the airport for the next 20 years.

It is vital that the airport and the local community can work together on getting the best result for all concerned. A consultative committee was established consisting of various stakeholders in the upgrade of the airport—aviation industry tenants, non-aviation tenants and users, local agencies, State government departments, business groups, and the local council. The Mayor of Bankstown, Helen Westwood, is on the committee, as is Councillor Ian Stromborg, who represents local clubs in the area. A 90-day public comment period concluded on Monday 18 October.

The Bankstown Airport Community Consultative Forum [BACCF] met on many occasions to provide community and user feedback to BAL on the preliminary draft master plan. The committee continues to meet. I am advised by the Chief Executive Officer of Bankstown Airport, Mr Kim Ellis, that about 1,500 individual submissions, many in standard letter form, were received by the master plan assessors, URS Australia at North Sydney.

I can inform the House and concerned residents that each one of these submissions is treated as an individual submission, not merely as one submission and ignored. Unfortunately, one person who was concerned about Bankstown Airport gave the impression that if 1,500 people signed a document it would count as one document. You would have to be in gaga land to believe that. Some 1,500 people have written their names and addresses and posted the letter. I am assured that they will count as 1,500 submissions, even if they reiterate many of the same points. I am glad that so many local people have chosen to make their views known, because when the plans are finally approved it will be too late to complain. Several dozen individual submissions were made, including one from Bankstown City Council.

I am pleased to inform the House that many of the community's concerns are being addressed already by BAL. I read the PDMP and the environment strategy, and I identified a number of concerns. Many members of my community have expressed concerns about the upgrade, and I incorporated them into my submission to URS. As honourable members know, I have previously spoken about Bankstown Airport, as has my parliamentary colleague the honourable member for Menai. This is probably the tenth time I have spoken about it and the seventh or eighth, if not the tenth, time she has spoken about it. The honourable member for Bankstown has also raised this matter on numerous occasions. It is not as though we have just grabbed hold of this issue. We are really concerned about it. I wrote to the URS master team and outlined some of my problems with their plan.

The PDMP rules out 737s using Bankstown Airport for regular passenger transport—for that matter, it rules out 737s completely. The size of these jets is utterly inappropriate for an airport surrounded totally by residential and commercial properties. The URS master team should insist on increased security for the airport. The PDMP has only a vague one-line or two-line reference to security needs. The Federal Government's commitments to security at our airports have been rhetoric at best. Perimeter fencing is hardly enough. All access and egress points should be secured. Areas where fuel is kept should be especially secured and guarded where appropriate.

I am concerned particularly about the lack of an on-site firefighting and emergency service at the airport. To believe that each operation on the site can control fires or chemical spills with red fire extinguishers is folly. It is wrong to believe that the New South Wales State firefighting facility at River Road, Revesby, will be able to handle a critical incident at the airport on every, or any, occasion. What happens in the event of a fire at our school, factory or residence if there is also a fire at the airport?

I call on Bankstown Airport Limited to introduce a night-time curfew on the operation of the airport. Residents have complained for decades about the lack of a curfew. If the airport is to take much larger jets, and it will take BAe146s and the like, surely the same curfew that applies at Sydney (Kingsford Smith) Airport should apply at Bankstown. I oppose the increase in length and strength of runway 11C.129C. The PDMP does not clearly rule out 737 jets. The assessment of impact of the runway extension and tonnage capacity is based only on the BAe146 aircraft, which is the quietest of the code 3C aircraft. While I recognise that locating the helicopter complex away from residents in Georges Hall is a good move, residents in Milperra will suffer the noise impact of its operations instead. I suggested that the planners move the site of the helicopter complex further from residents and institute a flight path largely along the Georges River to reduce the impact of noise pollution upon local residents. I also opposed the projected doubling of helicopter movements.

The master plan team should ensure that no decision is reached in relation to Bankstown Airport that will impact in any way upon financial assistance from the New South Wales State Government or Bankstown City Council. The airport has been privatised, so any increase in traffic movement requiring infrastructure changes off site should be met by the airport's owners. I conclude by stating that I have had a good relationship with the management and staff of Bankstown Airport over many years, both for the 14 years I was a Bankstown councillor and now as the local State member of Parliament.

Bankstown Airport is the largest single employer in the city of Bankstown. Its economic benefits to the local community are obvious. However, I believe that acknowledging the objections and adopting the suggestions I have outlined will result in the profitable and safe operation of the airport without damaging the lifestyle of my constituents in the East Hills electorate and in surrounding electorates such as Bankstown, Liverpool, Menai and Liverpool.

My parliamentary colleagues, particularly the honourable member for Bankstown, the honourable member for Menai, and the honourable member for Liverpool, have raised concerns relating to the Bankstown Airport over many years, as have Daryl Melham, the Federal member for Banks, and Michael Hatton, the Federal Member for Blaxland. Some other aspects of community concern include the fact that at this stage the control tower operates from 6.00 a.m. to 9.00 p.m. from Monday to Friday and from 6.00 a.m. to 8.00 p.m. on weekends, and that freight traffic has the potential to increase dramatically. No flights forecast has been provided in relation to freight, but it is possible that there will be more than a 30 per cent increase in aircraft movements in the five years to 2009, which means that aircraft movements will increase from 248,745 to approximately 332,311, as forecast in the preliminary draft master plan [PDMP].

Recently I wrote to all of my constituents in the East Hills electorate to outline the concerns I have highlighted during this speech, including the prospect of Rex, the regional express airline, relocating to Bankstown Airport as result of being forced out of Sydney (Kingsford Smith) Airport. I am pleased to report to the House that following a conversation I had today with Mr Kim Ellis, Chief Executive Officer of Bankstown Airport Limited, some of the community's concerns have been allayed. I am advised that 737 jets, which are known as code 4 aircraft, have been totally ruled out from using Bankstown Airport.

I am also advised that security upgrades are being investigated with the object of increasing security at the airport site and the terminal beyond the current stated Commonwealth needs, and that helicopter flight paths will follow the Georges River, thus reducing noise and pollution effects over residential areas. I am also advised that Mr Ellis and Bankstown Airport Limited are closely examining the need to address firefighting and emergency services at the airport. I acknowledge this as a positive outcome in response to some of the community's concerns, but I look forward to further action being taken to reduce the impact of Bankstown Airport's upgrade on the local community.

Ms PETA SEATON (Southern Highlands) [4.42 p.m.]: Whenever there is a major development proposal it is absolutely vital for the community to be involved in genuine consultation so that its needs and ideas are heard, and that they not only are properly taken into account but also, when possible, are incorporated in improved management plans and proposals. I am grateful that in August I received a briefing from Mr Kim Ellis, the Chief Executive Officer of Bankstown Airport Limited and Camden Airport Limited, and from Mr Mark Gray of Leightons, on the proposed future works and management of Bankstown Airport, Hoxton Park Airport and Camden Airport, which is situated in the electorate I have the pleasure to represent.

I understand that the Bankstown Airport preliminary draft master plan was on public display until 18 October. Receipt of submissions has closed and the submissions are being considered. I am informed that public display of the plan was extensive and included exhibitions in shopping centres, council chambers and public libraries, as well as in advertising in local newspapers and on a web site. In addition, there was a great deal of communication among community leaders, briefings were given, and an open day was held at the Camden

Airport, which would have been well received by local people. A community consultative forum was established in which leading community groups from local council areas participated. I understand that the forum met six times during the public comment period to disseminate information to people in the areas affected by the redevelopment.

Submissions from people in relation to the preliminary draft master plan have all been acknowledged. The Federal Minister for Transport and Regional Services will receive the benefit of community advice and submissions. The submissions will be reviewed over the next two months and the final version of the Bankstown Airport draft master plan will be submitted to the Federal Minister for Transport and Regional Services on 15 December 2004. Local members of Parliament take a great deal of pride and pleasure when good community ideas and representations are taken into consideration in decision making. I understand from briefings I have received that community submissions have led to changes and adaptations in the draft master plan. Some of the changes include 737 aircraft or larger code 4C aircraft not using the airport. Those types of aircraft will be specifically excluded from the airport in the final draft of the plan.

I understand also that the flight paths for helicopters have been changed to mitigate their impact on the local community. Helicopters will follow the Georges River and industrial areas more closely than was originally proposed. I understand also that some changes have been made in relation to new security measures and improved security infrastructure, which are welcome additions to the final version of the plan. I understand that Hoxton Park Airport will continue to operate until December 2008 and will then close. People who live in areas that are adjacent to the airport and people who live in the Southern Highlands electorate will connect with the new West Link M7 Motorway—which is the new western orbital link—and can look forward to a very exciting future as a result of new federally funded infrastructure.

I understand that redevelopment of the airport will lead to the creation of between 10,000 to 15,000 jobs. I understand also that the redevelopment will involve industrial and retail space. Everybody knows how badly the Carr Government has fumbled in making land available for the construction of new homes. Let us hope that as a result of redevelopment of the airport, there will be some prospect of accelerated land releases. People in the Western Sydney region and the people of my electorate are looking forward to the development of much-needed infrastructure in the form of the West Link M7 Motorway and they fully appreciate the opportunities it represents in terms of economic development for those areas.

I compare the very thorough and inclusive consultation process associated with the redevelopment of the Bankstown Airport site with what has happened in my community in the Southern Highlands electorate. When the Federal Leader of the Labor Party, Mark Latham, announced out of the blue that one of the identified options was that Sydney's second airport would be located in the Sutton Forest area in the Southern Highlands electorate, the Minister for Infrastructure and Planning, Craig Knowles, immediately jumped in and provided a very comprehensive study. I obtained a copy of the study but it shed no light whatsoever on the intentions of the Federal Labor Party and the Carr Labor Government to locate Sydney's second airport in the Southern Highlands electorate. Indeed, the Labor Party has determined that the Sutton Forest area will be the site.

I suggest that the Labor Party closely examine the model that has been adopted by the proponents of the Bankstown Airport redevelopment, because it is an excellent model of community consultation and genuine openness. In contrast to that, the people of the Southern Highlands electorate are confronted with a Labor policy fait accompli. Although the Labor Party lost the recent Federal election, Labor's Federal policy remains, according to comments made after the election by the Federal Opposition Leader, Mark Latham. He basically said that the majority of Labor's policy positions will stand and will not be changed. I understand that Labor Party policy is to locate Sydney's second airport at Sutton Forest.

I reiterate that as the local member for the Southern Highlands electorate I oppose the Labor Party's airport plan for Sutton Forest—together with Joanna Gash, the Federal member for Gilmore, Alby Schultz, the Federal member for Hume, and all the members of the Southern Highlands Anti-Airport Action Group, which has been convened by an Exeter local, Martin Laverty. There are two ways to deal with a community: the Labor way, which is basically to tell people what they are getting and to get on with it, or this way. Bankstown Airport Corporation Limited is to be commended for the way it has included the community in consultations, taken on board what appear to be its very sensible suggestions, and incorporated them in its plan.

I commend the local community for participating; obviously, local people have put a lot of time and effort into this. They have attended meetings, looked at the proposals in great detail, and participated fully, no doubt at some cost to their family lives. I wish the project well for the future and look forward to the generation

of many new jobs in the region. That will improve and build on the quality of life of people in that community and continue the vibrant growth of western and south-western Sydney.

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [4.50 p.m.]: I commend the honourable member for East Hills for bringing this matter of public importance to the attention of the House. The matter is of significant importance to the Bankstown, Liverpool, Menai, Fairfield and Strathfield regions and has been brought to the attention of the House on a number of occasions. The honourable member for East Hills, the honourable member for Menai, the honourable member for Fairfield, the honourable member for Liverpool and I have focused on concerns about the future expansion of Bankstown Airport. Previously I have placed on record my concerns relating predominantly to the Federal Liberal-Coalition Government's decision to privatise Bankstown Airport, leaving it, as some would perceive, in the lap of the gods for the wolves to do whatever they wish about the airport, without focusing on the need for public amenities.

That has been my concern. To put it into context, along with the honourable member for East Hills I applaud the work that has been done by Bankstown Airport Limited management. Kim Ellis, the chief executive officer of the organisation, has a good team behind him. In addition, a consultative committee has been established. That important consultative committee comprises major stakeholders focusing predominantly on the Bankstown region, including Miss Helen Westwood, the Mayor of Bankstown City Council, Ian Stromborg, representing local clubs, as well as community and business representatives. The committee had the job of assessing responses to the draft master plan following the conclusion of its public exhibition. As pointed out by the honourable member for East Hills, 1,500 submissions were received, an extremely significant statistic.

In July, following the release of the draft master plan, I issued a press release saying that that consultative approach, and the submissions received, are to be applauded. However, my comments were taken out of context by members of the community who thought I supported an expansion of the airport. I make it clear that I do not support 737 jets landing at Bankstown Airport; indeed, I do not support anything detrimental to the residential or community amenities of the region. If something affects my constituents detrimentally, it is not a goer. The 20-year vision for Bankstown in the master plan will be achieved only if it passes that test. If a matter detrimentally affects the residents or businesses in the area, I will not support it. I am keeping my eyes and ears open on this matter because I want to make sure that any expansion of Bankstown Airport will not include anything detrimental to the region. Any expansion will need to be absorbed in a positive, productive and constructive way into local amenities.

As the honourable member for East Hills pointed out, that means definitely no 737 jets or code four aircraft using Bankstown Airport. I join with my regional parliamentary colleagues, State and Federal, to pursue that, vigilantly if necessary. As the honourable member for East Hills said, that probably will not happen, because the Labor Party was vigilant and said, "No jets at our airport, no 737s at our airport". The comments of the Labor Party members have been listened to, even by the Federal Coalition Government—which has not been too keen to listen to us on other occasions.

It is important that airport security be upgraded, and I would like to see that happen. I understand that helicopter movements, which will increase, will be restricted to areas in which they will not affect the amenities of residents. Some good things have come out of the master plan, but we will be vigilant; we will be listening and watching to make sure that nothing negative or detrimental occurs in the area. That is the test that the plan has to pass, and if it does not pass that test I will not support it.

Mr ALAN ASHTON (East Hills) [4.55 p.m.], in reply: I thank the honourable member for Bankstown and the honourable member for Southern Highlands for contributing to this matter of public importance involving the concerns of citizens of Bankstown and others about the proposed upgrade of Bankstown Airport. Of course, it should be recorded that whatever master plan is finally established for the next 20 years of operations at Bankstown, the decisions will be taken by the Federal Minister for Transport and Regional Services, the Deputy Prime Minister, Mr John Anderson. He will grant the final approval. I am confident that the process surrounding the preliminary draft master plan and the environmental strategy will have been done with the greatest integrity. I would have preferred the final decision on the upgrade of Bankstown Airport to lay in the hands of a Labor transport Minister, Mr Martin Ferguson, but that is not to be.

It should not be forgotten that not too long ago the Federal Coalition Government flagged the possibility that Bankstown Airport could be Sydney's second airport; that is no secret. Somewhat fortunately perhaps, with the privatisation of the Sydney (Kingsford-Smith) Airport under the control of the famous and legendary Mr Max Moore-Wilton, it is probably unlikely that Kingsford-Smith airport would want to lose major

carriers and large jets to Bankstown. Hence this debate about the possibility of Regional Express airlines, known as Rex, the State's largest regional airline, being pushed out of Kingsford-Smith. I note that Mr Moore-Wilton denied that Sydney airport is trying to push Rex out of Kingsford-Smith and into Bankstown. In fact, Mr Moore-Wilton wrote to all Federal and State members of Parliament implying that Rex was seeking a bit of quick publicity and that basically it pays only a peppercorn rent.

The whole point about that is that Mr Max Moore-Wilton has some standing, and although it is not appropriate for me to knock a former public servant, I remind honourable members that he was the Chief of Staff to the Prime Minister and now heads Australia's biggest airport, one of the biggest in the world. The bottom line at Sydney (Kingsford Smith) Airport will be the dollar. As the honourable member for Bankstown said, if a business is privatised it has to make money, and obviously members representing the electorates adjoining Bankstown Airport—that is Menai, Bankstown and East Hills, mine—want Bankstown Airport to be successful as it is the biggest employer in the Bankstown area. We have a great interest in employment, people being able to earn a living, people being able to fly in and out of the airport, and the airport's continuing progress.

As many people say, progress cannot be denied, but progress has to follow a plan, and the master plan has identified some deficiencies. The Carr Government continues to assure residents in the area who are affected or alarmed at many of the upgrade proposals that it will continue to provide no encouragement or assistance to make Bankstown Airport Sydney's second major airport. As I have stated, there is some good news emanating from the response by Bankstown Airport Limited to the matters put before the consultative committee and sent in by the master plan assessors, URS Australia. As I said, 737 jets have been ruled out of Bankstown Airport, and that is very good. I thank those in the Bankstown community whose opposition to the large jets has held sway with Kim Ellis, the chief executive officer at Bankstown. That is good news and it should be recognised.

I welcome the news that another community concern about security on or about the site is being re-examined. I hope that, as a result, a more stringent security regime is put in place. Without belabouring the point or going too far down the Federal track, everybody would be aware, as it was in the news this morning, that Dennis Richardson, the head of the Australian Security Intelligence Organisation [ASIO], who spoke last night at the Sydney Institute, was reported in an article on the front page of today's *Sydney Morning Herald* as saying, "Australia is now under greater threat because it is attacking Al Qaeda, it has a presence in Iraq and it is a target." The Federal Government has chosen to deny those facts, but it is hard to deny them when they are uttered by Dennis Richardson, the head of ASIO.

[*Interruption*]

Honourable members are aware of my opinion in relation to that paper. I reiterate my appreciation that representations on behalf of my community relating to helicopter flight paths—a good point taken up by that community—will result in a lessening of noise. It is critically important that we have firefighting emergency equipment on site. It is not acceptable for the Federal Government to say, "We will talk to the State Government to get half-time access to that facility." I thank all honourable members for their interest in this issue. I thank honourable members representing the electorates of Liverpool, Menai, Bankstown, Fairfield and Auburn, and others who represent electorates adjacent to the Bankstown electorate for their continuing interest in the welfare of the people in Bankstown and the impact of the airport on them.

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 members' statements.

PRIVATE MEMBERS' STATEMENTS

RYDE HOSPITAL SURGICAL SERVICES

Mr TINK (Epping) [5.01 p.m.]: Tonight I again refer to Ryde Hospital—an issue to which I have referred on many occasions over the years. On 17 September 2003 I raised concerns on behalf of Dr Samuel Sakker, senior surgeon at Ryde Hospital, who indicated to me that surgery at Ryde Hospital was rapidly reaching crisis stage because a number of surgeons were reaching retirement age. One senior surgeon is over the

age of 65 years, three surgeons are over the age of 60, and one surgeon is in the 50-year-old age bracket. At that time there was a plea for something to be done to recruit new surgeons to Ryde Hospital.

On 17 September 2003 I set out at length Dr Sakker's concerns. He is a long-standing surgeon at the hospital and a strong believer in the health services that are delivered at that hospital. Dr Sakker sent out a plea for help. A number of Government members, including the honourable member for Ryde, said that everything at the hospital was fine, and we have seen the usual sorts of glossy brochures and pamphlets that have been issued in support of that proposition. In the last few days I received a leaked memorandum dated 1 October 2004 regarding health services at Royal North Shore and Ryde hospitals. It is clear from that report that far from doing anything to deal with issues that were raised last year in the Parliament—no doubt they have been raised privately by surgeons—the Government used the shortage of surgeons as an excuse to emasculate surgical services at Ryde Hospital. The report states, at page 20:

> This must involve a very significant change from the existing arrangements for surgical services at the Ryde Hospital. It should be noted that a number of the current Ryde surgical specialists are approaching the end of their careers. This age structure will facilitate the transformation of surgical services at the Ryde Hospital.

Far from trying to do anything to get new surgeons—the problem having been identified a year ago—the health department and the Government are using this shortage as a catalyst to facilitate the transformation of surgical services, a fancy form of words for saying that it will downgrade those services. That is clear when we read what is written on page 20 of the report, which states:

> The consultants recommend that the non-elective surgical service at Ryde Hospital should be either closed completely, or limited to 'simple' cases.

That clearly indicates that the shortage of doctors at Ryde Hospital is being used by the Government to downgrade services at that hospital. The honourable member for Ryde, the Hon. John Watkins, must acknowledge that all he has said in the last 12 months about Ryde Hospital being fine, in an attempt to obtain the support of Government members, is simply not borne out by this report, its approach, or its plans as indicated in the report. Just in case there is any doubt, the report also states on page 21:

> ... the most functional role of surgical services at Ryde is to provide an adjunct facility to the Royal North Shore Hospital on a "two-campus, one-hospital" model. Surgery at Ryde should concentrate on Elective Day-Only and Short-Stay Surgery, and on patients who are unlikely to mid major psychological support.

Despite all the protestations of the honourable member for Ryde, Ryde Hospital will now in effect become a first-aid station. The major surgical services, which the honourable member said would never be touched, are about to disappear, and that is a disgrace. This Government has been aware of this problem for a year per favour of the most senior surgeon in the hospital. Because of the leaked report we know that the Government has done nothing for a year about getting more surgeons. It used the shortage of surgeons as an excuse to turn Ryde Hospital from a surgical centre into a first-aid post. [*Time expired.*]

LITHGOW TIDY TOWNS AWARD

Mr GERARD MARTIN (Bathurst) [5.06 p.m.]: Tonight I refer to the success of the Lithgow Tidy Towns group at the recent State awards held in Broken Hill. Lithgow was successful in that it won six awards this year. It came third in its category—that is, in the population categories of between 10,000 and 25,000. The Lithgow and District Community Nursery won the wildlife corridors and conservation section, the Zigzag Railway Co-operative won the cultural heritage award and the La Salle Academy, which was highly commended, won the schools environment award. The Lithgow Workman's Club, the oldest registered club in Australia, won the club partnership award.

The Lithgow Tidy Towns group won the friendliest Tidy Town award. It is no secret to anyone that my home town of Lithgow is the friendliest town in Australia. The Lithgow Tidy Towns group was formed in 1988 as a result of the inspiration of the late Col Drewe, who retired from a distinguished career in the Department of Education and Training. His retirement mission was to help Lithgow change its image as a grimy industrial and coalmining town. I was a member of the original Tidy Towns group. Since becoming a member of Parliament I have not been as active, but I am still in close contact with that group and I am an ambassador for the Keep Australia Beautiful Council, which organises the awards.

Col Drewe established that organisation and set a goal of 10 years within which Lithgow was to win the major award. It was able to do that in eight years—in 1997. When a town wins the award it has to drop out of the competition for a while. If Lithgow had not dropped out of the competition it would have won it year after year. Lithgow, which is now back in active competition, came third in its category this year. I am sure that it can look forward to further success in the overall categories. All organisations of that nature depend on the dedication of committed people. Some of the people on the Tidy Towns committee have been members from its inception. I refer to people like George Quinell, Allan Rayner, Fay Quinell, Greg Pitt, Ros Rayner, Helen Drewe, the wife of the late Col Drewe, Fred Thomas, Bill Newbeck, Fay Ritchie, Sarah Childs, Allan and Anne Wells, Sue Graves, the current chair, and Al Ritchie.

All those people have made an active contribution to the Lithgow Tidy Towns group. Most, but not all, are retired and there is a fair sprinkling of schoolteachers amongst them. They are interested in changing the image of the town and they have become involved in a lot of environmental issues, in particular, the eradication of willow trees that grow along the stream that flows through Lithgow. The Lithgow Tidy Towns group, like all organisations, needs help and support. From day one Lithgow City Council has been an active sponsor of the Lithgow Tidy Towns group. The current Mayor, Neville Castle, continues in the tradition of Lithgow mayors of being actively involved with the Tidy Towns group.

There are also Tidy Towns groups in Portland, Wallerawang and Capertee in the Lithgow council area. I must also mention Delta Electricity's outstanding support of Tidy Towns. It is a significant sponsor of projects and helps Tidy Towns participants to travel to the competition presentation. Delta Electricity operates two large stations in the Lithgow area with a combined generating capacity of more than 2,300 megawatts, so it is of course very conscious of the environment and its impact upon it. Steve Saladine, the western area general manager, and Jim Henness, the chief executive of Delta Electricity, are very supportive of the Tidy Towns awards. They put their hands in their pockets and offered financial assistance. The Tidy Towns committee reciprocates by helping Delta with several environmental projects near Mount Piper and Wallerawang power station. I am pleased to congratulate Sue Graves, the current chair of the Lithgow Tidy Towns Committee, and her active group of supporters on their outstanding work. They are putting Lithgow well and truly back on the Tidy Towns map.

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [5.11 p.m.]: I thank the honourable member for Bathurst for telling us about Lithgow's recent successes. Of course, none of this is a big surprise to me, as I was born in the little hamlet of Rydal near Lithgow and baptised in Portland, which the honourable member mentioned. Lithgow is a wonderful place. Sadly, many travellers heading from Sydney to the central west, and vice versa, pass through Lithgow. They should stop and enjoy the warmth of the local community. A little warmth in Lithgow is always a good thing because its temperature is rather cold—no, it is bracing. Lithgow is a good community, which I am sure the honourable member represents extremely well. Indeed, he was mayor of Lithgow before he came to this place. Roy and H.G. mention Lithgow from time and time and it always brings back fond memories. It was certainly no surprise to hear about the city's successes today. May there be many more of them in the future.

MYALL LAKES ELECTORATE YOUTH ACHIEVEMENTS

Mr JOHN TURNER (Myall Lakes) [5.11 p.m.]: I wish to put on the parliamentary record some of the achievements of young people in my electorate in cultural, community, academic and sporting areas. I preface my remarks with some comments from Stephen Nicholas, Principal of the Great Lakes College, Tuncurry senior campus—it is a junior-senior campus arrangement. When I asked him for some details of the school's achievements he replied:

> Dear John
>
> I am pleased to hear of your intention to speak favourably of young people in the Myall in State Parliament. Too often the press conveys very negative images of young people which ignores the wonderful efforts of the vast majority.

I endorse those comments. Too often young people are maligned when the great majority of them are doing wonderful things behind the scenes in my electorate—and I am sure in every other electorate. Young people are involved in sporting, cultural and community activities, and I will list just some of their achievements. Bulahdelah Central School is one of only a few central schools in this State. It is in the town of Bulahdelah, which has a population of about 1,100. There is a quite amazing array of talent at the school. For example, Katie Robards is a member of the Hunter regional cross-country team and represented her region at State level. Ben Bradley also competed in the athletics team at State level. Moving in a different direction, the year 11 rock band

Ambiance, comprising Harrison Wright, Phillip Booth and Mitchell Manners, recorded a compact disc in Sydney entitled *Informal Miserey*.

Year 12 student Amanda Dodsworth has achieved her Aged Care Nursing Certificate III through a traineeship with the Great Lakes Nursing Home, and has been awarded a three-year scholarship by the Royal College of Nursing, Australia. That is an outstanding achievement. Year 11 student Robbie Richards is a member of the State Development Squad for Golf. He has won numerous tournaments at State level and has played in international junior championships. Jed Rietveld and Sam Legge, who are both in year 10, achieved high distinctions in the New South Wales geography competition. Jed also competed in English competitions and in the Australian National Chemistry Quiz, and received distinctions in those areas.

Manning Valley Anglican College is a relatively new school—it has been open for only a couple of years—that offers classes from kindergarten to year 8. Its students have also achieved some outstanding successes. Nicholle Turner of year 6 is a swimmer and this year competed in the New South Wales Short Course Swimming Championships, the New South Wales Swimming Championships and the New South Wales Country Swimming Championships. She also competed in the Combined Independent Schools (NSW) Primary Carnival at the Sydney Olympic Park Aquatic Centre and was named as a reserve for the combined independent schools swim team. Nicholle also received distinctions in the Australian school mathematics championships.

Year 5 student Elana Withnall competed in the State athletics championships, and year 3 student Mitchell Newnham ran at the Combined Independent Schools (NSW) Cross-Country Carnival. Mitchell Newnham, Ben Larson and Chris Bayliss received academic awards in the mathematics competition. Chris Bayliss also received distinctions in Australasian schools competitions in English, science and computer skills. Jack Robison received distinctions for English and computer skills. This small school is contributing significantly to the cultural, academic and sporting achievements in our area.

At Great Lakes College senior campus, which I mentioned earlier, David Llewellyn won the Eureka Science Award for Biological Sciences. He was a finalist in the BHP Billiton Science Awards, Biological Sciences, a finalist in the Intel Young Scientist of the Year—I think the winner was announced in the House on Monday—and represented Australia in the Junior World Championships 2004 in Europe. He won the Taree School Education Area Award for Excellence in 2004, he is a college prefect and, from memory, I think he plays in the band. David Uncle captained the CHS open volleyball team in 2003 and 2004. He was also a member of the CHS trans-Tasman volleyball team, as were Cara Williamson, Leah Onley, Mitchell Woodward, Paul Carroll and Tahnee Martin. Kristan Withers, who graduated last year, was awarded the New South Wales Faculty of Engineering rural scholarship and currently attends the University of New South Wales. Leah Curtis won the New South Wales Business Plan Competition and was a member of the winning team in the Australian Business Week Competition. Robert Vasey was selected to give a major musical performance in *Encore* at the Sydney Opera House.

At the Tuncurry junior campus year 10 student Alisha Withers—Kristan's sister—has been a delegate on the State Student Representative Council working group, which organises the State Student Representative Council leadership conference. In that role she represented students in years 7 to 12 from the education areas of Taree and Port Macquarie. As campus captain, she has worked tirelessly to improve road safety and she petitioned me and others to have flashing lights installed outside the school, following several bad accidents. These young people are outstanding students and a great asset to our community.

Ms ALISON MEGARRITY (Menai—Parliamentary Secretary) [5.17 p.m.]: I am sure that all honourable members would concur with the statement that the honourable member for Myall Lakes made at the beginning of his contribution. Too often we hear only negatives about young people in our society. I find it surprising that so many people are ready to write off an entire generation, but I am reminded that that was also the case historically—people often read statements expressing similar sentiments from the eighteenth or nineteenth centuries. Unfortunately, it is a tradition for the human race to decry its young people, who are literally our future. We should do everything we can to support them positively. I thank the honourable member for Myall Lakes for highlighting the positive contribution of young people in his community and their academic and sporting achievements.

BIDDABAH AND SPEERS POINT PUBLIC SCHOOLS

Mr JEFF HUNTER (Lake Macquarie) [5.18 p.m.]: Tonight I draw the attention of the House to two events that I attended recently—one at Biddabah Public School and the other at Speers Point Public School. Both events were official openings. On Friday 3 September I attended Biddabah Public School to officially open

its new $600,000 library. The building of any new school library is a special occasion, but it is particularly important for Biddabah. The school now has a permanent building to house its extensive collection of books, teaching resources and historical material. The attached activity computer room means a full class of students can work together on information technology in a modern supported learning environment. It is a great asset now and certainly for the future. The new building has rightly taken its place as a focal point of the school, and will enhance the delivery of the excellent educational programs enjoyed by the students. On 9 September the principal of Biddabah school, Graeme Mason, wrote in the school's newsletter:

> Dear Parents,
>
> Biddabah School library was officially opened last Friday by the State member for Lake Macquarie, Mr Jeff Hunter.
>
> The ceremony was presented by our school captains and prefects who welcomed students, guests and visitors to our school for the opening.
>
> The library had been a long time coming but everyone thought it had been well worth the wait. That magnificent building has now become the centre of learning at Biddabah School with students and staff most satisfied with it.
>
> Among the invited guests on the day were those who in some way had made this library happen:
>
> Mr & Mrs Jack VanNetten (apol)
> Jack is a Past President of our School Council
>
> Mr & Mrs Daryl Broxom
> Daryl is a past president of our School Council and the Biddabah P&C
>
> Ms Lynne Lawrence
> Lynne is a past P&C president and a member of the School Council
>
> Mr & Mrs Kevin Rourke (apol)
> Kevin is the immediate Past President of our School Council and P&C
>
> Mr & Mrs David Baker
> David is our newly elected P&C President
>
> Mrs Liz Rushton
> Liz is our school's Education Area Director
>
> Ms Kelly Hoare
> Kelly is a good friend of our school and the federal member for Charlton
>
> Mr Jeff Hunter
> Jeff is our State Member for Lake Macquarie, a good friend to our school. Jeff takes a keen interest in Biddabah School and has visited us on many occasions. Over the years we have had a fine working relationship with him.
>
> In his talk Mr Hunter mentioned that he had spoken to the Education Minister, Mr Andrew Refshauge, the day before and Mr Refshauge assured him that the plan to provide additional buildings for Biddabah School was still active.
>
> Mr Hunter also spoke of joint funding for plans such as air condition the library. The school also has an application in to the department for joint funding of a hard surface court.

On 24 September 2002 I announced in the House funding of $600,000 for the new library at the school. At that time I mentioned that the Government had committed to an upgrade of the school over a number of years. I take this opportunity to once again remind the Minister for Education and Training that Biddabah School is very worthy of the continuation of that upgrading program. The Government has given that commitment, and I ask the Minister to speak to his department to ascertain when the next stage of the upgrade will be undertaken.

On 14 October I attended the official opening of an adventure playground at the Speers Point Public School by my parliamentary colleague the Federal member for Charlton, Kelly Hoare. A large group of community representatives attended the opening, with the students of the school giving performances. An article in the *Lake Macquarie News* headed "New playground for school" stated:

> The grounds of Speers Point Public School have received a face lift thanks to the help of Hunter Workways.
>
> Over 26 weeks, teams of up to eight Hunter Workways clients a day cleared, landscaped and planted their way to a completely new outdoor environment.
>
> The garden was officially opened last week in a ceremony attended by Charlton Federal Labor MP Kelly Hoare and Lake Macquarie State Labor MP Jeff Hunter.
>
> Principal Judy Harrison said the children loved the new outdoor environment.

"There is an outdoor performance area with seating, new play equipment and a fairy ring complete with an arbour and stone throne for creative play," she said.

"The ordinary and under-used grounds were transformed into a beautiful and usable garden.

"The project also assisted Hunters Workways clients rejoin the workforce."

The motto of Speers Point school is "Promoting a caring environment where people work together to improve student learning". At the official opening, guests shared refreshments with the principal. I spoke to parents and citizens who said Speers Point is a great school. However, they raised their concern about the condition of the boys toilet block. I ask the Minister for Education and Training to speak to his department to see what can be done to undertake repairs to the toilet block. [*Time expired.*]

AMBULANCE SERVICE OF NEW SOUTH WALES PATIENT TRANSFERS

Mrs JUDY HOPWOOD (Hornsby) [5.23 p.m.]: I refer this evening to the Ambulance Service of New South Wales and a concern of one my constituents, Malcolm Knight. The motto of the Ambulance Service of New South Wales is "Together we will be the world leader in ambulance services—providing a shield of protection to our community". On 17 October Malcolm Knight wrote to me and expressed his great concern about an issue he raised more than a year earlier. He stated:

I refer to your letter of 18 August and thank you for your further representations to the Minister for Health regarding my growing concerns over my father's ambulance transport delay on 17 February 2003. Unfortunately, the response from Minister Iemma only serves to cement my opinion that the health system in NSW is not serious about addressing its inadequacies.

Having failed, over the course of a year, to gain any satisfaction from the Ambulance Service or through the HCCC,
I have written to the current Minister for Health a total of three times in addition to your representations. The reasons for my disappointment at the inadequate responses of the Ambulance Service's CEO were communicated to the Minister yet it now seems he considers the Service has dealt appropriately with my complaint. I did not receive a reply to my most recent letter to the Minister on 31 March.

I can only restate my point that the "thorough" review of my complaint, "detailed" responses, acknowledgment of the delay and expressions of "regret" all count for nothing when the Ambulance Service, and now the Minister, have failed to give me the slightest indication that the situation will not be allowed to happen again. The Minister's repeated encouragement for me to telephone the Ambulance Service's CEO or attend a conciliation meeting suggests that he may not have even read my correspondence.

As I have stated to all concerned, I seek only an acknowledgement that the potentially life threatening delay in transporting my father is unacceptable and an assurance that the Ambulance Co-ordination Centre's decision resulting in that delay will not be permitted in the future.

If the Ambulance Service or the Minister can provide those statements, then I would be pleased to receive their further correspondence. If such assurances can only be given verbally, then I would find it difficult to believe they were genuine. If the Ambulance Service is not prepared to make any effort to avoid such potentially life threatening delays in future, then there is no point in my attending a meeting.

Mr Knight is referring to the offer of a conciliation meeting. He continued:

Unfortunately, it seems I have exhausted most avenues for pursuing a satisfactory outcome and I ask you to note my great disappointment in the Minister's response to these concerns.

Mr Knight wrote to the Health Care Complaints Commission and stated:

I am astounded at the tone of the reply which leads me to think that the situation is acceptable to the Service and that the Service's only failure was in not meeting my expectations. It is clear that the Service did not meet its own response requirements for a "within the half hour" booking and I am disappointed in the extreme that there are no assurances provided that similar delays will not occur in the future.

On 18 February 2003 Mr Knight wrote to me and stated:

I write to complain about a delay in the ambulance transfer of my father who had a heart attack yesterday. The delay was clearly avoidable and it is my impression that it seems likely to have been created in order to save a small cost to Ambulance Services of New South Wales.

My father was taken by private car to a local Medical Centre with his first presentation of significant cardiac chest pain. [A doctor] booked an ambulance to take him to Hornsby Hospital and one was sent three minutes after the time of the doctor's call.

> Following an impressively rapid assessment at Hornsby Hospital, the Director of Emergency ordered an ambulance to transfer him to Royal North Shore Hospital for an urgent angiogram. The Ambulance Service gave this booking the same urgency status as the previous transfer but an ambulance was not allocated until 43 minutes after the time booked.
>
> I am reliably informed that an ambulance had just completed a case and was available at Hornsby Hospital when the booking was made but it was not given the transfer. I suspect this was because the crew had already been called away from their lunch break and to give them another transfer would cost the Service perhaps $50 in additional penalty rates.

Mr Knight is obviously very concerned about the 43-minute delay that he believes placed his father in jeopardy. He stated:

> I raise this matter as I am thoroughly fed up with seeing what used to be regarded as the world's best ambulance service cut, trimmed and "improved" with only the occasional admission that many changes are attempts to save money.
>
> My fear is that the delay that occurred here is just a symptom of a cost-focused Ambulance Service.

He demands that things improve in relation to the Ambulance Service of New South Wales.

CONDELL PARK SOCCER CLUB JUNIOR PRESENTATION DAY

Mr ALAN ASHTON (East Hills) [5.28 p.m.]: Last Sunday I had the pleasure of attending and presenting trophies at the Condell Park Soccer Club's Junior Presentation Day, which, for the fourth consecutive year that I have attended, was held in the rain. I have suggested that they should hire out the Condell Park Soccer Club's Junior Presentation Day all round the State, because it literally pelted down! In attendance, obviously, were a number of officials and members of the club, many of whom I would like to mention. One fellow I will mention is Ron Correy, Australia's former goalkeeper and a Condell Park identity. A year before he coached Wollongong Wolves to a premiership, he was coaching the under-14 or under-15 boys soccer team at Condell Park. That shows that if you stay involved in soccer it becomes a lifelong passion, whether or not you are playing for Australia. The fact that that is the only Australian team to get to the World Cup is quite an achievement. Ron donated a couple of Socceroo jumpers that had been signed, and the club made a few dollars by raffling those during the season.

I want to congratulate the Condell Park Soccer Club, the oldest club in the Bankstown district. Bankstown has always had good soccer credentials, of course, with the Bankstown Lions playing in a senior division. The Waugh boys were great soccer players, and could well have taken up careers in that sport. I congratulate Mark Skennerton, president of the club, and Robert Skene, its secretary. I would like to mention the sponsors, because all these junior teams are becoming more and more dependent on sponsors, who often are small business people. I am sure Opposition members and Government members realise the important part that small business plays in local sporting clubs and groups.

The Bankstown Trotting and Recreational Club is a great supporter of the Condell Park Soccer Club. So are the High Flyer Hotel, M. A. P. Communications , Georges Hall Meat Company, Bones Physio—an interesting name for a physio group—Condell Park Hardware and Macquarie Mortgages. I have mentioned previously that I am a patron of the Bankstown Trotting and Recreational Club. One of my staffers was for ten years a director of that club, but he was also a patron of the High Flyer Hotel bar! I know he has an interest in both of those facilities—and it is not always professional! Sometimes it has to do with just enjoying a drink at the end of the day.

Many young people attended the Junior Presentation Day to receive their 5-year, 10-year and 15-year service awards. Time is always very short for making private members' statements, but I want to congratulate a fellow called Henry, who was the coach of the under-8s. I know Henry, but I will not embarrass him by mentioning his full background and his list of qualifications as a soccer coach. However, two of the ladies teams won premierships. Often, it has been the ladies teams that I have gone along to watch, for no other reason other than that my staffer's daughters have both played in the all-aged ladies teams and younger teams over the years. They are very good players.

The figures reveal that women's soccer is taking off at a greater rate than almost every other sport. We all know that netball is allegedly the most popular sport played in Australia, but soccer is not far behind. It is a pity that we cannot generate that sort of interest right through from the local level. When that interest does go right through, our players end up playing in England or somewhere in Europe. Of course, we need to do something about keeping them here. In the short time remaining I would like to read how the year went for the All Age Ladies:

> Well, girls, what's that saying? "Things can only get better!" This year was filled with injury, pregnancy and prejudice. But in true All Age Ladies' style, you girls were our heroes once again. You kept your chins up and ploughed on.
>
> Our goalkeeper position was definitely cursed this year. We started the year with Dannielle in goals, until she found out that she was pregnant with twins!!! Our usual stand-in goalkeeper, Denise, was also injured on the field, as well as going through major surgery at the beginning of the season, and was understandably unavailable for the position.
> So next came the brave and reliable Di Graziotto who, despite suffering a broken finger last season, put her hand up to play again. But, as Lady Luck would have it, she broke the same finger in the first game, and was forced to play the rest of the season on the field.
>
> So, who next?? Rebecca drew the short straw this time. No-one blame any of the girls being hesitant to take on the cursed keeper's position!! Beck was outstanding in goals and performed beautifully until, you guessed it, she broke her hand whilst warming up before a game!!

I saw Kim Edwards, who was a great player and for many years the goalkeeper for Condell Park, end her career taking a ball at her feet. She broke both legs, and never played again! So soccer is a tough sport, and I admire the girls that play it so well.

HIGHWAY PATROL RESOURCES

Mr DONALD PAGE (Ballina—Deputy Leader of The Nationals) [5.33 p.m.]: The most serious concern in my electorate at the moment is road safety, particularly on the Pacific Highway. At the last Police and Community Training [PACT] meeting, which was attended by the honourable member for Lismore, who is in the Chamber, I raised this road safety issue particularly as it relates to the Pacific Highway, but general discussion ensued. I commend the attitude of the new superintendent, Bruce Lyons, to PACT meetings. He takes his responsibilities seriously and has a genuine desire to respond to local members who bring forward community concerns. Superintendent Lyons undertook to find out more relevant information about road safety, and particularly about highway patrols.

Some of the information he has provided to me is of a general nature and is not unusual; it talks about the growth of the North Coast and so on. But some information he provided to me, particularly relating to highway patrol resourcing, is of great concern to me and I know it will be of great concern to the honourable member for Lismore. By way of background, I should say that Superintendent Lyons indicated that to his knowledge there had not been in the Northern Rivers area an increase in highway patrols. That surprised me, because in some areas of the Pacific Highway the traffic increase had been as much as 250 per cent in the same period.

The information that the superintendent provided that is relevant to road safety and related issues is, first, that the population has increased substantially in the Northern Rivers area. To give an example, the Ballina area population increased by 52 per cent between 1986 and 2001, and it would have increased further since then. Second, most people travel by car; there is virtually no public transport in this area. Third, specialist health and education services are located in the major centres, necessitating intraregional travel by car. Fourth, tourism is a big industry, with 88 per cent of domestic visitors arriving by private vehicle, and 46 per cent of international visitors arriving by coach. Fifth, the upgrade of the Pacific Highway, acknowledged as a nationally significant freight route, has had a huge increase in B-doubles and semitrailers since August 2002, when the Chinderah to Yelgun dual carriageway was opened. And, sixth, the Richmond Local Area Command has been consistently in the top five local area commands for fatal accidents and fatalities in the State between the years 2000 and 2003.

I turn specifically to road safety and highway patrol objectives. These are outlined in the information provided to me by Superintendent Lyons. They are to reduce fatal and serious crashes through a highly visible profile, to patrol all classes of roads within the local area command with an emphasis on major routes, to promote voluntary road user compliance with traffic laws, to detect and prosecute traffic offenders and to facilitate the free movement of traffic, people and goods. My major concern is that the next part of the submission states:

> An analysis of the period 1 September 2002 to 30 August 2003 showed that approximately 42.9%, or 13,567 hours, of the total time available was not directed towards the stated objectives.

In other words, 43 per cent of highway patrol time was being diverted away from non-core highway patrol duties. That is of grave concern to me. The information provided to me also says:

> The current strategies used to address the objectives outlined in the Traffic Policy Statement, that is High Visibility Policing and Targeted Enforcement are effective, but they are resource intensive and it is impossible to maintain this level of commitment year round with current staffing levels.

The submission goes on to say:

> **The allocation of highway patrol resources to the LACs is not equitable**.
> The Northern Region Highway Patrol has an actual strength of 200 officers. Of these 69, or 34.5%, are based in the Newcastle and Central Coast areas, which means that 34.5% of the resources are allocated to an area totalling approximately 3.5% of the Region.

That also is of great concern. The submission further states:

> **The resources allocated to Operational HWP units is inadequate.**
> … The current number of officers cannot sustain the level of services required by the organisation or the community—a point that is borne out by the need to utilise special funding to artificially increase strength in periods of high demand.

Of course, we know that that funding comes from the Roads and Traffic Authority. The submission goes on to make recommendations that involve an increase in the number of highway patrol officers and a more equitable distribution of resources across the State. [*Time expired.*]

AUSTRALIAN CAPITAL TERRITORY GAOL PROPOSAL

Mr STEVE WHAN (Monaro) [5.38 p.m.]: I have spoken previously in this place about my opposition to the proposal by the Australian Capital Territory [ACT] to build a new gaol near the residents of Jerrabomberra and Letchworth in Queanbeyan rather than somewhere near their own residents in the ACT. A few months ago I was pleased when the Premier supported my position by writing to the ACT Chief Minister and objecting to the location. The ACT Government originally wanted Majura as the site for the gaol, but despite approaches to the Commonwealth Government it was unable to secure an early and appropriate offer of land in the Majura Valley on former defence force land. As the Federal election drew nearer, the Commonwealth Government made a clayton's offer of land in the Majura Valley. However, the offer did not include access rights to the land, which made it impossible for the ACT Government to take up the offer.

Unfortunately, the ACT Government and the Chief Minister, Jon Stanhope, now seem to be determined to build the gaol near Jerrabomberra in Hume in the ACT. Despite my vehement opposition and the opposition of the Federal Labor candidate, we have not been able to change his mind. I acknowledge that I have no power as a member of the Parliament of New South Wales, across the border from the ACT, to direct the ACT Government to stop building the gaol at that location. Nor does the Federal member, Mr Nairn, which is why I was surprised on election day a few weeks ago to arrive at the Jerrabomberra polling booth, one of the biggest in the electorate, to find that Mr Nairn had displayed posters that said in very big letters, "Stop Labor's gaol at Jerrabomberra. Vote Liberal". The posters were totally dishonest because the people of Jerrabomberra were being asked to believe that if they voted for Mr Nairn they would stop the gaol at Jerrabomberra, as he said—but the gaol will be built in Hume.

Mr Nairn certainly did not tell the voters of Jerrabomberra that he had no power to do that. It is dishonest to display a poster that says, "Stop Labor's gaol at Jerrabomberra. Vote Liberal", to insinuate that you can do something when you cannot. I have given notice of a motion in this place to criticise Mr Nairn for displaying the posters and to call on him to resign should he not be able to deliver his promise to stop the gaol from being built at Hume. It is important for people in Jerrabomberra to know that their local member has dishonestly promised them that he can take action when he cannot deliver. Unfortunately, the ACT Government is in charge of building this gaol. I wish it would change the location. I will continue lobbying for it to do so, but I will not falsely tell the people of Jerrabomberra that I have the power to stop the gaol. The other thing that concerned me in the election campaign locally—

Mr Donald Page: Point of order: The member, by his own admission, has indicated that he has given notice of a motion in relation to the matter that he is—

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! On the basis of a ruling from Speaker Rozzoli on 16 November 1988 I rule against your point of order.

Mr Donald Page: You haven't heard it yet.

Mr ACTING-SPEAKER (Mr Paul Lynch): I know precisely what you are going to say and I rule against your point of order.

Mr Donald Page: My point is that he is anticipating debate.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! I know that is precisely the point of order you intended to raise. The ruling of Speaker Rozzoli relates to anticipating debate on a bill, not on a notice of motion. The honourable member for Monaro has the call.

Mr STEVE WHAN: I resisted taking a point of order on the previous speaker when he was talking about his shadow portfolio responsibilities during his private member's statement.

Mr ACTING-SPEAKER (Mr Paul Lynch): The Chair noted that.

Mr STEVE WHAN: Obviously, the people in Jerrabomberra are critical to the vote in the electorates of Eden-Monaro and Monaro. In his campaigning the Federal member for Eden-Monaro suggested to the people of Jerrabomberra that he had achieved assistance for the construction of a road link between Jerrabomberra and Queanbeyan. In his television advertising he put a big tick against the road link between Jerrabomberra and Queanbeyan. The road link he was referring to is the Edwin Land Parkway, but to the best of my knowledge there has been no commitment at all from the Howard Government to provide funding for it. I hope it will provide funding for the road link because it is important. The construction of the road is an appropriate use of its money, as is the construction of Lanyon Drive, the road promised by Labor, which the Howard Government refused to back. False advertising in the election campaign suggesting that the member had done something that he had not, together with the poster about the gaol, is a dishonest way to conduct a campaign. Should he not deliver on those two commitments he should resign.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! To elaborate a little on the ruling I gave earlier, I should make two points. The ruling of Speaker Rozzoli on 16 November 1988 makes it clear that the point of order taken by the honourable member for Ballina related to anticipating debate on a bill rather than on a notice of motion. Given that the honourable member for Ballina made a private member's statement based on a matter he raised in question time earlier today, it was a little much to take a point of order on the honourable member for Monaro. I thought I allowed considerable latitude to the honourable member for Ballina in his private member's statement. Perhaps I will review that attitude if the circumstances are ever repeated.

Mr Robert Oakeshott: But the honourable member for Ballina did not even make his point of order, so far as I heard.

Mr ACTING-SPEAKER (Mr Paul Lynch): Yes, he did.

COUNTRY AGRICULTURAL SHOWS

Mr THOMAS GEORGE (Lismore) [5.44 p.m.]: I pay tribute to country shows, especially those that are currently operating in my area. They kicked off in the last week of September with the Nimbin show, which has a very hardworking committee led by the president, Philip Williams, and the secretary, Ann Burgess. Bruce McClelland, who was in charge of the cattle area, had a successful show. The show paid tribute to the older generation, who laid the foundations for the Nimbin show. Two weeks later the Kyogle show was held on the day of the Federal election. I had the honour of opening the show with the president, Brian Hannigan, and the secretary, Wendy Piggott. I congratulate them on reviving the Kyogle show this year after a one-year recess. I pay tribute to Kyogle CRT for the prime cattle show. Ron and Rita Martin did a tremendous job. Jane Wilson was judged the Kyogle Showgirl. I am sure we will hear a lot more about her.

The following week Martin Maloney, the president of the Casino Show Society, Danielle Sharman, the secretary, and their hardworking team produced a successful one-day show which hosted new events in an effort to attract interest to country shows. One of the new events was a You Beaut Ute competition in memory of the late Clint Edwards, a young lad who, sadly, passed away earlier this year. Rebecca Schofield was judged the Casino Showgirl. Last weekend, after I flew home on Friday, I had the pleasure of attending the Lismore show. John Gibson, the president, and Ian Mulligan, the secretary, the committee and volunteers did a tremendous job of running the show. Miranda Saunders was judged Miss North Coast National. To mark the one-hundredth show on the showground this year, they put together a story of 100 years in a ring display. Unfortunately, wet weather prevented its running every night, but on Friday and Saturday night it proved a tremendous success.

More than 500 children from the local region gave a performance of what the master of ceremonies, S. Sorensen, described to a massive crowd gathered at the Lismore showground as "You are the people of Lismore and this is your story". He did a tremendous job. On Friday night a book written by Helen Trustum entitled *It's Show Time*, a history of all the shows on the Northern Rivers, was launched. Helen has been

working on the book for five years. Colin Munro is well known to people in rural and city areas of New South Wales and Australia; his voice is synonymous with the ABC and his knowledge is undisputed. He had the pleasure of opening the show and launching the book. I had the honour of auctioning the first copy of the book, and it was my pleasure to sell it for $2,600. It was purchased by my former auctioneering business, George and Fuhrmann of Casino and Bangalow. I thank Darren Perkins and Jasen Sommerville, who attended the function and purchased the book.

The proceeds of the sale went to the Northern Region Westpac Lifesaver Rescue Helicopter Service, and I know that the helicopter rescue service appreciated the financial support it received from the sale of the book. The show was very successful in spite of 150 millimetres of rain having fallen throughout the entire area in the preceding week. Although the heavy rainfall caused a few anxious moments, there was no disputation over the need for rain. I congratulate all the show committees in the Lismore electorate on putting together a tremendous show circuit this year, and I thank committee members for their efforts. [*Time expired*.]

SERNIKI—UNEARTHING THE HOLOCAUST

Mr PAUL PEARCE (Coogee) [5.49 p.m.]: Members of this Chamber will be aware that on 24 February I had the honour of supporting an important motion moved by the Premier which condemned all manifestations of anti-Semitism and supported tolerance and community harmony. I take this opportunity to report on a matter that is important to my electorate. On Monday 18 October I had the pleasure of attending the official announcement of a grant to preserve the material relating to the Holocaust and the disease of anti-Semitism. The State Government will provide $41,000 through the Ministry for the Arts to the Sydney Jewish Museum in Darlinghurst to assist in establishing a permanent exhibition detailing war crimes committed during World War II at the northern Ukrainian village of Serniki. In September 1942, 850 Jewish men, women and children were systematically murdered by the Nazis and local collaborators in that northern Ukrainian village. For the benefit of honourable members, I point out that the source of my information is Mark Aarons' book, *War Criminals Welcome.*

The Sydney Jewish Museum is a repository of all the archaeological evidence that has been recovered by the foreign-led excavation of Russian mass graves in 1990 that was undertaken by an Australian team at Serniki. The excavation was prompted by action taken by the Australian Special Investigations Unit against a Ukrainian-born migrant who was living in Adelaide in 1989 and who had been suspected of having taking part in the massacre. Under the direction of the head of the unit, the late Bob Greenwood, QC, and assisted by troops from the Soviet army, several Australian forensic specialists painstakingly uncovered the evidence of the long-forgotten mass killing during their six-week investigation of the site. In addition to numerous skeletal remains, the exhumation uncovered bullet casings and fragments of the personal belongings of the victims, including shoes, clothing and jewellery. The museum is currently able to exhibit only a small portion of the material that has been donated by the Russian Government.

The official announcement was made by the Premier and was attended by the New South Wales Legislative Council member, the Hon. Eric Roozendaal, and the honourable member for Heffron, Ms Kristina Keneally. Also in attendance were representatives of the Sydney Jewish Labor Forum, including my colleague Councillor George Newhouse, who is the deputy mayor of Waverley, and Electrical Trades Union organiser Daniel Weizman. New South Wales Jewish Board of Deputies representative Mr David Knoll and the Sydney Museum's chief executive officer, Mr Norman Seligman, also participated in the event. We must never forget the Shoah.

The New South Wales Government's grant will provide for the existing small display to be developed into a solemn and permanent exhibition of international significance to reveal the history and extent of that terrible event. It is vital that opportunities to teach the lessons of the Shoah are taken so that such a tragedy will never be repeated. The new exhibition will be given the title of "Serniki—Unearthing the Holocaust" and will include text panels and showcases to display artefacts, schematic drawings and photographs; sliding doors, panels and drawers which will require visitors to uncover the material themselves; video footage from an ABC episode of *Quantum* in 2000 which investigated the Australian war crimes trials and excavation at Serniki; and an interactive educational CD-ROM which focuses on the Holocaust as well as genocide in Rwanda and the Balkans. By examining the trial of war criminals and the archaeological methods used to collect extensive evidence, the museum intends to provide an entry point into the topical discussion of the reopening of the War Crimes Tribunal within Australia.

The Sydney Jewish Museum was established in November 1992 as a centre for education and academic research to focus on the Holocaust, anti-Semitism, Australian Jewish history and Jewish religion and culture. A core business of the museum is its education programs. A series of public programs will be developed in connection with the Serniki exhibition as well as primary, secondary and tertiary educational materials. I commend the Sydney Jewish Museum for its educational activities in raising Holocaust awareness and in combating racism. The museum does fantastic work and deserves to be acknowledged.

REGIONAL RAIL SERVICES

Mr RICHARD TORBAY (Northern Tablelands) [5.53 p.m.]: Today at the Local Government Association's conference in Armidale Associate Professor Ian Gray of the Charles Sturt University called for the State Government to begin planning for new trains for the regional rail network. He was delivering a report that had been commissioned by the Local Government Association into the future of regional passenger rail services in New South Wales. The 1976 State election was fought strongly on transport issues. Shortly after that, the Granville train disaster occurred. It was the worst rail disaster in the nation's history and was attributed largely to problems associated with infrastructure. In the aftermath of that appalling incident, a commitment was given to planning for a new generation of trains, the XPTs, for regional rail services in New South Wales. It took four years to design and develop the XPT—much longer than had been anticipated.

The current XPT fleet is reaching its use-by date. Unless planning begins immediately for a new generation of trains to replace the XPTs, the people of New South Wales could be facing problems similar to the ones that occurred 25 years ago. Planning for the future delivery of regional train services and for trains that will operate throughout the system should involve consultation with the communities that will use them. Professor Gray emphasised the importance of that aspect and pointed out that it has been the practice of engineers to undertake the design phase with economists nipping at their heels and urging them to contain costs, which does not necessarily produce the best results. Passenger rail transport is a service industry.

Associate Professor Gray's research shows that passenger rail transport is still very popular with the community. Downturns in passenger numbers that have occurred over the years have been a direct result of poor service, particularly in relation to trains running late, inconvenient timetables and too many delays. The graphs show that where these problems have been addressed passenger numbers have increased. In the past when trains travelled at a much slower pace they had much less capacity than is currently the case, and the numerous curves in the network of rail lines across the State were not considered to be a major issue, but they are now. Trains such as the XPT have the capacity to travel at 160 kilometres per hour but they are crawling along at a third and sometimes at a quarter of that pace because of the number of bends in the line and the condition of the tracks. Successive New South Wales State governments have not had a good record of infrastructure planning in New South Wales. Public sector planning has been a long-term problem in New South Wales.

New South Wales has lagged behind other States, particularly Queensland, Victoria and Western Australia, in upgrading rail infrastructure. According to Associate Professional Gray's report, the Queensland tilt train competes effectively with air services because it substantially reduces travel time. Tilt trains have mechanisms to tilt the carriages so that passenger comfort is maintained as curves are able to be negotiated faster. They have been used in Queensland since 1998 and by 2002 had attracted one million passengers to the Brisbane-Rockhampton service. Tilt trains are used on many rail systems overseas to accelerate services on existing track. Since the early 1980s the Queensland Government has spent approximately $2 billion on rail infrastructure to accelerate the upgrading of passenger and freight trains. The Victorian Government expects to attract motorists to its regional fast train project which is presently under development. Victoria's State Premier has predicted consequential population growth of 20,000 and the creation of 4,000 new jobs in areas that will be served by fast passenger trains as a result of infrastructure improvement.

The Western Australian Government has just commenced an accelerated and upgraded service between Perth and Kalgoorlie. In New South Wales we face some difficulties with mountainous terrain, but unless we come to grips with the potential of fast rail travel from an environmental, social and economic perspective, we will be short-changing our communities. In New South Wales there are opportunities for the development of passenger trains through changes aimed more at the freight rail system. Through its AusLink program, the Commonwealth Government is investing in rail infrastructure in ways that, in the longer term, may permit the development of an effective and regional passenger rail system in many areas.

In my electorate of Northern Tablelands we have formed a freight rail group that is working with local councils and the community to build up a freight business to bolster our rail passenger service. One of its aims is to reopen the line between Armidale and Wallangarra, which was closed in the late 1980s. A consultant has conducted a preliminary study of freight rail opportunities for freight rail and has recommended the

establishment of an intermodal rail hub in Glen Innes with a direct link to the port of Brisbane. Menlo Worldwide has begun a freight rail timber export operation from the Armidale yard. However, little can be achieved unless the Government takes a hard and serious look at infrastructure planning to support community initiatives. That must include immediate action on replacing the XPT, a strategy for track upgrades, including straightening curves, and consulting passengers about the type of service they would be most willing to patronise.

LOCAL GOVERNMENT REFORM

Mr ROBERT OAKESHOTT (Port Macquarie) [5.58 p.m.]: In New South Wales there is a need for reform of local government, and in that context I would like to address real or perceived conflicts of interest involving the Local Government Act.

Ms Diane Beamer: Hear! Hear!

Mr ROBERT OAKESHOTT: I thank the Minister for Juvenile Justice for that acknowledgment. Two inconsistencies allow for perceptions to fester in the local community. One is the need for more transparency in the development application process. I know that the Independent Commission Against Corruption has addressed that in its report entitled "Taking the Devil out of Development". I urge the Government and the Minister for Local Government to take on board many of the issues and recommendations in that report and apply them to further reforms of the Local Government Act so that either real or perceived issues that fester in communities are minimised through greater transparency and openness.

The Government and the Minister for Local Government should not shelve that ICAC report; they should take it on board and apply it to further legislative reform. The report covers many issues with the development application process in which real or perceived conflicts of interest and potential corruption can take place. Throughout the State, issues have been raised concerning electoral funding returns for the recent local government elections. In one of my councils questions have been raised about electoral funding returns, money unaccounted for, and outstanding loyalties to local businesses, with in-kind contributions remaining outstanding. In a political and election sense, those matters could involve perceived conflicts of interest, particularly when lined up against the ICAC report I have mentioned.

In no way am I alleging that elected councillors in my local area are corrupt, but I express concern about the statewide ability of communities to raise concerns about a lack of transparency and, therefore, the perception of conflict of interest or corruption in the development application process. I call on the Minister for Local Government to give this matter serious consideration. I know that the Local Government Association conference to be held next weekend in Armidale has before it a charter of reform on political donations. That matter has been put on hold while the association meeting takes place. I hope that matter is considered and supported by the Local Government Association. If not, I hope other councils, including Hastings Council and the Greater Taree City Council, consider introducing that charter of reform on political donations as well as transparency in local government.

I ask the Minister for Local Government to consider statutory reform to increase the level of transparency in both the development application process and the working of councils, as well as political donations at a local government level. I concede that it is an incredibly difficult issue, because local government is the closest level of government to the people. However, that is an argument for greater transparency rather than less. I urge the Minister for Local Government to look seriously at this issue.

Private members' statements noted.

[*Mr Acting-Speaker (Mr Paul Lynch) left the chair at 6.03 p.m. The House resumed at 7.30 p.m.*]

STOCK MEDICINES AMENDMENT BILL

Second Reading

Debate resumed from 16 September.

Mr ADRIAN PICCOLI (Murrumbidgee) [7.30 p.m.]: The Opposition spokesman on agriculture, the Hon. Duncan Gay, will make a detailed response to this bill in the upper House. The Coalition has had in-depth

consultation with the New South Wales Farmers Association and the Australian Veterinary Association on the bill and does not oppose it.

Mr STEVE WHAN (Monaro) [7.31 p.m.]: I support the Stock Medicines Amendment Bill, which will make a number of welcome reforms to the Stock Medicines Act. Some of the changes in this bill have been made as a result of extensive negotiation and consultation between the States and the Commonwealth, as well as industry and professional groups. Other changes to this bill are as a result of national competition policy reviews. One of the better outcomes of national competition principles is ensuring that we have consistency in legislation such as this. These changes will bring Australian jurisdictions broadly into line. As well as achieving positive outcomes for human health and animal welfare, the changes will provide a solid foundation for supporting our continued international trade in livestock and livestock products. The community must be confident that the use of stock medicine in New South Wales is regulated properly to minimise the risk of unsafe chemical residues and to prevent the inappropriate use of medicines that are critical in the treatment of serious human disease. In some cases these medicines represent the last line of defence against life-threatening antibiotic-resistant bacteria.

The bill updates the objects of the Act by making the necessary changes to reflect these important community requirements. The bill will require those who treat animals on behalf of others to provide instruction in relation to the stock medicines they have used. The bill also makes veterinary surgeons legally responsible if they provide inappropriate advice that results in illegal residues in animals. Additionally, the bill allows people to use certain stock medicines off label in low-risk situations without continual veterinary involvement. The bill introduces appropriate penalties to underpin these measures. At first glance the bill appears to impose an additional workload on veterinary surgeons while restricting some privileges that the profession has enjoyed in the past. However, a closer inspection of the bill reveals that this is not the case. The specific requirements regarding information on treatment given or prescribed by veterinarians are in line with existing provisions in the Act. The amendments in the bill simply clarify the fact that this information must be provided in most circumstances when veterinary treatment is given or authorised.

The requirement for veterinary surgeons to keep records under this legislation is certainly new. However, I expect that veterinary surgeons would already keep records of this type as a matter of good professional practice. Veterinary surgeons will be responsible for ensuring that the withholding period they provide when using or recommending off-label medicine does not produce residue violations in livestock products. It is only reasonable that the veterinary profession carries an appropriate level of responsibility for the privileges it enjoys throughout the country. However, I do not think this responsibility is onerous or new. It is obvious that all responsible veterinary surgeons already take it into consideration when making their recommendations. Similarly, it would be unfair to hold a veterinarian liable for any residue that occurred because his or her instructions were not followed. Veterinary surgeons in New South Wales who are practising in a truly professional manner will have no concerns about these new requirements. For most veterinary surgeons these requirements merely formalise existing good practice.

I am also confident that these proposals are generally well accepted by veterinary surgeons because of input from the Australian Veterinary Association, which offered advice several times during the consultation process. The association recognises the risks to consumers and our international livestock markets that could result from the inappropriate use of stock medicines, and it supports the need for consistent national control. The profession also supports measures that enhance animal welfare. The bill reflects a balanced approach to the needs of the livestock industries and to the protection of human health, whilst ensuring that veterinary surgeons are able to use stock medicines effectively off label.

The Stock Medicines Amendment Bill contains a set of reasonable and sensible reforms. The changes are designed to protect consumers of food derived from stock and livestock, while offering limited freedom to producers to use some over-the-counter products without veterinary supervision. The bill aims to prevent the inappropriate use of vital human medicines and to help implement a consistent national approach to the use of stock medicines. We must regulate the use of medicines for a number of reasons. Veterinary medicines have been abused in the past and their misuse can have severe consequences for the community. Animals and bacteria must not be allowed to build resistances to various antibiotics, and it is important that medicines are used with appropriate care under veterinary supervision.

I am sure that all honourable members have heard stories about the misuse of veterinary chemicals, such as steroids, by bodybuilders. We must ensure that the use of those sorts of medicines is regulated as strongly as possible. This is a national issue and the bill will establish nationally consistent regulations and make

sure that the same regulations apply across State and Territory borders. The bill shifts a lot of responsibility onto veterinarians, who play an important role in country New South Wales. I note in passing that there is a shortage of veterinarians, and we must also address that. The veterinarians I meet who work with the farmers in Monaro do a fantastic job and I am sure they will put these measures into practice very effectively.

[*Interruption*]

The honourable member for Um—the honourable member for Bega—interjects. I love it when he comes into the Chamber. He has shown considerable restraint tonight, and I congratulate him. I am sure his constituents do not realise that when I speak in this place I am assaulted by a constant barrage of childish interjections from the honourable member.

Mr Andrew Constance: I'm obsessed with winning Monaro.

Mr STEVE WHAN: I am sure he is; he is certainly obsessed with me—I have noticed that. It is odd, but I once heard the honourable member for Bega say "um" more than 30 times during a five-minute speech. That is pretty amazing.

Mr Andrew Constance: Point of order: I ask you to call the honourable member for Monaro back to the leave of the bill. His puerile remarks are typical.

Mr DEPUTY-SPEAKER: Order! There is no point of order. The honourable member for Bega has been interjecting on the honourable member for Monaro so he should not complain. If he resumes his seat and remains silent the debate can continue. The honourable member for Monaro has the call.

Mr STEVE WHAN: One must respond to interjections every now and then to make sure they are recorded in *Hansard* and in order to alert the honourable members' constituents to the quality of his contributions to debate. The Stock Medicines Amendment Bill is important legislation, and I hope it will not be controversial.

Mr Thomas George: You criticised the honourable member for Bega for saying "um, but you have been constantly saying "er". People in glass houses shouldn't throw stones.

Mr STEVE WHAN: I always enjoy National party members' contributions to debate. I noticed that The Nationals dropped another seat in the recent Federal election. That is very sad. It does not have enough members to field a rugby league team.

Mr Grant McBride: Did they? What seat was that?

Mr STEVE WHAN: I think it was Richmond.

Mr Grant McBride: Do you mean they have gone backwards further?

Mr STEVE WHAN: They have gone backwards even further.

Mr Andrew Constance: How is Jerrabomberra?

Mr STEVE WHAN: The honourable member for Bega will be interested to hear that I am the only Labor candidate ever to win that booth in my electorate. I am very proud of that and I am working hard to represent my constituents well. The Stock Medicines Amendment Bill is worthy of support because it introduces sensible measures to make the rules consistent across the State and Australia to protect the best interests of our rural communities and to ensure that medicines and other drugs are used appropriately. I commend the bill to the House.

Ms LINDA BURNEY (Canterbury) [7.45 p.m.]: I support the Stock Medicines Amendment Bill, which introduces a series of reforms to the Stock Medicines Act. The purpose of the amending bill is to comply with national competition policy requirements. These requirements concern the adoption of agreed national controls over the use of veterinary chemicals. A second purpose of this bill is to implement recommendations arising from the State review. Included in the various changes introduced by this bill are new objects for the Act, the provision of additional restrictions on stock medicines used on major food-producing species, including use

by veterinary surgeons, and a requirement for veterinary surgeons to provide written instructions and keep records of certain uses of stock medicines.

The Stock Medicines Act has for some 15 years prevented farmers from using off-label stock medicines. During that time very few residue violations can be attributed to the illegal use of stock medicines. But this does not mean that farmers were entirely happy with the controls imposed by the legislation. The Act required farmers to consult a veterinary surgeon before treating any animal not listed on the label of the registered product. This restriction is more than reasonable for major food-producing species, particularly in light of the community's expectations of food safety and the importance of those issues in underpinning our trade in livestock and livestock products. This part of the bill is absolutely sensible when one reflects on the lives of farmers and the things they have to deal with, in many cases when located well out of town. It is critical for them to be able to administer certain medicines. Only one speaker from the other side of the House has contributed to debate on this bill, which purports to support farmers. The provisions of the bill will help farmers to carry out their day-to-day activities when protecting and looking after their livestock products.

Mr Thomas George: How many cows have you milked?

Ms LINDA BURNEY: I grew up in the country and I regularly milked my cow. I also had calves, and a sheep called Betty. The honourable member for Lismore should not talk to me about not knowing about such things.

Mr Grant McBride: She had a duck called Thomas.

Ms LINDA BURNEY: Unfortunately, Thomas did not make it past Christmas.

Mr Grant McBride: He was stuffed, was he?

Ms LINDA BURNEY: He was really stuffed, yes. He tasted fantastic, although he was a bit tough. I have had cows, and I have milked them, and I owned sheep a long time ago. I was referring to the need for empathy, to enable farmers to undertake their business with some degree of confidence and certainty, which this legislation increases. However, some of the newer or minor industries face very different circumstances and constraints to those faced by larger industries. For example, very few products are registered for use with rabbits and alpaca. In addition, rabbits and alpaca form a very small component of the average Australian diet compared, for example, to beef. I have never eaten alpaca. Has the honourable member for Lismore eaten alpaca?

Mr Thomas George: No.

Ms LINDA BURNEY: This bill will allow animals in these minor industries to be treated without continual veterinary involvement and, will not only give people on the land more flexibility and certainty but help significantly from a financial perspective. Once the appropriate use of a stock medicine has been determined for these animals, generally through consultation between a farmer and a veterinarian, the farmer will not have to continually seek written approval each time he or she uses a product. This change is intended to help producers in minor animal industries access the most appropriate treatment regimens for their animals in a way that is both sensible and safe.

It must be said also that people who have spent their life on farms and around animals have an enormous expertise in looking after animals and administering products for their health. Once again this legislation builds on that understanding. It is an appropriate change, and one that recognises the need for a more balanced approach in situations where off-label use poses a low risk. Taken together with the other amendments in this bill, the change I have just described will significantly improve the regulation of stock medicines in this State. The changes will also ensure that New South Wales is in line with other Australian jurisdictions and supports people on the land and those who have an income that is dependent on animals. It will give them more flexibility and certainty and reduce the red tape that exists at the moment. I commend the bill to the House.

Mr PAUL PEARCE (Coogee) [7.55 p.m.]: I am pleased to support the bill. The Stock Medicines Act is an important instrument that protects a number of stakeholders, including this State's farmers, veterinarians and consumers, and Australia's valuable trade reputation. The Act regulates the use of stock medicines, with the intention of preventing overmedication of stock or illegal chemical residues in food. The bill enhances these important objectives, including the accountability of those administering or prescribing stock medicines. Many

of the proposals in the bill arose from a competition policy review of national agriculture and veterinary chemical legislation undertaken by the Commonwealth in 1999. That review acknowledged that jurisdictions were already well advanced in developing a set of national principles for the control of veterinary chemicals, stock medicines, and the rights of veterinarians to use them off label.

The review involved extensive consultation with the livestock industries and the veterinary profession. Other changes flow from the competition policy review of the New South Wales Stock Medicines Act. The New South Wales controls on advertising will be removed when alternative national controls commence under the Agriculture and Veterinary Chemicals Code Act 1994. The bill aims at providing consistent national control over the use of veterinary chemicals in Australia. The changes to the Stock Medicines Act are not being made unilaterally by New South Wales. Rather, they reflect an agreement currently being implemented throughout Australia. Equivalent legislation has been or will be passed in all jurisdictions to ensure that risk assessments applied to stock medicines by the national registration authority translate into appropriate stock medicines used by animal owners and veterinary surgeons across Australia.

The amendments will also increase confidence in the safety of our food supply by setting out the stock medicines that can be administered to animals. The bill makes it clear that there are two options for treating major food-producing species. The first is with medicines that are registered for use with that species. The second is that under veterinary direction stock of a major food-producing species can be treated with medicines that are registered for use in another major food-producing species. I am informed that this has been a longstanding practice, but until now it has not been reflected in the Act. I am essentially talking about foodstuffs, and that is one of the reasons I, as a city-based member, have an interest in this bill. The concept that only rural-based members have an interest in this type of legislation is fundamentally erroneous. As a city-based member, with the necessity of the farming community effectively feeding a population based in the Sydney conurbation of approximately 4.1 million, it is highly appropriate that I should have an interest in these matters.

The bill under consideration also specifies that certain stock medicines, with instructions listed under a "Restraints" heading, cannot be used contrary to those instructions. Those restrictions ensure that important human medicines, such as certain antibiotics used to treat serious antibiotic-resistant bacteria, cannot be misused on stock animals. However, the bill also recognises that the use of less potent medicines on non-food-producing animals, such as companion animals, has been occurring over a long period of time, without risk, and should be permitted. This means that human medicines such as aspirin can be used to treat a dog, or a dog can be treated with cat worming tablets. The bill ensures that control measures reflect the level of risk they seek to manage.

The restrictions on advertising under the Act apply to stock medicines that are available only from veterinary surgeons or by prescription. The national competition policy review recommended the removal of those advertising restrictions. The bill is framed so that the restrictions on advertising will be removed only when appropriate national controls commence. It does respond to findings of the National Competition Council review that advertising restrictions should be removed from New South Wales legislation. It also takes into account the recommendations of the national competition policy review of drugs, poisons and controlled substances, which is also known as the Galbally review. That review strongly supported the continuation of advertising restrictions for both human and animal medicines, but at the national level. The approach is sensible, and I commend the bill to the House.

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing) [8.01 p.m.], in reply: I acknowledge the contributions to this debate made by the honourable member for Murrumbidgee, the honourable member for Monaro, the honourable member for Canterbury and the honourable member for Coogee. As various speakers have noted, the Stock Medicines Act provides important controls over the use of stock medicines in New South Wales. It recognises the particular expertise and training of veterinary surgeons by allowing them to use products off label—a concession not available to any users of pesticide products. This bill strengthens controls over the use of stock medicines in order to safeguard public health and trade in the major livestock products. It imposes only minor additional requirements on certain users of stock medicines in order to achieve these significant outcomes.

The amendments will streamline compliance measures by giving authorised officers the power to issue on-the-spot penalty notices. The Legislation Review Committee has noted that there are no requirements regarding the qualifications or attributes of those who may be authorised to issue penalty notices. However, the Act provides the director-general with the power to authorise these officers. In doing so, the director-general has discretion to appoint only those officers who are suitably qualified. The New South Wales Department of Primary Industries employs a number of multi-skilled regulatory officers who have been specifically trained in

the use of penalty notices. These staff are already authorised to issue penalty notices under other legislation administered by the department. This legislation includes the Stock Diseases Act 1923, the Plant Diseases Act 1924 and the Noxious Weeds Act 1993.

Only officers like these properly trained regulatory staff will be authorised by the director-general to issue penalty notices under the Stock Medicines Act. The process for issuing penalty notices under this Act will also be subject to the same strict oversight that already applies to other enforcement activities administered by the department. Similar provisions exist for the appointment of authorised officers in other legislation, including the Valuer's Act 2003, the Companion Animals Act 1998, the Electricity Supply Act 1995 and the Dangerous Goods Act 1975. I am confident that the recommendations flowing from the competition policy reviews of both the Stock Medicines Act 1989 and the national agricultural and veterinary chemical legislation are well-founded. The Stock Medicines Amendment Bill seeks to implement these recommendations and in doing so provides a sound basis for ensuring the safe and effective use of stock medicines in New South Wales. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

POLICE INTEGRITY COMMISSION AMENDMENT BILL

Second Reading

Debate resumed from 16 September.

Mr PETER DEBNAM (Vaucluse) [8.05 p.m.]: I lead for the Opposition on the bill. At the outset I indicate that the Opposition will not oppose the passage of the bill. I hope that it passes quickly though this House and the other place. The bill flows from the legislated five-year review of the 1996 Police Integrity Commission Act. The review was conducted by the police ministry and presented not as a major review but as a discussion paper for tabling in December 2002. However, it was not tabled at that time and remained effectively hidden—to all except the Police Integrity Commission oversight committee—until I asked for a copy of the discussion paper. It called for a second round of public consultation, which did not take place. The amendment bill and the Minister's second reading speech do not address all of the 26 recommendations of the discussion paper.

The bill has five objectives. The first is to amend the Police Integrity Commission Act 1996 so as to apply provisions of the Crimes Act 1900 to proceedings for an offence under section 107 of the Police Integrity Commission Act to enable a jury to convict a person who has made conflicting statements, of which at least one is false. The second objective is to enable the Police Integrity Commission to communicate information to the Commissioner of Police and to other persons or bodies on the understanding that the information is confidential. The third is to replace the requirement for the Police Integrity Commissioner to obtain the Minister's concurrence when authorising a police officer to exercise any investigative, surveillance or enforcement functions under or for the purposes of the Police Integrity Commission Act, with a requirement for the Police Integrity Commissioner to notify the Police Integrity Commission Inspector of the granting of the authorisation. The fourth is to confirm the independence and accountable nature of the Police Integrity Commission, a matter that I will return to later because it is one of the standing jokes of the bill. The fifth provides for a further review in five years and other minor amendments.

I have to note that the review process undertaken pursuant to that five-year review was flawed. Clearly, as a number of documents indicate, there has not been a second round of public consultation on the discussion paper as originally intended. As I have indicated, the Government has failed to explain its failure to respond fully to the 26 recommendations of the discussion paper. The "independent and accountable" amendment is simply windowdressing. In terms of other parties consulted on this bill since its second reading by the Minister, clearly the New South Wales Police Association supports the bill, the Police Integrity Commission had no comment, the New South Wales Law Society had no comment, the New South Wales Commissioner of Police supports it, and the Police Integrity Commission oversight committee gave qualified support for the bill. I understand that we will hear more from the chair of that committee this evening.

As I indicated at the outset, the Opposition does not oppose the bill, but it does express concern about the review process, the lack of public consultation, the political "independent and accountable" amendment, the failure of the Government to explain its lack of response to all of the recommendations, the failure of the

Government to respond to the oversight committee's criticism, the lacklustre performance of the Police Integrity Commission over a number of years and, from my point of view, the reluctance of the Police Integrity Commission to pursue corruption within senior ranks. Instead, quite often we simply see a media trial of those in the junior ranks. That is an unfortunate approach. The discussion paper supposedly issued in December 2002 was under the hand of Mr Les Tree, director-general of the police ministry. In a letter of 17 December 2002 addressed to the Hon. Michael Costa, who was then Minister for Police, Mr Tree delivered the report. In the third paragraph of that letter Mr Tree said:

> Whilst there has been consultation with key stakeholders throughout the review process, the Report contains a number of recommendations for reform that should be put forward for further public comment. For this reason, the Report is presented in the form of a Discussion Paper.

That is all very well, but from Christmas 2002 the paper disappeared and, apart from the oversight committee that had some discussion with the ministry, nobody else was aware of its existence on the planet. Clearly there was no further period of public consultation and comment. I quote from the fifth paragraph on page 1 of the executive summary of the discussion paper:

> The review process [the first review process] was based on calls for public submissions, made through major newspapers and police media, and through invitations to seventeen government and non-government bodies to participate in the review.

My understanding is that, again, that process did not happen, which was clearly the intention of the statement by the director-general to the Minister. The last paragraph of the executive summary states:

> Following tabling of the Report in Parliament, there should be a short period in which interested parties may make submissions on the Report and necessary further consultations can take place. This period of further consultation is necessary, given the cross-portfolio implications of a number of the recommendations and the need for the Report to be properly considered by the Joint Parliamentary Committees on the Office of the Ombudsman and the Police Integrity Commission and on the Independent Commission against Corruption. Accordingly, the report has been presented in the form of a Discussion Paper.

To the best of our knowledge it then disappeared into the ether, apart from a series of exchanges between the oversight committee and the ministry. I understand also that in recent weeks there was some suggestion about further amendment to the bill, but that seems to have disappeared. I note a couple of points from the Minister's second reading speech of 16 September:

> The PIC's role in the detection, investigation and prevention of serious police misconduct and corruption remains as vital today as it was at the time of the royal commission's recommendation.

The Coalition agrees fully with that statement. But I refer to my previous point: the PIC should spend a little more time and allocate a little more resources to pursuing misconduct in senior ranks. Clearly they are reluctant to do that. It is a difficult thing to do, but also it is a major priority. Later in his second reading speech the Minister said:

> The amendments recognise the PIC's independence from NSW Police is not commonly understood in the broader community and, given the importance of this distinction, specifically acknowledges this independence by clarifying the principal objects of the Act.

That is rubbish! I can understand what the Minister is trying to say, but it is really just a political statement. The suggestion that you can put "independent" and "accountable" in the bill and pretend that it is independent and accountable clearly is ridiculous. One of the suggestions I put to the Minister that he could have adopted was to at least acknowledge publicly that the PIC reports to Parliament, not the Minister for Police, and that it is funded through the Premier's Department as are a number of other watchdogs. If the Government does not do it we will. Further on in his second reading speech the Minister said:

> As to ministerial consent, the Act currently requires the Minister to agree before a police officer can carry out any investigative, surveillance or enforcement functions for PIC purposes. These matters are operational in nature and should not require ministerial consent.

I can understand that. But, again, we have a Minister who is trying to micromanage a 15,000-strong police force. In relation to the PIC perhaps that sentiment clashes a little with his directives to the Commissioner of Police and his determination to micro manage the budget of Police down to within the local area command level, which is reflected in the turmoil in the field at the moment where front-line police and the commissioner do not have the freedom to manage. I cannot say much more about public consultation. Clearly it is a matter of concern. The Government will move this bill through both Houses of Parliament.

We will be back here again talking about certain aspects of the PIC. I know that it provides for another review within five years, and I know the oversight committee has argued whether that is appropriate. But for the past 10 years the police ministry has not done its homework. Time and again most bills have had a problem either before or after they reached the House. I hope the Government has this one right, but I am sure in the case of the PIC we will see it further refined in the short term. I want to make a few comments about the letter from the Chair of the Committee on the Office of the Ombudsman and the Police Integrity Commission to the Minister, Michael Costa. The letter, which is not dated so I can only assume that it was in early 2003, states:

> I note that the Discussion Paper was provided to both Clerks of the Parliament on 17 December 2002, after both Houses had concluded sitting. Obviously, this time frame is not conducive to the Parliamentary Committee being able to give adequate consideration to the content of the Discussion Paper. I can only assume that this was unintentional.
>
> I wish to express my concern that provision of the Discussion paper does not fulfil the statutory requirements of the PIC Act under s. 146, which provides:
>
> (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
>
> (2) The review is to be undertaken as soon as practicable after the period of 5 years from the date of assent to this Act.
>
> (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.
>
> The Discussion Paper does not finalise the review within the statutory timeframe required and should be distinguished from a final report on the outcome of the Review. Parliamentary scrutiny of the Discussion Paper will not be able to occur until the new Parliamentary session. Effectively, this means a delay of approximately 10 months from the statutory reporting date before any formal public discussion of the review can occur. I note that, in the interim, Cabinet has been informed of the review recommendations for consideration. Given the reporting arrangements that have been made and the incomplete nature of the review process, it is my opinion that the Ministry cannot adequately appraise Cabinet of the range of stakeholder opinion.

In a further paragraph on page 2 the Chair of the Committee says:

> Certain recommendations have been supported and should serve to enhance the operations of the PIC. However, a number of recommendations appear to have been made for the purpose of placating certain stakeholders. For instance, recommendations 2, 11 and 12 have no obvious value and a case in support of each recommendation has not been put.

The final paragraph of the letter states:

> Finally, I am particularly concerned that certain of the recommendations contained in the Discussion Paper do not seem to demonstrate a full appreciation of the Parliamentary Committee's statutory functions and have the potential to undermine the role of the Committee, as provided for by the Parliament.

It is quite an eloquent letter expressing the concerns of the Parliament about the way in which this whole issue has been handled. I will not add further to it, but I think the Chair of the committee will; he has raised a number of concerns that we all share. He then extensively discussed each recommendation in an attachment to the letter. I congratulate the committee on taking that action. I refer to recommendation 2, which states:

> Section 3 (a) of the Act should be amended to reflect that one of the principal objects of the Act is to establish an independent and accountable body, with the principal function of detecting, investigating and preventing police corruption and other serious police misconduct.

The comment of the committee was:

> This recommendation is superfluous and unnecessary. It does not make any substantive difference to the legislation, which already establishes the PIC as an independent and accountable body.

Not quite. That is my comment. The committee's comment continues:

> Provision is made within the Act for the PIC to report to Parliament and for oversight by both the PIC Inspector and the Parliamentary Committee. Section 3 of the Act specifies the principal objectives of the PIC Act rather than merely commenting on the status of the PIC.
>
> Chapter 5 of the Discussion Paper fails to offer sufficient justification for the need for this proposed amendment beyond making some vague reference to comments contained in a number of submissions about the public accountability of the PIC. The proposed amendment has been made to "acknowledge the importance of the Commission's accountability". This seems to infer that the Act currently does not place sufficient emphasis on accountability. Given that the PIC Act offers the strongest form of oversight framework for an independent statutory body, with both an Inspector and a Parliamentary Committee, such a conclusion is unfounded. Moreover, it is noted that certain recommendations contained within the discussion paper would have the effect of detracting from the PIC's independence and accountability. These particular amendments are dealt with when they arise.

> The need for this amendment has not been established, and the value of the amendment is questionable. Consequently, this recommendation is not supported.

I do not totally agree with everything in that statement because I would like to go further and ensure that the Police Integrity Commission [PIC] is independent and accountable. I congratulate the committee on the arguments presented in the letter and in its attached paper. Something that the Ministry of Police has failed to do for this Parliament over the past 10 years is properly argue the proposals that are being presented to the Parliament, and that is why so many problems occur. I doubt whether the Minister's doubling of the size of the ministry and the budget will have an impact on the way in which material is presented by the director-general, but one can only hope.

I congratulate the committee on its analysis of the bill. As I stated at the outset, the Opposition will not oppose the bill. However, I reiterate my concern about the failure of the Government to do its homework on the review process and its failure to undertake consultation in relation to the discussion paper, which was hidden until I managed to obtain a copy of it immediately prior to the most recent State election. I fear that over a period of 18 months the Government simply forgot to table it. I say that because there seemed to be a flurry of activity to table it in September.

It is clear that the claim that this amending bill will improve independence and accountability is farcical, but I will leave it to be chairman of the committee, the honourable member for Liverpool, Paul Lynch, to elaborate on that. The failure of the Government to address all the recommendations of the committee is cause for concern for everyone. When a comprehensive report presents 26 recommendations against the background of a hidden discussion paper, the Minister at the very least should address the 26 recommendations of the report during his reply and indicate whether the Government is in favour of the recommendations or against them, thus giving the Parliament the benefit of the research that has been undertaken. In conclusion, I reiterate my concern about the reluctance of the PIC to pursue misconduct in senior ranks of NSW Police.

Mr MATTHEW MORRIS (Charlestown) [8.21 p.m.]: I support the Police Integrity Commission Amendment Bill, which amends the Police Integrity Commission Act 1996 and confirms the independent and accountable nature of the Police Integrity Commission [PIC]. The bill will enable a jury to convict a person who has made conflicting statements, at least one of which must be false, and will enable the PIC to provide information to the Commissioner of Police on a confidential basis. The bill also replaces the need to obtain ministerial consent for an investigation with authorisation subject to notice, and enables the PIC to dispose of certain documents in accordance with the directions of the Local Court. It also provides for a review of the Police Integrity Commission Act within five years from the date of assent to the bill and, importantly, requires the Commissioner of Police to consult with the PIC or the Ombudsman, as the case requires, before taking management or disciplinary action against a police officer who is the subject of a complaint that is being dealt with by either of those bodies.

It is a pleasure to support the Minister of Police, the Hon. John Watkins, in his presentation of this bill. The New South Wales Government actively supports the outcome of the Wood royal commission, which originally identified the need to establish the Police Integrity Commission. I believe in and support the PIC as an important body that ultimately supports and embraces the need for quality New South Wales police services. In fact, the community demands that NSW Police operates with the highest level of integrity. In my electorate of Charlestown, police officers work long hours and put in a significant effort, day in and day out, to serve the communities in which they and I live. When I think about the size of NSW Police and the number of officers employed, I acknowledge that there is a risk of officers being the subject of formal complaints made by others. New South Wales police officers face significant challenges daily in simply doing their jobs. These challenges place enormous stress and pressure on officers who deal with that stress in different ways. For some, that could mean a change in behaviour that may result in poor decision making, which may lead to complaints or inappropriate actions by some officers.

The role of the Police Integrity Commission is to detect, investigate and prevent serious police misconduct and corruption. I acknowledge that the need today for the PIC to play its role is just as great as it was in 1996 when it was established. It is important to acknowledge that the latest review of the Act recognises the effectiveness of the PIC in detecting, investigating and preventing corruption. It is important for the public to have confidence in the PIC as the key independent body that ensures that NSW Police maintains its reputation and standards in serving the community. Every government has a responsibility to ensure that services provided to the public are of the highest standard and are well managed, and the NSW Police is certainly no exception.

I turn now to focus on a few key elements of the bill that relate to conflicting statements, ministerial consent and disciplinary action. First, in relation to conflicting statements, the courts currently hold that when a person makes conflicting statements while providing evidence to the PIC or the PIC inspector, the prosecution must specify which of the two items of inconsistent evidence is false. Under those circumstances, it has proved to be difficult to obtain a conviction for providing a false statement in evidence. In schedule 1 item [5], new section 107 (2) applies the provisions of the Crimes Act 1900 to perjury and false statements in evidence that is given to the PIC or to the PIC inspector. As a result of this provision, juries will in future be able to convict a person who has made conflicting statements when giving evidence before the PIC and when at least one of the statements is false. That is a significant but important change.

Second, in relation to ministerial consent, currently any investigatory, surveillance or enforcement function for PIC purposes requires the Minister's consent. This practice is certainly outdated and, as it is operational in nature, would be better served by authorisation from the PIC commissioner, subject to notice. I note that as part of a safety net approach, the PIC inspector will have an oversight role to ensure that the exercise of the power is appropriate. It is more effective administratively to replace ministerial consent to the exercise of certain operational functions with authorisation by the PIC commissioner, subject to notice. Third, the Police Act 1990 currently prevents the Commissioner of Police from taking disciplinary action against an officer while an investigation by the PIC or the Ombudsman is under way unless the consent of the investigatory body is obtained.

The current provision hinders the ability of the Commissioner of Police to manage the day-to-day activities of the work force for which he is responsible. In any private sector work force, the exact opposite is the case. Private sector employees are often suspended or absent on leave until an investigation is completed. This bill obviates the need for the Commissioner of Police to obtain consent but introduces a requirement to consult. The bill provides support for the role of the Commissioner of Police and allows the commissioner to manage NSW Police. The bill is another positive step forward in improving NSW Police while ensuring that appropriate checks and balances are maintained by the Police Integrity Commission. I should also state for the record that the bill was developed in consultation with NSW Police, the Police Association, the New South Wales Crime Commission and the Police Integrity Commission.

It is interesting to note that the shadow Minister, who rarely makes speeches about police-related issues or legislation, raised a number of concerns about the consultation process. From my reading of the background information that has been made available to me, I certainly did not gain the impression that there was a significant gap in the consultation process. Nevertheless, it was good to hear from the shadow Minister. It is a shame that he has left the Chamber and that he will not hear the contributions to debate on this bill that will be made by other Government members. Perhaps his absence reflects the overall level of his interest in the Police portfolio. In conclusion, I refer to local police officers who serve in my electorate. At the end of the day, it must be said that they are the front-line troops who at times are doing it tough while endeavouring, in fairly trying conditions, to fulfil their role of providing service to the community and ensuring the protection of it.

Police do a fantastic job. Nevertheless, for every agency and service mechanisms are necessary to ensure appropriate behaviour and practices in the field. The Police Integrity Commission [PIC] is the mechanism for NSW Police. It plays a key role in ensuring that police officers know the boundaries and how to carry out their work, day in and day out. Importantly, the PIC is the mechanism that ensures that any complaint alleged against individual officers is investigated and that a reasonable outcome is produced. That may be mild disciplinary action or the dismissal of an officer. Given the nature and importance of NSW Police, it is appropriate for the PIC to have a strong oversight role to ensure that police officers operate in an appropriate manner.

Every day my local police officers put a great deal of effort into dealing with trauma in the community. Unfortunately, there are bad elements in every community and police are expected to identify problem areas, take appropriate action and resolve the issues. That is not always easy. I have enormous respect for police and the role they play. I probably could not do what they do. They are under enormous stress and pressure every day and must condition themselves to handle that stress and pressure. The PIC plays an important role in ensuring that the quality of service protects the community, as well as individual officers when they put forward their case in response to allegations made against them.

The shadow Minister referred to what he claimed are significant problems with the bill. He said that in a few years the bill will require further review, and so it should. All legislation should be reviewed regularly to ensure that agencies and departments achieve what they are meant to achieve. Part of that process is identifying and teasing out issues, and then resolving them. The bottom line for all service areas is a guaranteed quality of

service. The community demands and deserves that. The changes to the PIC in the bill will give police greater support and protection. The Charlestown local area commander often raises issues about work practices and methods and other difficulties experienced by police that are not always easy to resolve. Charlestown police are committed to their work. They recently undertook a significant drug detection campaign. That intensive campaign was successful and resulted in a number of arrests and the removal of a significant amount of drugs from the streets. The community was then able to resume living in a peaceful and safe environment, which it is entitled to do, free of drugs and associated activities.

In conclusion, I offer my thanks and support to my local area commander. I commend the Minister for introducing the bill. The PIC plays a critical role in dealing with issues and complaints. It has proved that it can make a difference and achieve significant. It can play an effective Big Brother oversight role. However, we should always ensure, through a review process, that mechanisms are in place to monitor all operations in all departments. We should be continually on the lookout for ways to improve the system. We should ensure that the PIC has the support not only of this House but also of the community, which it ultimately represents in dealing with allegations relating to police.

Mr PAUL LYNCH (Liverpool) [8.35 p.m.]: The honourable member for Cronulla wimped out.

Mr Chris Hartcher: No, he didn't wimp out, he just wanted to hear you. We want to hear the Trotskyist views.

Mr PAUL LYNCH: The honourable member for Gosford has indicated once again his intellectual incapacity and his complete lack of historical knowledge, to say nothing of his lack of knowledge of my politics. He is, of course, a fool and that has been reinforced yet again. I will make some brief comments on the Police Integrity Commission Amendment Bill. I have a particular interest in that bill, which stems from my role as Chairman of the Committee on the Office of the Ombudsman and the Police Integrity Commission, in relation to which the honourable member for Vaucluse made a number of comments earlier in the debate. For honourable members who are interested in the bill, I direct their attention to a report tabled recently by the committee that deals with a number of the issues contained in the bill. The report is entitled "Report on the Sixth General Meeting with the Inspector of the Police Integrity Commission" and was tabled in September. It includes a commentary and the transcript of a public meeting between the Police Integrity Commission Inspector, Justice Morris Ireland, and the committee. It deals also with a number of issues contained in the bill.

In my view, the Police Integrity Commission [PIC] plays a particularly important role in our community. It is a stand-alone, independent agency that targets serious police corruption. It has the powers of a standing royal commission that cannot employ current or former New South Wales police and can receive complaints from any source. In my view, it is superior to comparable overseas bodies, particularly for those last few reasons, in powers, functions and structures. It is a better model, a better structure, than the Independent Police Complaints Commission in England and Wales, the Police Ombudsman of Northern Ireland or the Garda Ombudsman in the Republic of Ireland. Legislation in that republic was introduced into the Dáil in February this year, and I have had the opportunity to look at that. Based on all those relevant criteria, New South Wales has a better model than the overseas jurisdictions.

The creation of the PIC stems from the Wood royal commission. I have a recollection of the royal commissioner commenting that the then existing structures—the Ombudsman and the Independent Commission Against Corruption—were a bit like a mosquito fighting an elephant in relation to fighting police corruption. Clearly, the then existing structures were not effective. Historically, an inquiry would be set up to expose police corruption, everyone got excited, corrupt police kept their heads down, and a short time later raised their heads and the process continued. That is why it is important to have an ongoing stand-alone structure.

That history, the history of New South Wales, seems to be the history of police corruption in other jurisdictions. The Mollen inquiry in the United States of America drew the same sorts of conclusions, that is, that we need ongoing bodies to continue to monitor the problem or to try to fight the problem, rather than simply having one-off commissions every few years. To those cynics who suggest that nothing much has changed—and by implication or inference that is what the honourable member for Vaucluse was saying—I point to things like operations Florida, Abelia and Cobalt. The reality is that the things that are being exposed in those inquiries would not have been exposed if it were not for the existence of the PIC.

Historical evidence in New South Wales suggests that if we did not have an ongoing stand-alone anticorruption or anti police corruption body, the things that were exposed in those inquiries simply would not have come to light. It flows from that that I would vehemently oppose the mad proposals that are occasionally

floated to amalgamate the PIC with other bodies. I note in particular a quite fantastical scheme floated earlier this year to merge the PIC, the Independent Commission Against Corruption [ICAC] and the Crime Commission in some sort of overarching crime-fighting body. That would have represented a major victory for bureaucratic empire building. It was a ludicrous proposition. The bureaucratic beneficiary is easily identified.

The only positive benefit that could flow from it would be that the Crime Commission would have had a parliamentary oversight committee, as the PIC, the ICAC and the Ombudsman already have. In my opinion the institution of a parliamentary oversight committee for the Crime Commission is well overdue. This legislation comes to the House by way of what was alleged to be a review of the Act. I note that earlier the honourable member for Vaucluse quoted some of the comments that I made in relation to this. I indicate that I am referring to comments that I made on behalf of the committee that I chair. The obligation to conduct the review is set out in legislation. It was meant to be a review five years after the Act was assented to.

The committee has commented previously on the shambles that passed for a review. The document referred to as a review was not, in fact, a review but a discussion paper distributed by the Ministry of Police in late December 2002. Apart from the issue of whether a discussion paper is a review, I note the failure of the previous Minister and the ministry to adhere to the time frame. A review should have been tabled by 21 June 2002. There was a failed attempt by the previous Minister to table that review in December 2002. Thankfully, the current Minister resolved that default by tabling the review in September this year. Of course, that leaves something of a hiatus in explaining the genesis of the bill.

It is not crystal clear precisely what positions were put and what consultations were held to get the draft bill. There are no provisions in the bill that I oppose, although some of them might provoke some comment. Amongst those is one provision that the principal bill be amended to make it clear that the PIC is intended to be both independent and accountable. I indicated to the then Minister in February 2003, in terms that have already been referred to, that I thought that was unnecessary and superfluous. The committee report emphasises that the Police Integrity Commission Act already provides for the most comprehensive oversight of any independent statutory body in this State. It already has a parliamentary oversight committee and an inspector.

That is a greater level of oversight than is imposed on the ICAC, the Ombudsman or especially the Crime Commission. Its statutory independence is clear. Its independence from the police is guaranteed by section 10 (5) of the Act, which prohibits the PIC from employing New South Wales police. Another provision in this bill provides for a further review of the Police Integrity Commission Act at the end of five years after assent to this amendment, which I believe to be a rather curious provision. The previous review by the ministry, if that is what it was, does not fill one with great confidence about the conduct of future reviews.

What is really curious, however, is how this relates to other statutory investigative bodies. The ICAC, the Ombudsman and the Crime Commission are not subject to a similar statutory requirement for review. As the PIC inspector pointed out at a committee meeting, this suggests a qualified commitment to the existence of the PIC. The genesis of the proposal is interesting. It seems to have come from NSW Police in response to Operation Malta. Undoubtedly there was deep resentment among some sections of the police over Operation Malta. One almost has a sense of this provision being their revenge.

Finally, I touch briefly on one absence from the bill. One glaring omission is any provision to extend the jurisdiction of the PIC inspector. At present the inspector does not have power to investigate the conduct of non-PIC officers connected with the activities of PIC officers. Two separate incidents connected with Operation Florida, one of which included the release of material to Chris Masters of *Four Corners*, revealed the practical nature of this problem. In both instances the actions of New South Wales Crime Commission officers involved in the joint operation with the PIC were relevant. The case for extending the jurisdiction of the inspector to reach into such instances is, I think, logically unanswerable.

However, I understand that someone has stamped his or her foot and, accordingly, that amendment has not been included. The alternative is what I can describe only as a silly and cockamamie scheme that is termed as threading a pathway through existing legislation. The PIC inspector, who is somewhat more polite than I am, recently described that as being "devoid of practical efficacy." Obviously it involves fragmenting investigations and has risks for confidentiality. Regrettably, the amendment is not contained in this legislation and I hope it is forthcoming soon. I suppose the alternative will be more committee reports reflecting our undoubted frustration that that amendment has not been made. Granted that the practical issues that have been revealed through the lack of that provision involved Crime Commission officers, the conclusion as to who has objected to the

extension of the inspector's jurisdiction is fairly obvious. I briefly draw the attention of the House to some of the comments in the committee's report and quote from the foreword, which states:

> The first issue relates to the Committee's recommendation that the Police Integrity Commission Act 1996 be amended to ensure that the Inspector is able to fully exercise his functions with respect to the investigation of the PIC's activities. It has become obvious to the Committee that the Inspector's capacity to conduct such investigation may be seriously compromised by his lack of jurisdiction with respect to the conduct of non-PIC officers connected with the activities of the PIC. The Committee previously suggested that the PIC Act be amended by narrowly extending the Inspector's jurisdiction in limited circumstances, to overcome the practical inadequacies of the existing legislative framework which requires the Inspector to refer the conduct of the PIC's investigative partners to the ICAC.
> The Committee cannot see any valid reason as to why the amendment should not proceed and remains concerned about the capacity for the Inspector to perform his functions in its absence. The need for such amendment is clearly shown by two incidents occurring in Operation Florida in which the conduct of the PIC's investigative partners, in this case the NSW Crime Commission, was relevant. The proposed amendment also would provide an appropriate mechanism to deal with conflict of interest issues that might arise for the PIC when exercising its own jurisdiction.

I refer briefly to some of the comments that were made by the honourable member for Vaucluse. It is a matter of some irony that the only substantive issues he raised seemed to be contained in quotations from a letter from me. Apart from that, most of what he indulged in was a bit of silly rhetoric. He said that the PIC was unprepared to fight corruption within the senior ranks of the police service. It would be nice to have just the slightest shred of evidence to support that sort of grandiose claim. It would be nice not to simply slur both the PIC and the senior levels of the police service with no substantive supporting evidence.

If there is substantive evidence perhaps he should run off somewhere and report it rather than simply make stupid, childish claims in this place. If he is suggesting that the PIC does not have the courage to take on senior levels of the police service I ask: Where has he been? Has he heard of a thing called Operation Cobalt, as a result of which the son of an assistant commissioner has been dragged before the PIC? I would have thought that if there were any reticence on the part of the PIC to take on senior levels of the police service we would not see Operation Cobalt. It is extraordinary that the honourable member has made that sort of claim.

When we listen to the detail of what he said we realise that he went a little further. He talked not so much about corruption; his wording changed and it became misconduct. It was misconduct by senior members of the police service that the PIC is not pursuing, which is an interesting argument. It seems to me that he fundamentally misunderstands the Wood royal commission, the legislation flowing from it and the nature of the PIC. If it is serious corruption it is undoubtedly within the purview of the PIC. If it is only misconduct as opposed to serious corruption, there is a fairly good argument that it is not within the jurisdiction of the PIC.

The honourable member for Vaucluse seemed a little unclear as to what he was alleging. Is it serious corruption, in which case a bit of evidence might help? If it is misconduct, it is not something that should obviously be within the jurisdiction of the PIC. It seems to me that it is quite inadequate to carry on with the rhetoric in the way he did. It does no service to this House, to the senior levels of the police service, or to the anticorruption bodies. We have anticorruption bodies that have been quite happy to prosecute a number of police officers. If he has evidence to suggest that senior officers are guilty of misconduct he should do something about it: he should report it to an appropriate body. If he is not prepared to do that he should stop his simplistic grandstanding.

Mr MALCOLM KERR (Cronulla) [8.49 p.m.]: I do not oppose the Police Integrity Commission Amendment Bill. I think the honourable member for Liverpool made quite a constructive contribution to the debate. In fact, if he had been leader of the Federal Labor Party instead of the member for Werriwa, the Federal election result might have been different. The honourable member for Liverpool said the New South Wales Crimes Commission should have parliamentary oversight. It will be interesting to hear the Government's response to that proposal when the Minister for Police replies to the second reading debate. The honourable member for Liverpool obviously feels strongly about the issue. He also said that a desirable amendment was prevented by the stamping of a foot, and we look forward to identifying whose foot that was.

The honourable member for Liverpool referred to the report of the Police Integrity Commission [PIC] on Operation Florida. It is a matter of public record that that report was given to the Minister before it was tabled in Parliament. The Leader of the Opposition commented about that and it was the subject of correspondence—which is now public—between him and the PIC commissioner. I would like to know how many PIC reports were referred to the Minister before they were tabled in Parliament and whether any of those reports were amended subsequently. Were any amendments made to the report on Operation Malta before it was tabled in Parliament but subsequent to its being received by the Minister? The honourable member for Vaucluse and the honourable member for Liverpool canvassed numerous issues in relation to that matter.

The honourable member for Liverpool highlighted the bill's provisions regarding accountability and independence—which I think the honourable member for Vaucluse described as "windowdressing". It is interesting to note that the ICAC legislation contains no similar provisions, yet there is no suggestion that that body is not independent and accountable. The Opposition does not oppose the bill but I have raised some concerns that the Minister should address when he replies to the debate.

Mr JOHN WATKINS (Ryde—Minister for Police) [8.52 p.m.], in reply: I thank honourable members for their contributions to the debate. The Police Integrity Commission Amendment Bill will ensure that a number of improvements that were highlighted by the review of the Police Integrity Commission Act become part of the Act. These improvements will enable the Police Integrity Commission to carry out its functions in the detection, investigation, and prevention of police corruption in the most effective and efficient manner possible. I thank Brendan Bruce from my office and Mary Louise Battilana from the ministry for their assistance in getting the bill to this point. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

HISTORIC HOUSES AMENDMENT BILL

Second Reading

Debate resumed from 20 October.

Mr THOMAS GEORGE (Lismore) [8.55 p.m.]: The object of the Historic Houses Amendment Bill is to amend the Historic Houses Act 1980 so that it reflects more accurately the role of the Historic Houses Trust in managing and maintaining not only houses of historical importance but also various other buildings, structures and sites. The bill will also enable the trust to carry out alterations and improvements to historic buildings or places in accordance with conservation plans approved by the relevant Minister. It will also enable the trust to sell or dispose of certain property, such as items and collections acquired by the trust that are not subject to conditions, with the approval of the Minister instead of the Governor. The bill will also make other miscellaneous changes to the Act of a consequential or minor nature. According to the second reading speech of the Parliamentary Secretary, the honourable member for Kogarah, the bill also provides measures to streamline the trust's procedures.

The Historic Houses Trust currently manages 15 properties, including house museums such as Elizabeth Farm and Vaucluse House; two museums of social history, the Hyde Park Barracks and the Justice and Police Museum; and two sites of great historical significance, Government House and the Museum of Sydney, which stands on the site of the first Government House. When the Historic Houses Act was drafted originally the trust was responsible for only two properties. The Legislation Review Committee considered the issue of commencement by proclamation, as outlined in clause 2 of the bill, and stated:

> The Committee notes that providing for an Act to commence on proclamation delegates to the Government the power to commence the Act on whatever day it chooses after assent or not to commence the Act, or parts of the Act, at all. While there may be good reasons why such discretion is required, the Committee considers that, in some circumstances, it can give rise to an inappropriate delegation of legislative power.

The Premier's office has advised the committee that the bill is to commence on proclamation, to allow time for administrative procedures to be put in place. In particular, to ensure that all trust properties have conservation plans in place, it further advises that it intends to have the legislation commence as soon as possible. I commend the bill to the House.

Ms LINDA BURNEY (Canterbury) [9.00 p.m.]: I support the Historic Houses Amendment Bill and have some fabulous memories of the Historic Houses Trust. Peter Watts, the director, who is in the gallery and I were members of the trust for several years under the fantastic leadership of Jack Mundy. It was an eclectic group of people. When I was appointed by the Premier to the trust I thought I would not enjoy it and would not have a great deal to offer it, but I found it an incredibly worthwhile experience. As the honourable member for Lismore has eloquently described the objects of this bill, I will not repeat them. In many ways the bill is procedural and sensible.

When the trust was established in 1980 it had only two properties for which it was responsible but over time that number has increased to 15. In my three or four years as a member of the trust I visited all of the properties. The amendments made by the bill will reflect what the trust actually does. They will also enable the trust to sell or dispose of certain properties, such as items in collections acquired by the trust that are not subject to conditions, with the approval of the Minister, instead of the Governor, and they will make other miscellaneous changes to the Act.

Importantly, the Historic Houses Trust looks after, preserves and, more importantly, makes available to the public very important areas of Australian history and tells stories about them. Many honourable members have visited these places, including, I am sure, the Museum of Sydney, with which I had quite a bit of involvement in helping to design the forecourt in another life, the Police Museum and a number of other places that are very important educational tools for the Australian community and to many international visitors that participate in the trust. The Historic Houses Trust, which is often confused with the National Heritage Trust, has a specific role, and its work is amazing in view of the breadth of the properties, the places for which it is responsible and the frugal way in which it operates its budget. Many honourable members regularly receive invitations to attend many of the exhibitions, openings and musical evenings held by the trust. If they have not taken up the opportunity to participate in those events they are missing something very special.

In particular, the trust has responsibility for a number of properties that very much represent the early colonial history of Sydney, New South Wales and Australia. One of the most enjoyable events that I, as a member of the trust, have attended was a tour of Government House, not just the sections that the public sees but also the working places within Government House. I was able to participate in some extremely important events at Government House. The governance of the trust is absolutely exemplary, and Jill Hickson—Jill Wran, as some people know her—is the present chairperson. I congratulate the leadership of the trust and its staff, who work incredibly hard. They all have many roles, they care about history, and they are experts in their fields. It is an extremely hardworking, committed, and extraordinarily knowledgeable group of people. In a discussion such as this we need to understand that the trust is not just an arm of the Government but is actually an incredibly important part of our heritage.

Essentially, the trust tells stories of the properties and the people who lived in and were associated with them, thus giving us an amazing insight into a part of our history that has been very important in making us the people, the State and the country we are today. I reiterate that the object of the bill is fourfold, two of which the honourable member for Lismore and I have read into H*ansard*. The bill reflects what the trust is responsible for, and its growth since its inception in 1980. The trust is incredibly important in preserving the history and the life of our State and our nation and making that history accessible and understood by present generations. It gives us an amazingly good understanding of the place in history from whence we came. In many ways it reflects the colonial part of the history of Sydney.

If honourable members are free during lunchtime, I commend them to visit the interesting places within a few minutes walking distance of Parliament House: the Mint Building, the Police Museum, where there is a great exhibition on at the moment, and old Government House, which is the Museum of Sydney. If honourable members take the time to visit those places they will understand how important the Historic Houses Trust is to our heritage and our history and the ongoing life of New South Wales. I commend the bill to the House.

Mrs JILLIAN SKINNER (North Shore) [9.10 p.m.]: I lead for the Coalition on this bill. When the Historic Houses Trust was first established it managed only two buildings, and these amendments to the Act reflect that the trust is now responsible for 15 properties, as well as objects and materials associated with them. Its role is to manage, conserve, research and interpret those properties and objects and to provide educational and cultural activities about them and to increase public awareness about them. The 15 properties I mentioned included Elizabeth Farm and Vaucluse House, Hyde Park Barracks and the surrounding buildings and precinct, the Justice and Police Museum, the Mint, the fabulous Museum of Sydney, and Government House. The Historic Houses Trust has undertaken a large number of projects, including establishing the Endangered Houses Fund, which was launched last year to raise money to conserve buildings under threat. It has acquired the Rouse Hill primary school, which will be turned into a visitors centre for Rouse Hill Estate following the deviation of Windsor Road.

Last year the trust held nine exhibitions and four large public events: the Fifties Fair, at Rose Seidler House; the Festival of the Olive, at Elizabeth Farm; Jazz in the Garden, at Vaucluse House; and Out of the Woodwork, at Rouse Hill estate. In addition, the trust held 287 smaller events, for which it sold more than 30,000 tickets. I believe that the trust plays an important role in the conservation, preservation, research, and

interpretation of some of our very important buildings and in the promotion of the importance of those buildings, public awareness of them, and the provision of education services.

However, I have received from bodies such as the National Trust—of which I am a member—comment that the role of the Historic Houses Trust has changed. It is no longer about historic houses, it is about historic places. I will not move amendments to the bill in that regard but I flag that as the subject of an amendment that will be necessary at some future stage. The role of the trust is no longer about houses; it is about places and about much more than when it was established. That is demonstrated by its replacing "historic house" in the definitions with "historic building or place", meaning a building, structure or site. I commend to honourable members the future consideration of those matters, but I will not move in that direction now. However, if the Government is really serious about amending legislation to reflect current practice, that is a matter that should have been dealt with in this bill.

The bill revises the composition of the trust to allow the Minister for the Arts to nominate all nine trustees, removing the requirement that the Minister for Infrastructure and Planning and the Minister for Commerce each nominate a trustee, as has been the practice. I acknowledge that the rationale for that is that over its life the trust has acquired the necessary knowledge to enable it to form decisions and act without the guidance of those Ministers. However, one would expect that the trustees would still seek assistance from bodies that come within the portfolios of those Ministers, particularly the Heritage Council and others, because that is a very important connection.

I note that at least one trustee is to have knowledge and experience in history, and one in architecture, and that they need not be public servants. That is a good measure, one the Coalition wholeheartedly supports. The trust will be given the power to implement overall conservation plans approved by the Minister, rather than being required to seek ministerial approval for each alteration. I will return to that matter a little later, because I wish to flag now that in Committee I will move amendments to this bill. The first is as follows:

> Page 5, schedule 1 [15]. Insert after line 20 a new subsection (4) as follows:
>
> In preparing a conservation plan, the trust must consult with (a) the Heritage Council of New South Wales, and (b) the National Trust of Australia (New South Wales), and (c) any other body prescribed by the regulations.

I have made that provision fairly wide because I think the Minister should have discretion to prescribe by regulation other bodies that are very important in this field. I will move the amendment because many people are very interested in the conservation of our major public buildings, particularly as the Historic Houses Trust is responsible for facilities and buildings such as the Museum of Sydney and Government House, and such a conservation plan should not be implemented without further external consultation. My other amendment is to the amendment in the bill that will remove the requirement to table in Parliament the Historic Houses Trust annual report. That amendment is a retrograde step. This Parliament and any government of New South Wales should be required to be as open and transparent as possible. I rue the day that the Government managed to pass legislation relating to other portfolio areas that dispensed with the requirement to table annual reports in Parliament. I do not think that that Government amendment is in the public interest, and I will move an amendment in that regard.

The bill provides that the Minister for the Arts, rather than the Governor, will be able to approve the disposal by the trust of inherited household objects that have no association with the properties it manages. That is a very sensible provision, and it provokes no objection from the Coalition. However, we note that need for the Governor's approval will remain for the disposal of any real property as well as any acquired items. As I have said, in general the Coalition will not oppose the legislation, because we believe that, with the exception of the name of the trust, it reflects current practice.

However, in our consultation of stakeholder groups we came across some concerns. That was a very interesting exercise, because I do not think some of the groups that I consulted, for example the Royal Australian Historical Society, had ever been consulted before. Those groups spent a great deal of time, effort and energy considering the bill before coming back with well-considered opinions. Generally, they welcomed the bill, but I make the point that it is very important for the Government to consult. If this Government does not consult, it will end up with the Coalition moving amendments to its legislation, as I have foreshadowed tonight. The National Trust has raised a number of concerns, and I have already flagged some of them. It has made the point—I think fairly—that the public mind is not clear about the roles of the National Trust and the Historic Houses Trust. Both do a great job, and it is in the interests of everyone to make sure that that issue is clarified.

When the operation of the Act is reviewed, consideration should be given to changing its title to Historic Places Trust of New South Wales.

I note that the trust has concerns about the removal of the requirement to publish in the *Government Gazette* an intention to manage or acquire property. It is concerned also about the changes to the appointment of the trustees. The trust believes that appointment of trustees by the Minister for Infrastructure and Planning and the Minister for Commerce enables greater feedback and involvement of the Heritage Office and the Department of Commerce. As I have foreshadowed in the amendments, I pick up two of the trust's concerns. The first is to require that the conservation plan involve greater external consultation, and the second is our opposition to the removal of the requirement to table the annual report of the trust. I urge the Government to take those amendments on board. They are not draconian, and they will not make a dramatic difference, but they will improve the legislation, which could have been improved if the Government had consulted as widely as I have done. I am happy to support the bill, but with the amendments I have foreshadowed.

Mr RUSSELL TURNER (Orange) [9.20 p.m.]: I acknowledge what the previous speaker said. I knew little of the Historic Houses Trust until the last couple of days when, as a member of the Legislation Review Committee, I read the bill. I found it interesting. The bill will amend the Act to reflect the changing role of the Historic Houses Trust. Originally the trust had only two properties under its control but it now has 15, including Elizabeth Farm, Vaucluse House, the Hyde Park Barracks, the Justice and Police Museum and the Mint, where I have had lunch on a couple of occasions. It is wonderful to see that these building have been restored and that they are open to the public. It is important that as many people as possible get to know these buildings. I congratulate the various governments on ensuring that they have remained open to the public and have been restored to their former glory. They are part of our brief modern history.

The Central West of New South Wales, especially around Orange, has many historic houses, both public and private houses. Some of the new owners have had the funds to restore them. A prime example is "Kangaroobie", the residence of the Dalton family in Orange. "Kangaroobie", with its outbuildings and stables, was a fine building that fell into disrepair. Prior to the new owners taking it over the house was becoming derelict. Often we would say that cattle could walk in the back door and out the front door. Fortunately someone from Sydney bought the property and was able to spend $2 million to restore the building and its surrounding gardens. It will remain a part of our history, together with a number of other buildings around Orange. Although they are not under the control of the Historic Houses Trust they are an important part of this nation and our history.

The foreshadowed amendments will reflect the opinion of the National Trust and the Royal Australian Historical Society. The amendments are not dramatic, but they will make the bill easier to work with and fit in with the thoughts and recommendations of committees and people who, for many years, have been interested in our historic places. The amendments will bring the Act up to date by including places as well as buildings under the control of the Historic Houses Trust. The composition of the trust will be revised to enable the Minister for the Arts to nominate all nine trustees, thus removing the requirement that both the Minister for Infrastructure and Planning and the Minister for Commerce nominate a trustee.

The Minister for the Arts rather than the Governor will be able to approve of the disposal by the trust of inherited household objects that have no association with the properties it manages. The Governor's approval will remain for the disposal of any real property, as well as any acquired items. The Historic Houses Trust currently controls 15 properties, but there is no reason to think that somewhere down the track it will not acquire further properties. Who knows, one day this Chamber, which is an historic building, may come under its control. I commend the trust for its great work. But it is time to amend the Act to bring it up to date. I ask the Government to accept the amendments, which reflect the thoughts of those who look after our national buildings, such as the National Trust and the Royal Australian Historical Society.

Ms CLOVER MOORE (Bligh) [9.25 p.m.]: I acknowledge and commend the important work of the Historic Houses Trust and those who have been involved over its 24-year existence. However, I express some concerns about the bill that have been raised by other speakers, such as the confusion between the Historic Houses Trust and the National Trust and community perceptions of their dual roles. I am concerned also about reduced transparency and broad input as a result of the proposed changes in the bill. Overall I do not think they are necessary. They will remove transparency, and that is a real pity. I request that the Minister, if not in this place at least in the other place, consider not proceeding with some of the changes about which I express concern. I am informed that that there has been confusion between the Historic Houses Trust and the National

Trust, which has led to difficulties in fundraising for both organisations, and which is important for both organisations.

Sponsors often confuse the two and believe that they have been approached already by one organisation when they have been approached by the other. This is an opportunity to address this confusion. I recommended the removal of the word "trust" from the Historic Houses Trust, as was suggested by the honourable member for North Shore. As she also suggested, consideration could be given to a name change that more appropriately reflects the new purposes of the organisation under the bill. It could be replaced with "historic buildings", "historic places" or "historic sites" to more accurately reflect its function and intention, and the work that it now does. I am concerned about the proposal that enables one Minister to appoint all nine trustees. I understand that previously one trustee was appointed by the Minister for Planning and one by the Minister for Commerce.

It is not clear why the Government hopes to reduce the spectrum of views with the proposed change for a single Minister to appoint all nine trustee members. This change reduces the level of external input and transparency. I call for a return to the previous arrangement. I am concerned that under new section 6 (1) the Government requires only one trustee to have experience in history and one to have experience in architecture. Surely this is an underrepresentation of these two essential disciplines for heritage and cultural issues. The trust powers have a critical influence on heritage issues. I call on the Government to redress this imbalance and to provide the opportunity for external bodies to have input into decisions. I am aware of the similarity and confusion that already exists between the National Trust and the Historic Houses Trust.

New section 7 is a complete rewrite of the principal objects of the trust, which will increase competition between the two organisations as a result of the duplication of their activities. It is a real pity. There is a real place for both of these organisations to play an active role in overseeing and looking after our history and our heritage. It is not clear why the provision that requires the trust to publish in the *Government Gazette* their intention to either manage or acquire a property has been removed. I am very concerned because it will reduce transparency. It is a negative proposal. Given the powers of the trust and its ability to carry out work and conservation plans approved by the Minister it is important that these plans are rigorous and that they provide for community input. I call for increased input in the development of these plans, whether they be for heritage buildings, sites or places. It is important for consultation to take place with the Heritage Council and the National Trust. Furthermore, that consultation should be mandatory, and I intend to support the proposal of the honourable member for North Shore to achieve that.

The proposed changes also remove the requirement that the Governor must give approval to dispose of property other than real estate. This is not consistent with the rest of the Act and removes a desired level of protection. I recommend that this provision be removed. The bill also proposes to omit section 22, which provides for the tabling of an annual report in Parliament. It is curious that the Government would want to remove this measure of accountability. I ask the Minister to indicate whether other measures will be developed instead. The tabling of an annual report in Parliament is an important aspect of transparency and I call for this accounting mechanism to remain. I request the Minister to respond to the concerns I have raised during his reply.

Debate adjourned on motion by Mr Carl Scully.

SPECIAL ADJOURNMENT

Motion by Mr Carl Scully agreed to:

That the House at its rising this day do adjourn until Thursday 28 October 2004 at 10.00 a.m.

The House adjourned at 9.30 p.m. until Thursday 28 October 2004 at 10.00 a.m.