LEGISLATIVE ASSEMBLY

Wednesday, 1 May 1996

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Mr Speaker (The Hon. John Henry Murray) took the chair at 9.00 a.m.

Mr Speaker offered the Prayer.

LOCAL GOVERNMENT AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr E. T. PAGE (Coogee - Minister for Local Government) [9.01]: I move:

That this bill be now read a second time.

The bill contains a package of amendments to the Local Government Act. The amendments demonstrate the Government's continuing commitment to provide a proper legislative base from which local councils can operate more effectively within their local communities. Essentially, the experiences of implementation of the 1993 Act have provided evidence that councils and the public would benefit from improvement or clarification of certain provisions. The most important of these amendments are contained in schedule 1 and relate to the control of fire safety in buildings. Currently buildings, excluding single domestic buildings, are required to meet certain fire safety standards involving forms of construction and items of equipment when they are being built or altered or when their classification changes. A system for upgrading of fire safety standards is also in place for older buildings.

Installations such as sprinkler systems, fire extinguishers, smoke doors and alarms, require ongoing maintenance to ensure that they continue to operate as intended. A council, or in some cases authorised fire brigades officers, may serve an order on the owner of a building who has allowed an installation to fall into disrepair. However, this type of checking of the many thousands of buildings affected is an ineffective means of control because of the resources needed and the inevitable delays. A lack of vigilance where fire safety is concerned exposes members of the community to potential fire tragedy, particularly in budget, tourist and hostel accommodation.

The amendments will provide a more positive and effective system for the maintenance of essential fire and other safety measures. Two substantial offences are inserted, each having a maximum penalty of $10,000. Every building owner to which the requirements apply will have to continually maintain the essential fire and other safety measures within the building and to certify annually that maintenance to the council. Failure to comply with either of these responsibilities will make the owner liable to prosecution. The level of penalty reflects the seriousness with which building owners should approach their responsibilities. More comprehensive details on the standards of maintenance and the certification procedure required for compliance will be contained within regulations, and suitable regulation-making powers are inserted as an amendment. It will be an offence, with a maximum penalty of $2,000, to make a false or misleading statement relating to compliance.

The circumstances in which the duties to maintain and certify will arise will be following a relevant approval or order, including any given under previous local government legislation. It is proposed to clarify any doubt that this duty continues for the life of the building, with any subsequent owner assuming the responsibility. Over time this will enable new buildings to be kept at, and older buildings to be brought up to, proper fire safety standards by eliminating any avoidance loophole. Provision already exists within the Local Government Act for the Minister administering the Crown Lands Act to be consulted before an order is issued by a council in respect of certain Crown land. A similar consultation process is included before proceedings for an offence can be commenced by a council. The provisions will keep pace with developments in safety, including fire engineered designs, such as emergency evacuation procedures, and new equipment and construction techniques by a regulation-making power that allows for amendments to the definition of "essential fire and other safety measures".

Two existing fire safety offences have been amended. The first will allow doors relating to fire exits to be locked if permitted by the regulations, for example, security vault doors. Without the amendment the legislation imposes conflicting duties in respect of such doors. The second will require any door in a path of travel, not only those forming part of a required exit, to be capable of operating in accordance with regulatory requirements. Until amendment, no maintenance standard has applied to these doors. Spending by the building owner on maintenance and certification will provide the owner with a building that is demonstrably as fire safe as is required. There will be no council charges under this system because a specific provision precludes a council from charging any fee for the lodgment or processing of maintenance certificates. Recent tragic events in Victoria serve as a timely reminder that initiatives in the area of fire control must be subject to ongoing evaluation and improvement where appropriate. The amendments contained in schedule 1 continue the Government's program in this area.

Schedule 2 to the bill contains amendments relating to rates, charges and fees. Local government rating is an area of intense interest to councils and their communities. The Government is

consistently pursuing policies that promote fair and equitable rating, that keep increases to a minimum and that address the special situations of low-income earners. There are several amendments in the bill that reflect these policies. Certain provisions in the Act have mitigated against an equitable approach to rating. Councils are increasingly implementing revenue raising programs that involve a combination of rates and annual charges. Annual charges have the advantage of bringing ratepayers' attention to the real costs of services such as domestic waste management, water, sewerage and drainage.

However the provisions dealing with rates and annual charges are not equivalent. This means that when a council decides to make greater use of annual charges the ratepayers are treated unfairly. For example, ratepayers with adjoining parcels of land, only one of which has a residence, are not able to aggregate the parcels for the purpose of annual charges. They would have to pay two full charges whereas they might pay only one water special rate for the same level of service. Councils may not utilise annual charges to best advantage because of these effects, particularly where ratepayers bring this to attention during the consultation process which precedes the annual making of rates and charges.

Amendments to remedy this inequity involve extending the following provisions to annual charges: provision for amalgamation of adjoining parcels of land, availability of substituted capital contribution, proportionate charging where land becomes rateable during a year, adjustment on change of categorisation during a year, and the right of appeal against the levying of an annual charge. In relation to special needs, an amendment will enhance the ability of councils to address hardship situations. Councils will in future have the flexibility to write off accrued interest on overdue rates and charges in appropriate cases where the rates and charges are not paid when due for reasons beyond the person's control. At the present time this flexibility is available only in respect of failure to pay interest that has accrued for reasons beyond a person's control. Situations where this might be used include natural disaster or sudden illness which prevent the ratepayer paying by the due date.

There are a number of provisions in the Local Government Act in respect of which both councils and

ratepayers will benefit from improvements in clarity. Two amendments relevant to rating that are directed to this objective concern minimum amounts. The amendments clarify that calculation of rates using the ad valorem values of land may be subject to a minimum amount but that minimum amounts may not be used where a rate is calculated by reference to a base amount plus an ad valorem amount. Both minimum amounts and base amounts are designed to ensure that every ratepayer contributes an equitable share to the general costs of running a council. There is no need for both these options to be included in the one rate, and this clarification will prevent the rating structure becoming unnecessarily complex.

Another clarifying amendment concerns the categorisation of land. All properties are rated according to their category, being either residential, farmland, mining or business. Categorisation is based on dominant use, and there has been confusion involving the procedure for dealing with vacant land where it cannot be categorised as residential, farmland or mining. The amendment makes clear that vacant land is not to be assigned to the default category of "business" but is to be dealt with according to its zoning or designation under an environmental planning instrument, or where there is no zoning or designation, according to the predominant categorisation of surrounding land. Company title properties are rated on the basis that ownership of shares entitles the ratepayer to certain occupation within the building. An amendment will clarify that the occupation may be of a dwelling for living purposes or of some other portion, such as a shop or consulting room.

Two amendments will clarify the charging provisions of the Act: firstly, a minor amendment of the general provision that enables a council to levy an annual charge, for such services as water, sewerage and drainage, is being more clearly directed at rateable properties; and, secondly, the bill will clarify that the ability of a council to charge for the actual use of a service is directed at the same services to which annual charges apply and that the charge is applicable only when there is measurable actual use of the service. There has been concern about some interpretations of this provision, which either fail to recognise that actual use is not the same as proposed use or fail to utilise the provision for a range of other services that should be subject to special rates or fees.

In the area of fees, two clarifying amendments are included. The more important of these amendments concerns the ability of councils to charge fees for inspections carried out subsequent to, and concerning, an approval given under the Act. Councils have had a variety of practices in this area. For example, compulsory payments have been required before the council has even considered an application; charges have been set that bear no relationship to the services actually provided, to the cost to the council of providing the service or to whether the services were requested or necessary.

It may be equitable to expect that a person applying for an approval under the Act then might contribute to the cost of the council considering the application and, if granted, to the cost of ensuring that any conditions are complied with. However, requiring an applicant for an approval to contribute beyond that level promotes inefficiency within councils and can stifle the economic benefits that flow from building and other activities. The clarifying amendments will ensure that fees may be charged only for inspections that are reasonably necessary to determine if an approval has been complied with. Charging of the fee must be included as a condition of an approval and the fee may not be charged before an approval is granted.

Councils will need to properly plan their inspection program according to their statutory responsibilities and risk management strategies. At the same time inclusion as a condition of approval provides an avenue of appeal. These provisions are not unduly onerous. Councils can determine an appropriate minimum number of inspections and charge accordingly. For large projects they may determine a higher number of inspections. However, an amount charged for an inspection that is not carried out must be refunded. Further, councils may not charge for an inspection when they accept a certificate from another person that the work complies with the requirements.

A final minor amendment in schedule 2 will clarify that annual fees that may be charged for rails, pipes, cables and the like laid under, on or over a public place are not part of the annual charges provisions and therefore are not to be taken into consideration in rate pegging calculations. Schedule 3 contains a number of miscellaneous amendments. There is an amendment to the council charter, which is the set of principles that guides each council in the carrying out of its functions. The amendment will require councils to promote and to provide and plan for the needs of children.

The Hon. A. G. Corbett raised this issue last year for consideration, and the Government is pleased to be able to respond. Whilst there are many special groups within a community, children are distinct in that they are unable to directly represent their own needs. Councils frequently provide child-care facilities, child immunisation clinics and a range of other services for children. However, children's needs are more fundamental. Attention should be paid to the impact on children of the plethora of council functions. For example, land use planning and building activities need to incorporate children as inherent users, rather than as users of only specially identified areas. The concepts underlying this amendment are already being understood and implemented by some councils, and inclusion of the provision within the charter will ensure that all councils take up the challenge of planning and providing for the special needs of children.

Further, it is anticipated that amendments to the Local Government Act general regulation will be gazetted in the near future, requiring councils to inform their ratepayers about services provided for children in the council area. These amendments will complement the amendment of the charter. Councils have powers under the Local Government Act to regulate activities within the community, both on public and private land, by giving approvals and orders. The most familiar are those relating to buildings. Significant streamlining of the procedures involved in these processes has already been achieved and further improvements are expected. A number of the amendments will strengthen the substantive nature of the powers that councils may utilise. A range of activities, many of which were also controlled under the previous local government legislation, may be undertaken only with the prior consent of the council.

There has been some uncertainty surrounding the savings provisions, given that the legislation and various amendments are proposed to clarify these, and particularly to clarify that approvals given by all persons - not only councils - are saved, that such approvals can be extended or renewed and that approvals for places of public entertainment that were given without reference to an expiry date will continue indefinitely. The effect of these amendments will be to avoid the need for holders of approvals to waste time and resources in resubmitting matters for approval.

The approvals process under the Local Government Act has a number of important provisions embodying the principles of natural justice. It is intended to improve these provisions. Firstly, the possibility of a person who makes a decision on an application under delegation then refusing to review the decision at the request of the applicant is eliminated. Secondly, rights of appeal are added when the extension or renewal of an approval is refused or no determination is made. Councils generally regulate specific situations when persons fail to meet legislative standards by issuing various orders under the Local Government Act. A number of those orders require amendment and a further order is desirable.

One important area is the power to order demolition or upgrading work on a building that was erected without the prior approval of the council. In a recent judgment the Land and Environment Court interpreted this power as applicable to approvals under the Local Government Act 1993 only. It is proposed to clarify that this order is available for use, whether the work was undertaken before or after the commencement of the 1993 Act. Without this amendment councils are powerless to order rectification work on buildings erected or altered prior to 1 July 1993. Thus those who have intentionally disregarded the State's building laws will have acted with impunity. The amendment merely restores the power that councils had under the previous local government legislation.

Another amendment will allow councils to control the illegal use of a building when it is being used contrary to its classification. The most common example of this is garages being used illegally for human habitation. It is necessary to give councils the ability to order that the building cease to be used for an unapproved purpose because of the inherent unsuitability of the building. For example, a lack of plumbing or generally unsuitable design may put the health and safety of the occupants at risk. The order will be relevant only to building classification under the Local Government Act. Another building-related order that is to be amended is that which allows councils to order work to control the flow of surface water across land.

At present such an order may be given when other land is being, or is likely to be, damaged. The circumstances are being extended to include

actual or likely damage to buildings. This amendment will address the most frequent result of uncontrolled water flow. When an order is served by a council there is scope for negotiation concerning the nature of the work to be undertaken if the council specifies the required outcome only. This allows the recipient of the order to submit particulars of work to achieve that outcome. The Land and Environment Court recently considered the particulars of work provisions within the Local Government Act and concluded that they derive from the general orders powers rather than being a separate regime.

The amendments will clarify the provisions in accordance with the court's judgment and will allow an additional opportunity for appeal. This aspect had caused the court difficulty because the recipient's right of appeal may have elapsed before the nature of the work required was decided. A council may bring proceedings against a person when an activity is being undertaken without an approval or when that person fails to comply with an approval or order. Such proceedings may be brought in the Local Court or the Land and Environment Court. An amendment is being included to ensure that proceedings must be commenced within six months of the alleged offence, irrespective of which court the council chooses. The time limit had been omitted in respect of the Land and Environment Court. That could have resulted in persons being indefinitely liable to prosecution, which was an unintended outcome.

The extended time limit of 12 months for offences relating to building work has not been disturbed. Quite separately from the regulatory activities, councils provide services and facilities within the community. Councils have the ability to acquire land in conjunction with these functions, including acquisition by compulsory process. Generally if land is acquired in this way a council can resell it only if the owner has agreed. In a small number of situations this has caused difficulty because the owner of the land cannot be identified. In such cases, if the council proceeds to acquisition, the community will be burdened with the costs indefinitely. Also the council may be prevented from undertaking land development activities which would benefit the community.

An amendment has been included which will allow resale without agreement if the owner of the land cannot be identified. Examples of this could be proposed roads that were never effected in old paper subdivisions or Crown land where no native title owner is identifiable after all the required processes under native title legislation have been complied with. The amendment includes a regulation-making power that will be exercised to prescribe the diligent inquiry process that a council will need to follow before it may be concluded that there is no identifiable owner.

Essentially that inquiry will encompass the relevant provisions of the native title legislation and the Land Acquisition (Just Terms Compensation) Act. The amendment will not allow a council to conclude that a landowner is not identifiable merely because a person cannot be located or contacted. To facilitate another service function of councils, namely relating to water supply and sewerage, an amendment has been included to enable the Government to construct, hand over and vest relevant works in councils notwithstanding that the councils may be water supply authorities. Without the amendment it has been difficult to assist those particular councils in the same manner as all other councils.

Schedule 4 to the bill contains a number of minor miscellaneous amendments. I will mention each

of these in the order in which they appear in the schedule. Item [1] clarifies that a council may be satisfied that no insurance premium is payable under the Building Services Corporation Act when the owner signs a statement that the owner will be completing building work and the cost of labour and materials is not high enough to require the owner to have an owner-builder permit. Item [2] allows the holder of an accreditation of a component, process, design or temporary structure relating to an activity for which approval may be given under the Act to apply for an extension or renewal of that accreditation. Further it allows regulations to be made for accreditations by other bodies to be recognised in granting an accreditation under the Act, or to be taken as an accreditation given and notified and able to be revoked under the Act. These amendments will save applicants from having to seek a full accreditation on each occasion.

Item [3] omits a meaningless reference in the form of an order issued by a council concerning the right of appeal against the order. Items [4] and [5] reposition the provision which states that a person who is carrying out work in compliance with an order need not obtain council approval for the work. This will clarify that the provision applies to work under all orders not just those involving particulars of work. Items [6] to [12] ensure consistency in the references to fire brigades personnel who may be involved in issuing certain orders under the Local Government Act and update the references to the head of their organisation. Items [13] and [14] restrict the opportunity for implementation of a change to the method of election for the office of mayor. The amendment reflects the practical reality that such a change may only be undertaken at the next ordinary election when consequent changes to the number of councillors are also implemented.

Items [15] and [16] will amend the delegation powers of county councils so that a regulatory function may be delegated to a council. Previously this option was not available. The delegation provisions are also clarified to ensure that a council or a county council, on receiving a function under delegation from the other, may further delegate that function to the general manager, who may, in turn, delegate it to staff. Items [17] and [30] include a standard definition of the term "quarter" which is used in connection with quarterly instalments of rates and charges and quarterly reporting on the

implementation of a council's management plan. Items [18] to [23] ensure that the provisions reflect the intention that a council's financial reports will be prepared in accordance with the Act and regulations and the Australian accounting standards. Item [24] is an amendment to align the duty on auditors to report only material deficiencies in council accounting records with that applicable under the Australian accounting standards.

Item [25] amends the pecuniary interest provisions so that an employee of the Crown is treated in the same manner as an employee of a council or statutory body. Item [26] clarifies the provision which requires disclosure of a pecuniary interest arising from an environmental planning instrument that effects a change in the use of land. Item [27] inserts a more formal procedure for the keeping and tabling of returns required of councillors and designated persons in relation to interests. Item [28] inserts savings provisions consequent on the amendments that I have outlined above in relation to accreditation, appeals concerning orders and whether land is subject to a charge, writing off of accrued interest and proceedings for offences in the Land and Environment Court. All of these amendments are aimed at improving the effectiveness of provisions upon which local councils depend. In the climate of change that is currently underpinning local government it must be anticipated that the legislative base will also change. I commend the bill to the House.

Debate adjourned on motion by Mr Turner.

IMPOUNDING AMENDMENT BILL

Second Reading

Debate resumed from 24 April.

Mr TURNER (Myall Lakes) [9.25]: The Opposition supports the bill, but will move some amendments. The Opposition agrees that section 9 of the Act should be amended to allow animals that currently would be regarded as having strayed to be impounded by defining the term "unattended" to include the term "straying". An impounding officer is currently able to impound an unattended animal. "Straying" at present means leaving private property and entering public property. Abandoned animals will also be regarded as unattended animals, but the bill will provide exemptions. The Opposition supports the amendment because not only will it tidy up the Act, but it will assist the impounding authority to impound potentially dangerous animals such as dogs, which are normally kept in locked yards. In some small way the provision might help to reduce the ever-increasing number of dog attacks.

The Opposition supports the amendment of the definition of "unattended", which will exempt animals left unattended on public land in response to a specific invitation contained in a notice published by a relevant public authority or with the consent of that authority. The present anomaly that allows stock left unattended on roads or on travelling stock routes pursuant to the Rural Lands Protection Act to become liable to be impounded will be overcome. The Opposition supports also amendments to section 27 that will compel an impounding authority to pay to a property owner whose property is damaged by an impounded animal amounts recovered for loss or damage. However, the Opposition will move an amendment that will provide for the waiver of payment of damages when an animal escapes through a fence destroyed during a natural disaster or by an event beyond the control of the owner. I will expand on that aspect shortly.

The Opposition supports the proposal to allow impounding on Crown land reserve trusts and notes that the exemptions proposed in the bill concerning unattended animals can be applied with the consent of the trustees. It supports also the proposal that damages collected by an impounding authority for damage caused by animals to an owner's or occupier's land be paid to the owner. The Opposition, however, will seek to amend the latter proposal. After all, the owner or occupier of the land who suffers the damage is the one who should receive the damages collected, not the impounding authority. The amendments that the Opposition will move are intended to protect an owner whose animals have escaped through no fault of his own.

The Act provides that no impounding fee shall be charged when an animal escapes following the destruction of fences in a natural disaster. The Opposition wants to extend the term "natural disaster" to include fences destroyed through no fault of the owner. I know from my experience of country driving that cars travelling out of control on country roads can penetrate fences and bring down fencing panels. An animal that escapes through a fence damaged in that manner could be impounded and the owner might incur fees and charges. The car may be long gone by the time the owner finds that the fence is damaged and that the animals have been impounded. The Opposition supports the Government's proposition that animals that escape when fences are destroyed by natural disaster be impounded, but it would like to extend the provision to encompass fences destroyed through circumstances beyond the control of the owner. We support this proposition on the basis that escaped animals may cause damage to the property onto which they escape, and that the owner of that damaged property is entitled to some relief. That goes against the grain of the notion of adjoining owners helping each other out; nevertheless, it is acknowledged that if an animal escapes from one property onto another, the owner of the property onto which the animal escapes may suffer hardship. Therefore, the Opposition agrees with the proposal.

However, the Opposition believes that if property owners demonstrate that they have not been negligent with their fencing and have taken all reasonable steps to repair it within a reasonable time after the natural disaster or the event beyond the owner's control, any impounding charges or fees

shall be waived. The bill provides that the fees "may" be waived, but the Opposition believes that it should be mandatory that the fees be waived, provided that all reasonable care has been taken by the

owner to repair the fence, and provided that the fence did not go down as a result of any negligence on the part of the owner. That is fair and reasonable.

The exemption would be that any fees or charges paid by the impounding authority for water, food or veterinary care for the animal should be recoverable. The Opposition does not dispute that in any way. Although this may not seem fair as the animal owner may have additional costs above those for water, food or veterinary charges in recovering his or her impounded animal, such as travelling and cartage costs, the other innocent party - the owner of the land onto which the animal escaped - also has the right not to have land damaged or to have a nuisance caused by an escaped animal.

It seems only fair and reasonable that any burden be jointly shared in the event of a natural disaster. Therefore, the Opposition proposes that in addition to there being no impounding fee or charge other than for water, food and veterinary care, the impounding authority should not be entitled to recover the cost of rectifying any loss or damage attributable to the trespassing of such an animal. Proposed section 27(6) provides for such damages when animals cause damage or nuisance on another person's land as a result of fences being destroyed by natural disaster or by circumstances beyond the owner's control, unless the impounding authority is satisfied that the gate or fence ceased to be animal proof due to the negligence of the person liable to pay the fee, charge or damages. This will also apply if the person liable to pay the fee, charge or damages is responsible for the maintenance of the gate or fence and did not, as soon as was practicable, take all reasonable action to repair the gate or fence to make it animal proof after the natural disaster or the circumstances causing the damage beyond the control of the owner.

At a time of natural disaster we all must bear some of the burden. The owner of the land onto which an animal escapes will have a remedy to have the animal removed before it can inflict significant damage. Also, the owner of an animal that escaped through no fault of his or hers, could recover the animal without fee, charge or damages under the Opposition's proposed amendment. It should be noted that the exemption for damages only covers damages payable under the Impounding Act to an impounding authority. It does not preclude damages being sought and recovered between the owner of the land and the owner of the animal, provided the cause of action can be established. The Opposition amendments are not contentious; they are fair and equitable in nature, and take into account the reality of the situation in dealing with natural disasters and circumstances beyond the control of owners which cause animals to escape. With the addition of the proposed amendments, the Opposition will support the bill.

Mr LYNCH (Liverpool) [9.33]: I support the Impounding Amendment Bill, the main purpose of which is to improve the efficiency of impounding authorities and to protect the rights of the owners of animals that are illegally in public places. It was intended that the Impounding Act contain impounding powers equivalent to those in the legislation it replaced - the Act was introduced in 1993 cognate with a local government bill - but on examination it appeared that some circumstances, particularly those in which animals strayed, were not adequately provided for. The Act also allows an impounding officer to impound an animal which was legitimately left in a public place; this was never intended.

The main provisions of the bill provide that animals straying in a public place may be impounded, and that the terms "straying" and "abandoned" will be included under the generic term "unattended"; that animals legitimately in a public place shall not be impounded; and that the exemption be removed from "impounding" where an animal has strayed as a result of fence damage due to natural disaster - the impounding authority will be able to waive a fee or charge where this occurs. The bill also provides that an offence be created when an animal is allowed to be unattended in a public place; that the impounding authority may waive a fee or charge in certain circumstances; and that any amount recovered by an impounding authority for loss or damage attributable to the trespassing of an animal on private land is to be paid to the person who suffered the loss or damage.

These amendments are essentially housekeeping matters which do not introduce new principles. However, they will perform a useful role in tidying up some uncertainties and inadequacies in the Act. The general principle behind the Act and this bill is that animals which stray into public places can be

impounded, while those legitimately present should not be impounded. The Act does not apply satisfactorily to an animal which has escaped and in certain circumstances should not be impounded. Conversely, at present, stock which is legitimately in a public place may be impounded even though the impounding authority has given prior consent for the animal to be on the property, or even though the stock may be on the property pursuant to other statutes.

Also, the bill will allow an impounding fee to be waived if it is appropriate to do so in the circumstances. The introduction of that flexibility through this bill is obviously desirable and appropriate. The Opposition has proposed amendments to the bill with which I have some difficulty. The Government's bill logically allows natural consequences to follow if stock is in a public place when it should not be; and, if damage is sustained by that stock, the owner of the stock is held responsible. That is a sensible, reasonable and unobjectionable proposition. The Opposition amendments would clearly break down the category of negligence. Stock owners would be liable only if

they are found to be responsible for negligence. That only makes sense if the currently accepted doctrine of law of negligence is broken down. Otherwise, it is unnecessary to break down the category of actions which are not liable for damages or fee.

The other difficulty with the Opposition amendments is that they will create a considerable degree of uncertainty regarding the circumstances in which stock owners are liable. That flows inevitably and naturally from expanding in a vague and generalised manner the categories in which owners will not be responsible. That may well be a bonanza for country lawyers in my old profession, but it would create an inherently undesirable situation. People generally prefer certainty in law rather than the imposition of vague categories to be resolved by litigation. That is an undesirable and unpleasant course and would do nothing to assist rural people who would be affected by the Act, the bill and the Opposition amendments. I commend the bill to the House.

Mr MOSS (Canterbury) [9.39]: This legislation is all about bringing some consistency to impounding laws. As the honourable member for Liverpool pointed out, these are housekeeping, although nevertheless important, amendments. Basically, the bill will allow the impounding of all animals that stray onto public places, except - as the Minister said in his second reading speech - animals that stray for "legitimate means". I find it hard to grasp that term, and I can only assume that animals straying legitimately would be those permitted to graze in public places. However, I should like to refer to just two measures in the bill. One measure deals with abandoning or leaving animals unattended in a public place.

The Act presents an inconsistency because an animal can be impounded if it is abandoned or left unattended in a public place, but if an animal escapes onto a public place, it cannot be impounded. In other words, a dog left unattended or dumped in a park while walking with its owner could be impounded, but an owner not directly involved in an animal's escape could get off scot free if that animal escapes from premises, roams the streets and causes a deal of nuisance. Whether an animal was deliberately left in a public place or arrived there through its own ingenuity, the impounding law should prevail. This bill will ensure that step is followed.

Previously the impounding authority was able to keep any money that was paid for any damage caused to private land by a trespassing animal. That certainly was unfair because it was the owner of the private property who suffered the loss. This bill rectifies that anomaly. I support any measure to make impounding laws more consistent and more strict. I regularly go out of a morning - sometimes walking, sometimes jogging - and I am quite often confronted by dogs. I am not anti-dog, but sometimes I feel quite hostile towards the owners of some animals.

The number of animals allowed to stray in public parks in the early hours of the morning is quite extraordinary. Many animals are with their owners, but many just roam the streets. Elderly people often go walking in the morning and they carry small sticks - not walking sticks, but sticks to ward off dogs that

may attack them. This problem is caused not by the dogs but by the irresponsible owners. Any legislation that tightens up impounding laws can only be for the better.

Mr STEWART (Lakemba) [9.42]: I support the Impounding Amendment Bill. The main object of the bill is to amend the Impounding Act 1993 in an effort to correct some clear deficiencies and ambiguities that have presented problems with the current legislation. The main focus of the Impounding Amendment Bill is the provision to impound animals that stray in public places, but importantly the bill provides that animals legitimately left in public places need not be impounded. Previously this aspect was a grey or ambiguous area of interpretation. The Impounding Amendment Bill clearly clarifies the rights and powers of the authority on this aspect.

The bill gives the 12 State Government authorities and all local government councils clearly defined powers to impound animals that are not in the current Act. The Impounding Act defines impounding powers for authorities in cases where animals are abandoned or left unattended. The Impounding Amendment Bill will amend the Act to apply to any animal that has escaped from private land and is straying on a public place. Similarly, section 9(2)(a) of the Act provides that a stray animal that has escaped through a fence damaged by natural disaster or other causes cannot be impounded, even if it is creating a public nuisance or damaging property.

That measure is totally inconsistent with other provisions in the Act that provide for the impounding of an animal that has escaped through a broken fence or gate as a result of neglect. The Impounding Amendment Bill will remove these deficiencies and inconsistencies in the Act. The bill also recognises that if all animals that stray on public places are impounded, the innocent owner could unreasonably have to pay impounding fees. The amendment will allow the impounding authority to waive this fee or charge. The bill will amend section 27 to effectively prevent the impounding authority from keeping any moneys paid for damage caused to private land by straying or trespassing animals in instances where the impounding authority impounds the animal at the invitation of the owner or occupier of the subject land.

Clearly this measure may be unreasonable, because, quite plainly, the owner-occupier suffers the cost of any damage incurred by a straying animal. The amendment to section 27 will result in moneys collected by authorities to rectify damage or loss suffered under those circumstances being passed directly to the owner-occupier, who

obviously incurred the subject loss or damage. The Impounding Amendment Bill clearly and effectively tidies up the Impounding Act 1993 to make it practical and effective in its application to all parties. I support the bill.

Mr E. T. PAGE (Coogee - Minister for Local Government) [9.46], in reply: I thank the honourable members who contributed to the debate. I do not accept the proposed amendments of the Opposition. This bill was introduced to tidy up problems that were not foreseen in the drafting of the 1993 Act, and sections 26 and 27 will be amended to make them more reasonable. The Opposition's amendments would frustrate the sense of reasonability and result in more problems down the line. The aim of amending section 26 was to give councils flexibility in charging an impounding fee. Presently councils have no option but to charge that fee. The bill will allow the impounding authority to waive payment of that fee if that is thought reasonable.

The relevant measure refers to damage to a gate or fence through fire, flood or other natural disaster. The Opposition's amendment goes further and muddies the water. Extended legal proceedings could be involved if a council believes that the owner of a stray animal had a case to answer and takes the matter to court. As the honourable member for Liverpool said, that would certainly be good for country solicitors, but that is not the aim of this exercise. The Act had no flexibility in this respect, and although to my knowledge no problems have arisen, the Government considers that the Act should be more flexible. In relation to section 27 and the general right to recover impounding fees, the Government proposes that any money recovered by the impounding authority must be properly vested in the person

who has suffered the loss, which is reasonable. However, the Opposition seeks to alter the philosophy of imposing charges, which in my view is outside the scope of the bill. That is one reason why the Government will oppose the second amendment.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

Mr TURNER (Myall Lakes) [9.53], by leave: I move the following amendments in globo:

No. 1 Page 4, Schedule 1[5], lines 9-15. Omit all words on those lines. Insert instead:

[5] Section 26(7) and (8)

Insert after section 26(6):

(7) An impounding authority is not entitled to impose a fee or charge in respect of the impounding of an animal in a public place that had strayed because a gate or fence had ceased to be animal proof due to fire, flood or other natural disaster or for some other reason beyond the control of the person whose responsibility it was to maintain the gate or fence unless:

(a) the gate or fence ceased to be animal proof due to the negligence of the person liable to pay the fee or charge, or

(b) the person liable to pay the fee or charge was responsible for the maintenance of the gate or fence and did not, as soon as practicable, take all reasonable action to repair it and make it animal proof.

(8) Subsection (7) does not apply to charges for providing the impounded animal with food, water and veterinary care.

No. 2 Page 4, Schedule 1[7], line 20. Omit "(6) and (7)". Insert instead "(6)-(8)".

I outlined in my speech on the second reading of the bill why these amendments should be made. The penalty should be waived by the impounding authority if the animals concerned escaped in circumstances beyond the control of their owner. The wording of the bill should reflect this. To take a city example, in the tragic bushfires of 1994, suburban fences in Sydney came down and animals escaped - in some cases to save their lives. In such circumstances there should be no possibility of an impounding fee being charged. To take a country example, animals could escape because of floods or fires. When I had my farm, invariably on a Sunday morning I would have to repair a panel of fencing where a car had come over the hill and gone through the fence. If the circumstances are beyond the control of the property owner it is fair and reasonable that he should not be liable for impounding charges. Otherwise the impounding authority would receive a windfall. I acknowledge that the wording proposed by the Government states that the fee "may" be waived. But some impounding officers can be zealous in their impounding activities and in many cases fees would be imposed, impacting on an owner whose animals escaped through no fault of his. There is also the cost of transporting animals back to a property after their impounding. I believe the amendments are reasonable.

Provided the owner of the property from which an animal has escaped has kept his fences in good

and proper order and done all things reasonable within a reasonable period to make fences stockproof, the owner should not be liable for damage to another person's property. The Opposition supports the Government's moves in this area. At present the impounding authority can recover and keep damages. When I read the Act I thought it anomalous that an impounding authority could keep damages assessed against the owner of animals for damage to another person's property and not pass the money on to the other property owner. The owner of a property to which animals escape has available the remedy of having the animals impounded and taken off his property as quickly as possible, and I reserve the right of the landowner to take any further action that is appropriate. The Opposition supports the

amendment. A fair and reasonable balance should be available so that people whose fences have fallen down, through no fault of theirs, and whose animals have strayed should not be penalised by having to meet an impounding fee.

Mr WINDSOR (Tamworth) [10.00]: Unless the Minister in his reply can explain to me a problem that he outlined some minutes ago I will support the amendment moved by the honourable member for Myall Lakes. I speak to this amendment as a member of the farming community who has been involved in a natural disaster. Some years ago a fire broke out on my property, which is dissected by a railway line, and circumstances similar to those described in the bill occurred. The Minister said that he perceived certain legal implications for councils and said that the amendment should include the phrase "may waive" rather than "will waive". Can the Minister give some examples of where councils could become involved with legal proceedings and why he suggests the wording should be "may waive". That is the only clarification to the amendment that I seek. If the Minister cannot explain that to me adequately, I will have to support the amendment by the honourable member for Myall Lakes.

Mr E. T. PAGE (Coogee - Minister for Local Government) [10.01]: It is ironic that the problem with this proposed section has arisen only in the minds of the Opposition. For almost three years it has been mandatory for councils to recover fees. The Government is inserting into the legislation an option for councils to waive fees, to help farmers whose stock stray in circumstances similar to those mentioned by the honourable member for Tamworth. I am not familiar with the property of the honourable member for Tamworth, though I know where he lives. I do not understand why the Opposition is critical of this measure. In 1993 the honourable member for Myall Lakes supported the impounding legislation. When he was chairperson of the legislation committee he was in favour of this restrictive provision. He has become a latter day saint and now suggests that the Government is not going far enough.

The legal implications to which I referred could arise if there is a problem about whether a council should recover costs; for instance, if the fences in question are remote from the roadway and people do not know what condition they are in, the cost of replacement might become a matter for evidence. If the council believes it should recover the money the matter can be argued in court. However, I believe that would be a minefield for both the council and the farmer; the only people it will benefit will be the solicitors. I suggest that the council, a reasonable elected body, should be able to make a rational judgment as to whether it will waive fees. That is a reasonable provision.

So far as the allocation of costs is concerned, I do not believe that it is possible to cover all eventualities in legislation. The cattle of one farmer whose property has been flooded might stray and cause damage to the flooded property of another farmer whose cattle did not stray, but who nevertheless suffered an equal degree of damage to his property. The best approach is to give the council the option to waive any charges that might be involved. That would be the safest and sanest thing to do. In the past three years, so far as I know, the current Act has not caused a problem. However, it is reasonable to free up the system and to give the council the option of charging.

Mr TURNER (Myall Lakes) [10.05]: The Minister said that the council should have the right to determine whether it will waive charges. Earlier he said that would create difficulties in relation to legal matters. He is now saying that councils will be able to make legal decisions instead of having to resort to the courts. My amendments have nothing to do with resorting to the courts. It is a clear statement:

there shall be no fees. That does not involve any argumentative, decision-making or legal process: there shall be, in the event of a natural disaster, no fees payable. I do not understand why the burden should be put back on the council. The Minister, with all due respect, is a little confused in relation to the current situation. He said a moment ago that it was mandatory to recover fees when animals have strayed and been impounded. Under the present legislation there is no right to impound where an animal escapes during a natural disaster. There should be a right to take that action. But the Minister goes further and says that where an animal strays as a result of a natural disaster, fees are payable. At present fees are not payable and the Opposition seeks to maintain the status quo. Under the present arrangement stray cattle cannot be impounded, so no fee is payable. These amendments are a logical extension of what happens at present and will allow for a logical extension of the provisions of the existing legislation: there is no impounding, therefore there is no fee. If there is to be impounding, no fee should be payable when there is a natural disaster.

Mr E. T. PAGE (Coogee - Minister for Local Government) [10.07]: I may have misread the amendments but the honourable member for Myall Lakes suggests that there will be no charge. His amendment to proposed section 26(8) states that subsection (7) does not apply to charges for providing the impounded animal with food, water and veterinary care; so obviously that is a charge. This provision is not about whether there is or is not a charge; it is about the extent of the charge. The honourable member said that no legal problem will be involved. Of course there will be a legal problem. He raised the matter of the integrity of the fence prior to the flood, the fire or other natural disaster. If the farmer and the council are in conflict, they will have the matter settled in court, so there will be a court decision on the state of the fence, having regard to the description in

subsection (7). In my view everyone will lose out except the legal profession, and that is not the way to solve the problem. For almost three years the honourable member for Myall Lakes was quite happy with the provision but now he has some concerns about it. The council, as the responsible body, is in the best position to judge whether the fee should be waived. The honourable member for Myall Lakes mentioned a zealous impounding officer. The impounding officer will not make the decision; the council will.

Question - That the amendments be agreed to - put.

The Committee divided.

Ayes, 37

Mr Beck	Mr Peacocke
Mr Blackmore	Mr Phillips
Mr Chappell	Mr Photios
Mrs Chikarovski	Mr Richardson
Mr Cochran	Mr Rixon
Mr Collins	Mr Rozzoli
Mr Debnam	Mr Schipp
Mr Ellis	Mr Schultz
Mr Fraser	Mrs Skinner
Mr Glachan	Mr Slack-Smith
Mr Hartcher	Mr Small
Mr Hazzard	Mr Smith
Mr Humpherson	Mr Souris
Mr Kinross	Mr Tink
Ms Machin	Mr Turner
Mr Merton	Mr Windsor
Mr O'Doherty	*Tellers*,
Mr O'Farrell	Mr Jeffery

Mr D. L. Page	Mr Kerr

Noes, 44

Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Ms Moore
Mrs Beamer	Mr Moss
Mr Carr	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Debus	Mr E. T. Page
Mr Face	Mr Price
Mr Gibson	Mr Rogan
Mrs Grusovin	Mr Rumble
Ms Hall	Mr Scully
Mr Harrison	Mr Shedden
Ms Harrison	Mr Stewart
Mr Hunter	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knight	Mr Watkins
Mr Langton	Mr Whelan
Mrs Lo Po'	
Mr Lynch	*Tellers*,
Mr McBride	Mr Beckroge
Dr Macdonald	Mr Thompson

Pairs

Mr Armstrong	Ms Allan
Mr Cruickshank	Mr Knowles
Mr Downy	Mr McManus
Ms Ficarra	Mr Markham
Dr Kernohan	Dr Refshauge

Question so resolved in the negative.

Amendments negatived.

Mr TURNER (Myall Lakes) [10.22]: I move:

No. 3 Page 5, Schedule 1[7]. Insert after line 5:

(8) An impounding authority is not entitled to recover:

(a) fees or charges in respect of the impounding, holding or disposing of an animal that had strayed in the circumstances referred to in section 26(7) (other than charges for providing the animal with food, water and veterinary care), or

(b) the cost of rectifying any loss or damage attributable to the trespassing of such an animal.

I have already enunciated my reasons for moving this amendment. No damages, fees or charges should be paid in the event of a natural disaster which results in a fence coming down and stock escaping. In

the event of a natural disaster people should pay equal costs. It would be unfair and unreasonable to expect the owner of animals that have escaped to bear the cost of any damages caused to another person's land. The person on whose land the animals are found has the right to impound those animals, so the owner of the animals should not be liable for damages. I commend the amendment and indicate to the Government that the Opposition will not be dividing on it.

Mr E. T. PAGE (Coogee - Minister for Local Government) [10.25]: The Government does not accept the Opposition's amendment, which goes against the heart of section 27. In my view it is outside the scope of the bill.

Amendment negatived.

Schedule agreed to.

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

COMMONWEALTH POWERS (FAMILY LAW - CHILDREN) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr WHELAN (Ashfield - Minister for Police) [10.27]: I move:

That this bill be now read a second time.

The purpose of the Commonwealth Powers (Family Law - Children) Amendment Bill is to refer to the Commonwealth power to deal with certain matters relating to the custody, guardianship, access and

maintenance of children who are the subject of State welfare orders and to allow the Commonwealth to make declarations of parentage for all Commonwealth purposes. The proposed legislation will continue to reserve to the State exclusive powers to make laws for the welfare and protection of children, including adoption.

The intention of the bill is to close a gap that currently exists whereby neither the Family Court nor State courts have jurisdiction to effectively make orders relating to the custody, access, guardianship or maintenance of children who are the subject of orders under State child welfare laws. The need to resolve these issues, as well as certain matters concerning the ability of the Family Court to make declarations concerning a child's parentage, have been the subject of discussions by the Standing Committee of Attorneys General, or SCAG, since 1990. This bill will give effect to a number of decisions made by the standing committee which will enable these matters to be resolved.

The problem stems from certain limitations arising out of section 51(xxii) of the Commonwealth Constitution. Section 51(xxii) enables Federal Parliament to legislate with respect to divorce and matrimonial causes; and associated with this, parental rights and the custody and guardianship of children. In general terms, this has been interpreted to mean that the Commonwealth has power to make laws only with respect to children of a marriage. All other children, that is, ex-nuptial children, come within the jurisdiction of the State. In 1986 the Commonwealth Powers (Family Law - Children) Act was passed by this Parliament in order to give the Commonwealth the power to make laws with respect to ex-nuptial children.

The referral was necessary to overcome problems and jurisdictional disputes between the Family Court and State and Territory courts over the right to deal with matters involving the custody and

guardianship of and access to ex-nuptial children. Accordingly, the Act referred to the Commonwealth powers to make laws with respect to the guardianship, access and maintenance of ex-nuptial children. New South Wales retained exclusive responsibility for the protection and welfare of children, including adoption. The functions of the Minister for Community Services, the Department of Community Services or a welfare agency as created by the Children (Care and Protection) Act 1987 and the Disability Services and Guardianship Act 1987 were also excluded from the reference of powers.

[*Debate interrupted.*]

PORT ARTHUR SHOOTINGS

Mr SPEAKER: Order! I will now leave the chair for 35 minutes as a mark of respect for the victims of the Port Arthur tragedy. The House will resume on the ringing of one long bell.

[*Mr Speaker left the chair at 10.30 a.m. The House resumed at 11.05 a.m.*]

COMMONWEALTH POWERS (FAMILY LAW - CHILDREN) AMENDMENT BILL

Second Reading

[*Debate resumed.*]

Mr WHELAN: The reference did not affect the jurisdiction of the Supreme Court or other courts or tribunals to make orders or take other action under relevant legislation. However, since the passing of the Commonwealth Powers (Family Law - Children) Act experience in the Family Court and in the State welfare area has led to a further examination of the referred powers by the Standing Committee of Attorneys-General. This examination identified several gaps in the current system.

Consequently, in June 1990, SCAG Ministers agreed to amend their State referral of powers legislation to enable the Commonwealth to deal with custody, guardianship and access disputes involving children who were subject to certain specified welfare laws. Later, in June 1991, SCAG Ministers agreed that the States should also refer to the Commonwealth maintenance matters involving children in State care, and the power to make declarations concerning a child's parentage for all Commonwealth purposes. In addition, SCAG Ministers agreed that the power of adoption should be the exclusive domain of the States.

How the bill will resolve the problems identified by SCAG can be seen as follows: for example, section 72 of the Children (Care and Protection) Act currently gives the Children's Court power to make certain orders in relation to a child in need of care. Whilst the Children's Court is able to make orders effectively granting or prohibiting access to a child on a temporary basis, or accept undertakings from the child's carer to the same effect, Children's Courts in New South Wales do not have the power to make final orders for such arrangements to take place. In New South Wales access orders can only be made in the Supreme Court. Moreover, undertakings are not enforceable. In the event that an undertaking is not complied with, the only option currently available to the Children's Court is to vary or revoke the order. Clause 3(2) of the bill will allow such matters to be transferred to the Family Court, which has powers enabling it to make final access orders and deal with breaches of access orders.

One of the other areas of concern relates to the maintenance of children in State care. In New South Wales the Department of Community Services can obtain contributions towards the maintenance of a child in its care from the child's parents. However, there are considerable differences between the States as to whether and how this is done. This situation has been the subject of criticism by the Family Law Council. Clause 3(2) of the bill will have the effect of removing the current restrictions on the Commonwealth in relation to the maintenance of such children, thereby allowing the Commonwealth's

central collection agency, the Child Support Agency, to collect maintenance on the child's behalf.

Other problems concerning the collection of maintenance stem from the operation of section 60H of the Family Law Act 1975. Currently, persons who have the care or control of a child under the Children (Care and Protection) Act are denied access to the Child Support Agency and the mechanisms that are available through that agency to collect maintenance from non-custodial parents. The bill will enable the Department of Community Services to initiate an application on behalf of those having care of the child to obtain an order for the collection of maintenance.

Another problem arises from the Family Court's inability to make declarations about a child's parentage. Presently, the Family Court regularly makes findings about a child's parentage in matters which are before it. However, the court is only empowered to make such findings where it is ancillary to another matter, such as maintenance, custody-access and guardianship. The power to make a declaration - an absolute determination for all purposes - as opposed to a mere finding, still rests with State Supreme Courts. The Supreme Court rarely uses this power because of the expense and the fact that the Family Court is seen as the more appropriate forum.

Due to the non-referral of power to the Commonwealth to make such declarations, there is doubt about whether findings of parentage by the Family Court are binding in State matters such as inheritance or adoption. This could lead to an unnecessary duplication of proceedings in order to achieve the same result. Another example of the problems this creates is the situation of the sole parent who applies for child support benefits from the Department of Social Security. In order to preserve their entitlement to that benefit, the parent is required to make an application for maintenance from the other parent.

However, if the parties are not married, an application for a child support assessment in relation to an ex-nuptial child can only be made where the other parent has either acknowledged that he or she is the child's parent, or where a court has made a finding of parentage. According to the Department of Social Security about 30 per cent of sole parents have ex-nuptial children and about half of those do not have the father named on the birth certificate. However, because of restrictions on the Family Court's powers, sole parents cannot approach the Family Court directly for a declaration about the child's parentage. Instead they must wait for their application for a child support assessment to be rejected by the department before appealing to the Family Court under section 106 of the Child Support (Assessment) Act 1989.

Proposed paragraph (c) of section 3(1) will allow parents to approach the Family Court directly to obtain such a declaration. The bill will also allow the Commonwealth to make declarations of parentage for the purposes of the Passports Act 1938, which requires consents from persons having the custody, guardianship and/or access to a child to be obtained before a passport can be issued. Those powers to be referred to the Commonwealth are included in schedule 1 to the bill. These provisions have been identified in consultation with the Department of Community Services. The effect of proposed section 3(2A) is that the Commonwealth will not be able to exercise its power under these provisions, unless the written consent of the Minister for Community Services or a person authorised by the Minister has first been obtained.

The inclusion of the provisions in schedule 1 is in no way an indication that Federal courts may control or otherwise interfere with the State's exercise of its statutory powers under those Acts. It merely indicates to courts exercising family law jurisdiction that they may deal with the case on general matters within their jurisdiction and not make orders which are inconsistent with the State's child protection functions. Furthermore, the involvement of the Department of Community Services in such matters, which usually arises from its jurisdiction over child abuse cases, will be the same, regardless of whether the matter is heard in the Children's Court, Supreme Court or Family Court.

Legislation which will complement the SCAG agreements at a Commonwealth level will soon be enacted under proposed amendments to the family law regulations, specifically, regulation 12BA. Section 60H of the Family Law Act 1975 prevents the Family Court from exercising its jurisdiction in relation to a child who is the subject of certain child welfare laws. These laws, which will need to be updated in light of the SCAG agreements, are contained in schedule 5 of the family law regulations. SCAG recommended that instead of specifying whole Acts in the schedule, only relevant sections of Acts which provide for an order to be made in relation to a child would be specified.

The provisions that have been identified are: one, the provisions of the Children (Care and Protection) Act 1987 concerning temporary, interim and final care orders and arrangements, the giving of consent to carry out special medical treatment and examinations, the investigation of notifications including children at risk, the transfer from interstate of State wards, and the jurisdiction of the Supreme Court; two, the provisions of the Community Services (Complaints, Appeals and Monitoring) Act 1993 concerning wards of the Minister, and the provisions dealing with the powers of the Community Services Appeals Tribunal and the Supreme Court with respect to appeals; three, the provisions of the Guardianship Act 1987 dealing with appeals to the Supreme Court to the extent that they relate to children and their guardianship, and medical and dental treatment of persons of or above the age of 16 years who are incapable of giving consent. It should also be noted that, should problems arise out of this reference of powers, section 4 of the Commonwealth Powers (Family Law - Children) Act 1986 provides that the Governor may terminate the reference at any time. I commend the bill to the House.

Debate adjourned on motion by Mr Kerr.

Page 637

JUSTICES AMENDMENT (COMMITTALS) BILL

Bill introduced and read a first time.

Second Reading

Mr WHELAN (Ashfield - Minister for Police) [11.15]: I move:

That this bill be now read a second time.

The committal proceeding is a long-established component in our criminal justice system. It is the process whereby a magistrate decides whether or not there is sufficient evidence against a defendant to warrant the defendant being referred to a superior court to stand trial. Traditionally the procedure has been viewed as providing a filter, allowing for the early disposal of unsustainable cases. It has also been seen to quite properly provide the defendant with accurate information about the nature of the prosecution case. Further, the process provides an opportunity for the parties to clarify and refine issues which would otherwise need to be clarified, at far greater expense and inconvenience, at trial.

In more recent times, and particularly in the context of our own system, the continuing necessity of the traditional committal process has been challenged. Since the establishment of the Office of the Director of Public Prosecutions in 1987, that office has had a central role in assessing the strength of prosecution cases. The DPP is active both in the discontinuance of ill-advised prosecutions and in the bringing of ex-officio indictments where necessary. The provision of complete briefs of evidence by the DPP has removed the possibility of a defendant being taken by surprise at trial. Further, it is argued that the supposed clarification of issues that takes place at committal is illusory in view of the fact that there is no legal basis for a party being bound in relation to issues joined at committal, and further, in view of the fact that there is often a change in representation of defendants between committal and trial.

Various legislative amendments to the committal process over the last 13 years have sought to

streamline the process and to accommodate it to present realities. Legislation was passed in 1983 and 1987 by the previous Labor administration introducing, and then making mandatory, the use of written statements in committal hearings. Labor continued to call for reform whilst in opposition, with further changes being made in 1992 and 1994. The job, however, is not yet complete. A working party, chaired by the Chief Judge at Common Law, Mr Justice David Hunt, was convened in 1994 to advise the then Attorney General as to the expedition of certain classes of criminal matters. The report of that working party identified committal proceedings as a continuing cause of concern.

In particular, the working party referred to the problem occasioned by legal counsel for the defendant making use of the committal hearing for the purpose of conducting a mini-trial. In such situations courts find that all prosecution witnesses are called to give oral evidence and then are subjected to excessively lengthy cross-examination, much of which in no way assists the court in arriving at its decision as to whether the defendant should be committed. Whilst magistrates already have power to terminate cross-examination where it is not assisting the court - section 41(9) - it appears they either do not properly understand such power or else fail to fully utilise it. The working party expressed further concern however that not even a clearer power to terminate cross-examination will prevent committal hearings becoming mini-trials because magistrates too often become involved in hearing evidence in order to consider the exercise of various discretions to exclude otherwise admissible evidence.

The superior courts have repeatedly stated in a long line of authorities - including the decision known as Chid's case (1985) 4 NSWLR 182 and more recently *Regina v Grassby* 38 ACR 67 - that it is not the role of magistrates at committal to concern him/herself with issues which properly fall within the discretionary powers of trial judges. The continued involvement of magistrates in issues of this nature occurs in spite of these judicial directives. Now, in its ongoing commitment to efficient and affordable justice, the Government introduces the present bill to give effect to recommendations from the report of the working party designed to overcome these and other problems. I turn now to the major features of the bill.

Item [6] of schedule 1 brings about a further limitation of the right of the defendant to require the attendance of prosecution witnesses for cross-examination at committal. Section 48EA was previously introduced into the Justices Act in 1992 to protect victims of violent crime by providing that such persons can only be required to attend a committal for cross-examinations if the court "is satisfied that there are special reasons why in the interests of justice" they should be required to so attend. The effect of this bill is to include within section 48E the limitation previously contained in section 48EA but to extend that limitation so that it applies to all prosecution witnesses. It is important to stress that the amended legislation will still allow for cross-examination of prosecution witnesses where the court finds that the requisite special reasons exist.

Matters which may constitute "special reasons" have been held in the context of the present section 48EA to include a real possibility that, if the witness is cross-examined, the defendant will not be committed for trial, and the fact that the witness has given inconsistent versions of the alleged offence. The extension of section 48EA to witnesses generally will accelerate the committal process while giving proper recognition to the true purpose and function of committal proceedings, namely, to enable the screening out of those prosecutions which stand no reasonable prospect of success. Item [5] schedule 1 introduces a

requirement that the cross-examination of prosecution witnesses at committal proceedings normally be confined to the subject matter that formed the basis for a magistrate's decision to permit the cross-examination. Again, in the event that there are special reasons why, in the interests of justice, a witness should be cross-examined in relation to other matters, there is provision for a magistrate to allow such cross-examination.

The third significant change brought about by the legislation is contained within item [3] and involves a redefinition of the tests to be applied by a magistrate in making the decision whether to commit a

defendant for trial. There has been justifiable criticism of the cumbersome working of section 41 of the Justices Act, which contains the present tests. Specifically, section 41(6) presently provides that a magistrate is to commit the accused if he or she is not satisfied that a jury would not be likely to convict that person. Section 41(6) will be amended to avoid the use of an expression involving a double negative, in providing more simply that the defendant should be committed if the magistrate is of the opinion that there is a reasonable prospect that a jury would convict the defendant. This new test is one that will be more easily applied by magistrates and more easily understood by defendants.

In rewording the test contained in section 41(6), it was not considered appropriate to merely delete the double negative and use the word "likely" because it was considered that such an expression would create too high a threshold. In this regard, it is noted that the decision of the High Court in *Boughey v The Queen* (1986) 161 (CLR 10) emphasised that the word "likely" is commonly understood to convey the notion of a probability as opposed to a mere possibility. It has been pointed out, additionally, that a committal test based on the "likely" conviction of a defendant has the unfortunate potential to create a prejudice against the defendant in the minds of jurors who are charged with considering the question of guilt. The use of the term "reasonable prospect" connotes the idea of a reasonable chance or reasonable possibility. Accordingly, it sets the test at an appropriate threshold, as well as avoiding potentially prejudicial connotations.

The problematic area in the present provisions concerns the extent of the magistrate's role in determining questions regarding the exclusion of evidence on discretionary grounds. Item [4] of schedule 1 provides that the magistrate must not exclude evidence on any of the discretionary grounds referred to in part 3.11 of the Evidence Act 1995. These grounds include such things as evidence improperly or unlawfully obtained, and issues of general unfairness to the accused. The effect of this provision is to give statutory expression to common law decisions which, as referred to earlier, have been too often ignored.

Finally, it has been necessary to repeal the now obsolete section 38, which permitted a prosecutor or witnesses to be bound over - or witnesses even to be held in prison - to ensure their attendance at trial. The section has been rarely if ever used. The repeal is effected by items [1], [2], [10] and [11] of schedule 1. Item [12] contains savings and transitional provisions. In summary, the bill now before the House is a further expression of the Government's commitment to creating legal procedures which will sensibly and fairly serve the needs of the people of New South Wales. The bill will bring greater clarity and efficiency to committal proceedings, and accordingly will help reduce court delays. I commend the bill to the House.

Debate adjourned on motion by Mr Kinross.

LEGAL PROFESSION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr WHELAN (Ashfield - Minister for Police) [11.27]: I move:

That this bill be now read a second time.

The Legal Profession Amendment Bill 1996 makes a range of amendments to the Legal Profession Act 1987, aimed to clarify, refine and improve the system of regulation of the legal profession. It is nearly two years since the Legal Profession Reform Act reforms came into operation. Those reforms introduced a new Legal Services Commissioner to oversee the handling of complaints against lawyers, and a new system of cost assessment to replace taxation of costs, and reviewed the structure and

regulation of the profession. While on the whole the reforms seem to have worked well, practical experience of the administration of the new legislative provisions has thrown up some areas in which further refinement or clarification is required.

The Legal Services Commissioner, the Cost Assessors Rules Committee, the Legal Practitioners Admission Board, the Legal Services Tribunal and the Bar Association and Law Society have all contributed to the amendments included in this bill. The bill contains a large number of amendments to the Legal Profession Act 1987, many of a technical nature. I will now briefly refer to some of the more substantive amendments included in the bill. I would invite honourable members to have regard to the explanatory note accompanying the bill, which deals with all proposed amendments.

Schedule 1 to the bill deals with amendments related to the complaints and discipline provisions of the Legal Profession Act 1987. Item [15] of schedule 1 clarifies the power of the commissioner, the Law Society or the Bar Council to particularise the allegations being relied upon when referring a complaint to the Legal Services Tribunal. The need for this amendment was suggested by a decision of

the former legal profession disciplinary tribunal. The difficulty identified by the tribunal was that the Act would currently appear to constrain a professional council or the commissioner to refer the actual complaint made in its original form.

In particular, section 167(2) of the Act currently provides that the tribunal is to conduct a hearing into the "complaint". The problem with this is that the original complaint, which will normally take the form of the initial letter from the complainant, may raise a large number of issues, only some of which justify referral to the tribunal, or may omit other issues arising from the same transaction that should be brought to attention. As the council concerned, or the commissioner, has the responsibility to present and argue the complaint before the tribunal, it is considered that those bodies should have the flexibility to particularise the allegations of professional misconduct or unsatisfactory professional conduct being relied on. Amendments to section 160 of the Act will ensure that a complainant has a right of review against a decision by a council to omit part of a complaint when bringing it before the tribunal.

It was also suggested by the tribunal that the Act be amended to allow the Legal Services Tribunal to amend a complaint, so as to enable the formal complaint to be varied or a fresh matter to be added having regard to developments in the course of a hearing. An example where such a power would be desirable would be in cases where evidence before the tribunal raises the suggestion that the respondent practitioner may have misled the investigating council, the commissioner, or the tribunal itself. New section 167A deals with this issue.

The power to vary the complaint will be at the application of the commissioner or relevant council, and new section 167A(2) will require the tribunal to have regard to issues of fairness when determining whether to allow the variation. The tribunal has wide powers to control its own proceedings, and this should enable it to ensure that the addition of further matters does not result in procedural unfairness, for example, by allowing, if necessary, for adjournments or the re-examination of witnesses, or for the leading of additional evidence by the respondent.

Amendments to division 4 of part 10 of the principal Act relate to the sorts of complaints that may be referred to mediation. The Act currently only allows for referral to mediation of a consumer dispute, which is defined as a dispute between a client and a legal practitioner in which the client seeks redress or a remedy. It has become apparent that the definition may be too limiting in that it would seem to require a solicitor-client relationship. The Act as a whole allows any person to make a complaint about the conduct of a legal practitioner, and in some cases complaints by non-clients will involve a claim for compensation that might be suitable for mediation. Accordingly, the principal Act will be amended to allow any complaint in which a complainant seeks redress to be referred for mediation.

The Act currently allows for the summary dismissal by the commissioner of frivolous or vexatious

complaints. The Legal Services Commissioner has submitted that these categories are very narrow, and as a result he may be constrained to refer matters to a council for investigation when this is not really justified by the nature of the complaint. This unnecessarily clogs up the system and can have the effect of unrealistically raising the expectations of complainants. Item [2] of schedule 1 will add to the grounds for dismissal by the commissioner that a complaint is "misconceived" or is "lacking in substance". Schedule 1 includes various amendments aimed at dealing more efficiently with cases in which the same set of facts give rise to a complaint against both a solicitor and a barrister. Currently such complaints are investigated quite separately by the Law Society Council and Bar Council, and must be heard separately by the Legal Services Tribunal, with differently constituted membership.

New subsection 148(2A) will make it clear that the councils have power to cooperate and consult in relation to such complaints. New subsection 167(5) will provide a discretion for the tribunal to order a joint hearing when information against both a solicitor and a barrister is founded on the same, or closely related, acts or omissions. In the case of such a joint hearing, the tribunal will be constituted by one barrister, one solicitor and one lay member, with the presiding officer being one of the lawyers as appointed by the president of the tribunal. The Legal Services Commissioner, the Law Society and the Bar Association have proposed amendments to section 152 of the Act to clarify the obligation of practitioners to provide assistance to and cooperate with the commissioner and the councils in the investigation of complaints. Currently the section refers only to producing documents or providing information. It is also proposed that the requirement to assist in investigations should extend to all legal practitioners, not just to the practitioner the subject of the complaint. These amendments are dealt with by items [8] and [9] of schedule 1.

The following minor amendments in relation to complaints and discipline are also included in the bill. Section 128 of the principal Act is amended to make clear that the complaints provisions of the Act do not apply to complaints made in relation to the conduct of Federal judicial officers. Complaints in relation to State judicial officers are already expressly excluded. Section 171Q of the Act, dealing with protection from liability for things done for the purposes of the administration of the part, is amended to make clear that the protection extends to consultants appointed by the commissioner pursuant to section 132(4), and to the Bar Association and the Law Society and any member of the staff of the Bar Association or the Law Society.

A related amendment is made by schedule 6.1 of the bill to the Defamation Act 1974. Section 17J of the Defamation Act provides for a defence of absolute privilege in respect of the publication to or by the professional councils in relation to the making, investigation or referral of a complaint under part 10. As in practice complaints are made to and handled by staff of the Bar Association and Law Society and are also considered by committees or subcommittees of the councils, it is necessary to ensure the protection offered by the section also extends to such disclosures.

I will now turn to the amendments to the cost assessment provisions of the Act contained in schedule 2 of the bill. Division 2 of part 11 of the Act requires a legal practitioner to disclose to clients the basis of the costs to be charged and an estimate of the total cost of a matter. Pursuant to section 180 of the Act, a disclosure need not be made under the division if, in the circumstances, it is not reasonably practicable to do so. Regulations and rules may be made setting out when it is not reasonably practicable to disclose. The Law Society has a rule which provides that it is not reasonably practicable to disclose in circumstances in which the matter requires immediate attention or can be completed within a short time frame.

The bill will amend section 180 to clarify that disclosure is not necessary when the amount of costs are, or are likely to be, less than $500. There is provision to increase this amount by regulation. New section 174A relates to the application of the cost assessment provisions to cross-vested matters. When cases which are initiated in another State are transferred to the Supreme Court of New South Wales then

under the cross-vesting legislation the law of New South Wales applies. It follows that once a matter is cross-vested the costs assessment provisions of the Act will apply. This may place obligations upon the legal practitioner which were not present when the retainer was established. It is therefore proposed to permit a regulation to be made to modify the application of the costs regime to cross-vested matters.

Section 196 provides for regulated fees in certain circumstances. Section 196(1)(b) fixes the costs payable in obtaining or enforcing a default judgment. It has been suggested that this provision is drawn too narrowly and does not allow for fixed costs in relation to examination summonses, writs of execution and the like. Amendments to section 196 of the principal Act will clarify that such enforcement costs are included. When the new costs regime was introduced it was decided to maintain scale costs in a number of areas, including probate. However, some doubt has arisen about whether section 197 of the Act can support regulated probate fees. It is preferable to put this matter beyond doubt and, accordingly, section 196 is also amended to refer to costs payable for legal services provided in the administration of estates.

Section 205 of the principal Act imposes a duty on the proper officer of the Supreme Court when receiving an application for fee assessment to have regard to whether the parties have attempted mediation. This requirement has proved impractical in application, and it is normally the case that by the time assessment is sought, any realistic options for settlement have been explored by the parties. The bill repeals section 205, but inserts instead a requirement for an applicant for assessment to state in his or her application that there no reasonable prospects of settling the matter by mediation. Section 206 of the principal Act provides that the proper officer of the Supreme Court is to refer an application for assessment to an assessor. While the section also requires an assessor to return an application when there may be a conflict of interest, it is thought appropriate to also provide that the proper officer be permitted to recall a file when satisfied that it is appropriate to do so. This may arise for example when a party has valid reasons for objecting to a particular assessor. Amendments contained in item [6] of schedule 2 give effect to this proposal.

Amendments to section 207 of the principal Act will expand the power of a cost assessor to seek documents, so as to include seeking documents from persons other than just the applicant and legal practitioners involved. In some cases, persons other than just the parties may have documents relevant to the assessment. It is also proposed to provide that an assessor may make material so obtained available to the parties to the assessment so as to ensure the opportunity to provide comments or objections on the material provided. New section 207(5) will provide that the failure to comply with a notice from a cost assessor to produce documents may constitute unsatisfactory professional conduct or professional misconduct. This is consistent with the approach taken in relation to failure to disclose. New subsection 208Q(2A) will also permit a cost assessor to refer to the commissioner any failure by a legal practitioner to comply with the provisions of part 11.

Section 208F(5) of the principal Act permits an assessor to include in a determination provision for the recovery of the costs of assessment. This has been interpreted to relate only to the costs of the application for assessment and the costs of the assessor's time. The section is amended to clarify that it will permit an assessor, in party-party assessments, to include in the determination the costs incurred by a party to the assessment. Section 208L of the principal Act provides for appeals from assessors by right on a point of law to the Supreme Court. Section 208M provides appeals on merit by leave of the court. When dealing with an appeal on a point of law the court may make a number of decisions, including to remit the matter to a cost assessor to have the application redetermined. No such options are available on an appeal on merit, which must be by way of a new hearing. The bill will amend section 208M to provide the court with the same options as are available under section 208L.

Finally, new section 208SA will provide cost assessors with protection from liability for acts done in good faith for the purposes of carrying out duties under the Legal Profession Act. This is a standard provision and accords with the treatment of other persons or bodies exercising functions under the Act.

Schedule 3 of the bill deals with amendments relating to the Solicitors' Fidelity Fund. The Solicitors' Fidelity Fund is constituted under part 7 of the Legal Profession Act 1987. It is made up of contributions and levies from practising solicitors and also receives funding from interest received on solicitors' trust accounts moneys. The fund is administered by the Council of the Law Society of New South Wales and its purpose is to provide compensation for persons who suffer a pecuniary loss as a result of the dishonest conduct of a solicitor, such as, for example, misappropriating funds or fraudulent use of title documents.

The fund has been operating satisfactorily in New South Wales, and prudent contribution and investment policies have ensured that a reasonable level of reserves has been maintained. However, the Council of the Law Society has drawn attention to the desirability of certain amendments to part 7 of the Act in order to promote the efficient and equitable operation of the fund, and to better ensure that the fund's limited resources are available for the full protection of deserving claimants. In particular the Law Society has questioned the feasibility and appropriateness of allowing claims to be made against the fund in situations where the claimant might properly be regarded as sharing some responsibility for the circumstances giving rise to the loss, or where moneys have been entrusted with a solicitor overseas. The society has cited the example of where a client might conspire with a solicitor in an illegal transaction and/or conduct intended to defraud the revenue authorities. Regularly, these claims are accompanied by lack of normal records and documents and are facilitated by cash payments.

To safeguard against abuse of the fund, the bill provides for the Law Society council to have a discretion to wholly or partly disallow a claim in the circumstances set out in proposed new sub-section 80(4). These circumstances include cases where the claim does not have sufficient connection with practice as a New South Wales solicitor in Australia, and cases where the claimant has negligently or intentionally contributed to his or her own loss. Proposed new section 80A will allow the Law Society council to reduce the amount of a claim where the claimant has failed to take reasonable steps to recover his or her loss from other sources. The former legislation, the Legal Practitioners Act 1898, included a similar provision. The Law Society advises that this power was not often used, but on occasion proved very useful. For example, some claimants are involved in close dealings with the solicitor and other parties and may be in a better position to take direct action than the fidelity fund would be by way of subrogation. There will be a right of appeal to the Supreme Court in respect of a decision by the Law Society council to disallow or reduce a claim pursuant to the new powers I have outlined.

Schedule 4 of the bill deals with amendments relating to legal practice. These include amendments to allow for professional indemnity insurance contributions to be paid on an instalment rather than annual basis. The amendments also allow for the contributions to be collected directly by Lawcover Pty Limited. The opportunity has also been taken in the bill to clarify the operation of section 61 of the Legal Profession Act, which deals with the obligations of solicitors in relation to money received on behalf of other persons. The revised section 61 imports from the legal profession regulation a provision about the handling of "money in transit". This relates to money that a solicitor receives from a client but passes on to a third party without retaining any control over that money for its disposition. The operation of section 61 in cases in which a solicitor holds funds subject to an irrevocable authority has also been clarified.

Schedule 5 contains a range of further miscellaneous amendments to the Legal Profession Act 1987, including amendments related to admission procedures and the deposit of trust moneys. Division 3 of part 2 of the principal Act allows the Legal Practitioners Admission Board to hold inquiries in relation to individual applications for admission as a legal practitioner, and the Law Society council and the Bar Council have the right to be represented before such an inquiry. However, it has become apparent that very real practical difficulties are involved in the admission board hearing such contested applications. Accordingly, the bill provides a power for the admission board to refer disputed or doubtful applications for admission or re-admission for determination by a single judge of the Supreme Court.

Division 3 of part 2 of the principal Act currently only expressly refers to the requirement that a person seeking admission be of good fame and character. It might be argued therefore that the powers

of inquiry and appeal provided in that division only extend to decisions of the admission board in relation to the issue of good fame and character. However, section 4(2) of the Act also requires the board to approve an applicant as a suitable candidate for admission prior to formal admission by the Supreme Court. There is considerable authority to the effect that the requirement of suitability is a distinct requirement different from that of good fame and character. Accordingly, the bill will ensure that requirement of suitability for admission is also reflected in the provisions of division 3 of part 2 of the Act. This will ensure, for example, that a right of appeal does lie against a decision that a person is not a suitable candidate for admission on grounds other than good fame and character.

The bill will also address an inconsistency of treatment as between banks and other financial institutions. At present the Acts require trust funds to be deposited to the credit of a general trust account at a bank. Consistent with the Government's policy in this area, it is appropriate to also allow permanent building societies and credit unions to accept solicitors' trust account funds. Similar amendments are also made to related provisions of the Act. Schedule 6 deals with amendments to other Acts. I have already mentioned the amendments to the Defamation Act. The schedule will also amend the Maintenance and Champerty Abolition Act 1993 in order to abolish the common law crime of barratry. The offence of barratry involves habitually moving, inciting or maintaining suits or quarrels, whether at law or not. It is closely related to the former offences of maintenance and champerty which were abolished in 1993. The Legal Profession Amendment Bill makes a large range of useful and necessary amendments to the Legal Profession Act 1987. I commend the bill to the House.

Debate adjourned on motion by Mr Kinross.

GOVERNMENT AND RELATED EMPLOYEES APPEAL TRIBUNAL AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr YEADON (Granville - Minister for Land and Water Conservation) [11.45]: I move:

That this bill be now read a second time.

This bill provides for a widening of the appointment eligibility criteria for the position of senior chairperson of the Government and Related Employees Appeal Tribunal - GREAT. I make it clear at the outset that the Government regards this legislation as anything but controversial, and with that in mind I proceed to briefly explain the bill's rationale. As honourable members will understand, GREAT is entrusted under a 1980 Act with the hearing of appeals against promotion and disciplinary decisions involving Public Sector Management Act employees; teaching and other Crown-employed personnel; and Police "hurt on duty" matters. The former Government allowed the GREAT senior chairperson position to be filled on an acting basis since 1989 by one of the tribunal's chairpersons. The Government believes that the office demands a substantive appointment in the interests of signalling a proper recognition of both GREAT's role and its independence. Indeed, GREAT's independence may be alleged to be fettered by having its senior chairperson appointed for continually renewed short terms. This practice must cease.

Although the Government wants to correct this present unsatisfactory situation regarding GREAT's senior chairperson, it is hamstrung by a restrictive statutory provision. The 1980 parent Act currently provides that a person is qualified to be appointed as the tribunal senior chairperson if he or she is a judge of the Supreme Court or Industrial Court of New South Wales and has not attained the age of 70 years. The Government firmly believes that the possession of judicial office is too restrictive for the

senior chairperson position. In short, it unduly limits the pool of potential appointees. Given that the senior chairperson determines general procedural matters relating to the conduct of tribunal business and assists other chairpersons in deciding questions of law, it must be accepted that legal experience is an essential requirement for satisfactory performance in the position. This is especially so in appreciation of the fact that appeals from GREAT on questions of law presently lie to the Supreme Court.

Although suitable legal experience must be considered as necessary for the position, judicial experience should not be a mandatory requirement. By way of illustration, I emphasise that the appointment eligibility criteria for judges of the Supreme Court, District Court and Industrial Court permit the selection of a person who is a legal practitioner of at least seven years' standing. Accordingly, the bill proposes that a person be qualified for appointment as GREAT's senior chairperson if he or she holds, or has held, judicial office within the meaning of the Constitution Act 1902, or is a legal practitioner of at least seven years' standing. This provision clearly covers current and past New South Wales judges and magistrates, together with the possibility of the appointment of a suitable person with a non-judicial background.

The position of GREAT senior chairperson will be the subject of advertisement and merit filling based upon applicant satisfaction of stated detailed qualifications. I can assure the House that the Government's policy of open merit competition for public employment vacancies will be adhered to. I conclude by informing honourable members that the remainder of the bill's provisions are consequential and minor in nature. I would, however, draw attention to the bill's proposed excision from the GREAT Act of age stipulations - currently 70 years - regulating the appointment and retirement of the senior chairperson. These existing statutory provisions offend against the Anti-Discrimination Act provisions relating to age and compulsory retirement age. The bill is, as I have said earlier, practical and timely and non-controversial. I commend the bill to the House.

Debate adjourned on motion by Mr Richardson.

TRANSGENDER (ANTI-DISCRIMINATION AND OTHER ACTS AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr YEADON (Granville - Minister for Land and Water Conservation) [11.52], on behalf of Mr Whelan: I move:

That this bill be now read a second time.

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The main purpose of the bill before the House is to amend the Anti-Discrimination Act 1977 to include discrimination on transgender grounds as a separate ground of discrimination and to amend the Births, Deaths and Marriages Act 1995 to provide for the legal recognition of post-operative transgender persons. I will begin with an explanation of the proposed amendments to the Anti-Discrimination Act. The Government believes it is appropriate to introduce this proposal for two main reasons. First, transgender status is a question of gender identity, and not sexual preference. Because of the way the Anti-Discrimination Act is currently written, there is no express prohibition against discrimination against people on the basis of their identity as transgender persons. Secondly, there is an strong evidence to show that transgender persons are subject to high levels of discrimination in their daily lives, including discrimination in employment, and in their access to services.

Transgender persons also experience exceptional levels of verbal and physical abuse and violence.

In response to their victimisation and social ostracism, transgender persons report a range of isolating and self-destructive behaviours to escape the discrimination. The Government believes that anti-discrimination legislation would go a long way to help end the discrimination against this section of the community. As far back as 1989, the Anti-Discrimination Board of New South Wales recommended that discrimination against transgender persons in areas of public life be made unlawful. The board noted that the existing grounds of sex or homosexuality were not adequate grounds upon which transgender persons can seek redress against discriminatory conduct based on the fact that the gender with which that person identifies differs from that person's gender at birth. The issue was also considered by the Anti-Discrimination Board in its report on the inquiry into HIV- and AIDS-related discrimination released in April 1992. In that report, the board recommended that transsexuality be included as a ground of complaint under the Anti-Discrimination Act.

The term "transsexuality" is the term most commonly used by the general community to describe people who are born as a member of one sex, but who assume the characteristics of the other sex. However, the term has attracted criticism, especially from the transgender community, for being too narrow in scope. There is concern that the term "transsexual" is inevitably linked with "sex-change" surgery, with the implication that the proposed discrimination amendments would only apply to post-operative transsexuals. As estimates indicate that only about 20 per cent of persons who have assumed a different gender have undergone surgical intervention, there is an argument for employing more broadly based terminology. It is therefore proposed that "transgender" be the term used to identify the basis of a complaint under the Act. This includes a person who is born as a member of one sex but who has lived, or lives, or seeks to live as a member of the other sex. A reference to a transgender person would also include a person being thought to be a transgender person, whether he or she is in fact a transgender person or not. This is consistent with the definition of what constitutes discrimination on the grounds of age and homosexuality.

The term "transgender" in the legislation has therefore been used to refer to all transgender persons, regardless of whether they have undergone surgical intervention. This is considered necessary because the discriminatory conduct usually occurs as a reaction to a person's dress, behaviour and other characteristics being at variance with that person's original gender. Such discriminatory conduct should be unlawful whether or not there has been surgical intervention. This definition is not intended to cover persons who cross-dress or who have adopted the characteristics of the other sex, say, for example, a male person who from time to time wears makeup, or high heels, who has not chosen to live as a member of the other sex. The bill will also provide for the creation of an offence of transgender vilification. This is consistent with existing provisions which make it unlawful for a person, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of a person, or group of persons, on the ground of race, homosexuality, or HIV-AIDS.

The bill will also provide for an offence of serious transgender vilification, that is, threatening physical harm towards the person, group of persons or their property. The penalty for such an offence will be a fine of up to $1,000 or six months gaol for an individual or $10,000 in the case of a corporation. Given the vulnerability of transgender persons within our community to this kind of behaviour, the Government believes the creation of these offences is both necessary and appropriate. Before detailing the provisions of the bill dealing with the legal recognition I would like to repeat a quote contained in a judgment by Her Honour Justice Matthews in *Harris v McGuiness*, a 1988 judgment by the New South Wales Court of Criminal Appeal:

> Refusal to reclassify the sex of a post-operative transsexual seems inconsistent with the principles of a society which expresses concern for the privacy and dignity of its citizens. Failure to redefine sex in the case of the transsexual will create undue hardship for an otherwise troubled person. Society will lose nothing and transsexuals will gain the opportunity to lead normal lives if legal sex is determined not by chromosomes or anatomy of birth alone, but by present psychology and anatomy.
>
> Today the transsexual is faced with the choice between equally undesirable alternatives. If he (or she)

chooses to live within the sex to which he/she was born, he/she has in effect condemned him/herself to a perpetual masquerade. If he/she decides to seek medical reassignment, he/she subjects him/herself to the scorn and curiosity of society and the limbo of no legal sex identity. Both situations are appalling and are inconsistent with the professed enlightenment of our times".

I believe that legislation to address the schizophrenic legal position faced by post-operative transgender persons in this State is long overdue. Legislation

enabling post-operative transgender persons to obtain a new birth certificate showing their reassigned sex has been in place in South Australia since 1988. Similar legislation already exists in other countries including Germany, Sweden, Czechoslovakia, Greece, Italy and Holland. At least 25 jurisdictions in the United States allow for the issue of new birth certificates, as do a number of Canadian provinces. The proposed New South Wales legislation amends the Births, Deaths and Marriages Act 1995 to enable persons who were born in this State and have undergone sexual reassignment surgery to apply for new birth certificates showing their new sex. For the purposes of New South Wales law, the new birth certificate will be conclusive evidence that the person to whom the certificate refers has undergone a reassignment procedure and is of the sex stated in the certificate.

In addition to providing legal recognition for transgender persons born in New South Wales, the legislation also recognises equivalent certificates issued under a corresponding law in another jurisdiction. In other words, where another jurisdiction legally recognises post-operative transgender persons born in that jurisdiction, New South Wales will also recognise that person's new legal status. The legislation is not intended to overturn the provisions of the Commonwealth Marriage Act. Thus, a new certificate will not be issued where the applicant is married. The bill also provides that it is an offence for a person who has been issued with a new birth certificate, or for another person who knows of a person's changed legal status, to produce the birth certificate for the purposes of a law of another place. There will be exceptions to this where the laws of the other place expressly allow such a certificate, or a copy or extract from such a certificate, to be so produced; or where the person to whom the certificate is produced is advised of the alteration of the record of sex.

The "laws of another place" include the laws of the Commonwealth and other States and Territories. Breach of this provision may attract a penalty of up to $1,000 or two years imprisonment. The proposed legislation also provides that it is an offence for a person whose record of sex has been altered to produce their previous birth certificate, without lawful excuse. Other provisions relating to fraud and the registration process are already contained in the Births, Deaths and Marriages Act 1995. Sporting bodies will be exempt from compliance with the anti-discrimination provisions. In effect, this means transgender persons will not be recognised for the purposes of participation in sport. This exemption will not apply to transgender persons involved in coaching, administration or other prescribed activities relating to sport. This approach clarifies the law for State sporting organisations and ensures that they are not placed in conflict with national or international affiliate organisations.

Granting legal recognition also has implications for the superannuation sector in terms of differential contributions and benefits. These implications have not yet been fully determined. The legislation therefore provides for an exemption to legal recognition in this area. Nevertheless, I wish to advise the House that the Government is currently examining this matter with a view to possible further amendments at a later date. The proposed legislation also provides for cognate amendments to the New South Wales Crimes Act 1900. The amendments add to certain definitions relating to sexual assault offences to make it clear that such offences may also be committed upon transgender persons. In addition, the bill provides for amendments to the Wills, Probate and Administration Act 1898 to provide that beneficiaries will not be disinherited merely because they identify as a person of the opposite sex, unless the will expressly provides otherwise. I commend the bill to the House.

Debate adjourned on motion by Mr Kinross.

PAWNBROKERS AND SECOND-HAND DEALERS BILL

Second Reading

Debate resumed from 24 April.

Ms MACHIN (Port Macquarie) [12.03]: This bill was introduced into this House in December last year but not finalised, due to the prorogation of Parliament earlier this year. Since it was last debated it has been amended following the review of the pawnbrokers and second-hand dealers legislation undertaken by the coalition. In most parts it mirrors the discussion papers circulated at that time. The key issue in this legislation is to try to reduce avenues for the disposal of stolen goods and to set up an audit trail to follow the passage of goods; where they come from and go to. The legislation contains some welcome initiatives - in tightening record keeping and using new technology that is improving all the time - to keep computerised records. It also has the welcome provision that enables better exchange of information between the police, officers of the Department of Fair Trading and other agencies so that they can work more cooperatively and utilise increasingly sophisticated information-gathering techniques to track goods and return them to their rightful owners. Ideally, this should reduce the avenues for disposal of stolen goods.

I welcome proposed section 23, which provides for direction for restoration of goods. It strengthens the bill and should be read in conjunction with other measures that are aimed at identifying stolen goods and returning them to their rightful owners. Last year the House debated the difficult problems in tracking stolen goods, reducing their incidence, and, when they are recovered, returning them to their rightful owner quickly and

fairly. In the past a number of people have been aggrieved to find their stolen goods in a pawnshop and, because of a dispute with the pawnshop owner, have to buy them back.

The bill covers in detail the processes for dealing with goods identified by a claimant as stolen. They can be seized or taken into custody until the matter is dealt with. One problem that is not clearly spelt out in the bill - and this is a difficult matter to address - arises when a pawnbroker has bought goods in good faith, accepted a pawn, only to discover that the goods were stolen or held illegally. I discussed this matter last year. In theory, stolen goods ought to be harder to pass off to a pawnbroker because of the requirement that the identification of the person and proof of ownership of the goods must be provided. There are grey areas: a family member may pawn a family possession and claim that it belongs to them, or belongs to their parents, and they have permission to pawn the item when in fact they have not. There are cases when pawnshop owners will have reason to feel aggrieved as well if in good faith they have accepted a pawn from someone, or bought some goods, only to later find out that they have been duped. They may have been shown false documentation, and that needs to be addressed. Perhaps a solution will evolve or be arrived at through experience in dealing with these matters. I do not suggest that this is an easy matter to resolve through legislation.

Innocent consumers may have to buy back their own goods; and from time to time shop owners are out-of-pocket when they have to return to the owner goods that they bought in good faith. I do not think the owner should have to pay for those goods in any way. Another concern is the measure to allow for a maximum of 12 days in any given 12 months on which a market day or a garage sale, or the like, can be held without the requirement for any form of licence. I made the point last year that that seemed to be a fairly high number of days; that effectively a regular monthly garage sale or informal sale would not be captured by this bill. I take the Minister's point, one that has also been raised by my colleagues, that we do not want to affect the monthly Rotary market or church market. I agree with that. I have sought advice from the Parliamentary Counsel and provided draft amendments to the Minister. I will discuss them but I do not propose to formally move them. Maybe honourable members can negotiate on this issue a little further. Pending those discussions, the Opposition may choose to pursue the matter in the

Legislative Council.

A number of correspondents have raised concerns with members of the Opposition; the Minister may be aware of one regular correspondent. Since the legislation was introduced last year, a number of people have expressed concern that if people are allowed to conduct, effectively, 12 garage sales each year - and I draw the distinction between what I regard as a garage sale and a monthly market day - a loophole is created under which regular monthly sales are not captured by the requirements of this legislation. Monthly sales would enable people to shift stolen goods. It would not be too difficult for a network to organise regular garage sales around the city and shift a large volume of stolen goods. "Market" is defined in clause 3 of the bill, but it would be appropriate if the legislation clearly defined what is meant by a monthly market day. Perhaps garage sales could be included in the definitions, or a distinction could be drawn between garage sales - selling goods from one's backyard or garage - and market days that are run for charitable purposes. Consumers enjoy market days and I believe honourable members will support their retention because they are a lot of fun and raise money for very worthwhile purposes. Clause 38(2) outlines dealings that give rise to the presumption of carrying on business. It provides:

> For the purposes of subsection (1), it does not matter whether the second-hand goods were sold from a shop, market stall or other premises occupied permanently, regularly or on occasion, or from residential premises, or from a vehicle or water-going vessel or by an itinerant.

That would seem to leave wide open the range of places from which goods could be sold, and whether the premises were occupied permanently, regularly or on an itinerant basis. The legislation is more open than I would like; it would open the door to the type of trade we are seeking to block. The Opposition has circulated amendments aimed at reducing to four the number of days on which garage sales can be held each year. The discussion paper circulated by the department referred to six days a year, and that would enable garage sales to be conducted bi-monthly. I consider that a sale held on six days in twelve months could be thought to be a fairly regular activity that approaches the boundary of a business or part-time business. The object of the Opposition's proposed amendment is to limit to four the number of days on which such sales can be held in any 12-month period.

In addition, the Opposition has proposed some options specifically designed to exclude charitable market days. That would involve amendments to clause 38. My other suggestion is to define market days and garage sales, and thus draw a distinction between those activities. The Opposition would like to discuss this aspect further and may choose to pursue it in the upper House. However, I believe we are all coming from the same direction of trying to ensure that the trade in stolen goods does not proceed unhindered. The bill is a timely update of old legislation. It contains a number of streamlining provisions and improvements to lay audit trails and keep track of people and products. The Opposition welcomes and supports the legislation. Of course, it was initially coalition legislation or a coalition review of legislation. The Opposition supports the bill but looks forward to further discussion about my suggestions to strengthen the legislation.

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Ms MEAGHER (Cabramatta) [12.13]: I support the Pawnbrokers and Second-hand Dealers Bill, which is the result of the long overdue revision of some historic legislation, the Pawnbrokers Act of 1902 and the Second-hand Dealers and Collectors Act of 1906. The original purpose of the Pawnbrokers Act was to regulate loan and pledge transactions so as to give a measure of protection to people who found it necessary to pawn their goods in order to have ready cash. Judging by the many thousands of loans made each year by pawnbrokers in this State, the need for protective legislation continues and, in line with modern credit legislation, borrowers are entitled to an improved standard of information on their loan, as proposed in this bill.

The secondary purpose of the Pawnbrokers Act and the sole purpose of the Second-hand Dealers

and Collectors Act was to restrain the fencing of stolen property by requiring licensees to keep records of the people trading goods, the goods themselves and how the goods are disposed of. Police Operation Ivy, which was conducted over six weeks from September to October last year, focused on pawnshops and second-hand dealers in Sydney's west. It recovered stolen property valued at more than $750,000 and resulted in 316 arrests and the laying of 1,264 charges relating to theft and dealing in stolen goods. The operation clearly illustrated the extent of the problem this bill is aimed at resolving. It was common knowledge for years among police that many pawnbrokers were effectively acting as licensed receivers of stolen goods. For seven years the previous Government did little to improve that situation.

Mr Richardson: On a point of order. A longstanding custom and tradition in this House, upheld by rulings by previous Speakers, is that a member should not read a speech. The honourable member for Cabramatta is reading her speech. The present Speaker has ruled that a member can read a speech provided the member guarantees he or she has written it. I ask that you uphold that ruling.

Ms MEAGHER: On the point of order. I am referring to a set of notes, but the fact that I am not looking the honourable member for The Hills in the eye is no indication that I did not write the speech.

Mr ACTING-SPEAKER (Mr Clough): Order! In recent years it has become common practice for members to read from prepared speeches. I accept the explanation given by the honourable member for Cabramatta that she is referring to notes. No point of order is involved.

Ms MEAGHER: Last year, as a direct result of Operation Ivy, the Government established 25 district anti-theft squads to continue the operation against the trade in stolen property through pawnshops and second-hand dealers. The Prospect police district, which includes Cabramatta, maintains at Wetherill Park Police Station an extensive database on local pawnshops. Every Monday local police collect pledge slips and photocopies of purchase books from local pawnshops. More than 2,000 slips are collected each week. Obviously, these operations act as an effective deterrent to the crimes targeted in this bill. However, police will be the first to agree that the current legislation is both outdated and ineffective in attacking this increasing problem.

The record-keeping requirements for pawnbrokers and second-hand dealers need to be updated to include good proof of the identity and address of the pledgor or vendor, and a precise description of the goods traded, including serial numbers and other distinguishing features. These records should be computerised and this requirement is an important addition to this legislation that will assist the relevant departments in enforcing it properly. The need for legislation to discourage the unloading of stolen property through legitimate businesses is just as great today as it was at the turn of the century.

It is clear that levels of home burglary are directly related to the ability of thieves to convert their loot into cash. Monitoring and enforcing this aspect of the crime acts as a great deterrent to thieves. Stolen goods are of no use to thieves if they cannot readily convert them into cash. The substantial amounts of stolen property being sold or pledged to pawnbrokers clearly indicates that a stricter standard of proof of character should be required of those seeking a pawnbroker's licence or a second-hand dealer's licence. The bill proposes that applicants for a licence must be able to demonstrate that they have had no record for dishonesty offences in the 10 years preceding the application. It is also proposed that the onus be placed on the trader to refuse offerings of goods that are in any way suspect, and to report such offerings to the police. If traders are offered high value goods very often by the same person, or are offered goods about which the person can furnish little information, the trader may have reasonable grounds to refuse the trade and take action against the offender.

Mr ACTING-SPEAKER: Order! Earlier a point of order was taken that the honourable member for Cabramatta was reading her speech. I accepted the honourable member's explanation that she was referring to notes. However, I cannot but gain the impression that the honourable member is now reading her speech. I call the honourable member for Port Macquarie to order; this is no laughing matter. The reading of speeches has become common practice in this House. I find it regrettable that members

are unable to make off-the-cuff speeches as I would prefer them to ad lib rather than to read. I advise the honourable member for Cabramatta to speak from her notes rather than to read them.

Ms MEAGHER: Yes, Mr Acting-Speaker, I am happy to abide by your ruling. The main enforcement role will still be carried out by the

Police Service as part of the drive to track down stolen property, but staff of the Department of Fair Trading will also have a role to play if they become aware of the trafficking in stolen goods during the course of other investigations. It is proposed that where licensees are found to be in breach of the licence conditions - for example, if their record keeping is defective or they are found to be too often in receipt of stolen property - the police will use a penalty notice, allied with a system of demerit points, to demonstrate the need for a licence to be cancelled or qualified. This system has been proposed in order to overcome the longstanding difficulty the police have in suspending or removing licences from dishonest licensees. This bill also deals with the restoration of stolen goods to their rightful owners, and ensures that once property is identified it is not sold until the matter is resolved. If the trader and claimant cannot resolve a dispute, the Local Court will be the final arbiter. This bill demonstrates a further move by this Government to curb the trade in stolen property and will be a very valuable initiative for my constituents, the residents of Cabramatta, whilst allowing legitimate business to proceed with a minimum of disruption. I commend the bill to honourable members.

Mr KINROSS (Gordon) [12.20]: I am happy to participate in the debate on this bill. When it was in government, the coalition initially raised various of the proposals contained in this bill. In early 1993 I served on a committee which examined some of the inadequacies in relation to this legislation. It is all very well to advance rhetoric and proposals in relation to additional regulations and possible definitions, but ultimately resources must be supplied to enable police to check on stolen goods and return them to the rightful owners. The acid test is whether stolen goods are returned to their rightful owner, and there is nothing in the bill which provides for that. One of my constituents who is involved in Neighbourhood Watch wrote to me and the Premier recently in relation to a recent robbery. I shall read some relevant extracts:

> Dear Mr Carr,
>
> Recently the home of a member of the Committee of this Watch was robbed for about the 12th time in 34 Years. He is in a very vulnerable location close to a railway station but on this occasion the thief hailed a passing taxi to take the stolen items to a pawnbroker's. The driver was suspicious and reported the incident. The goods have been recovered but not until the pawnbroker had paid out about $200 for goods worth 10 times as much. I understand he is now entitled to have that money paid to him.
>
> This brings me to the point of this letter. When a person's behaviour is sufficiently suspicious to cause a report to be made, and a pawnbroker pays out 1/10 of the value of the goods surely he should not expect to be able to take advantage of the excuse that he bought the items in good faith!
>
> The difficulty in proving a case is fully appreciated. But surely it is fully time to make the receivers of stolen items - this pawnbroker, for example - utterly responsible for any stolen property that they may buy.

There does not seem to be a sufficient level of discipline or resources to analyse the problem with pawnbrokers and second hand dealers. In this instance Mr Raymond Jack, the area coordinator for the Neighbourhood Watch at Gordon raised a very serious issue about stolen goods. The honourable member for Cabramatta mentioned Operation Ivy, and on the north shore, including my electorate, Operation Basalt recovered a range of stolen goods. I congratulate the police on that operation, but I understand that an enormous number of goods still remain with the police and have not been returned to their owners. This may be because the goods were not sufficiently identified, but more likely it is

because the police lack the resources to return them to their owners.

A sufficient level of resources must be provided to the police to make this bill workable and practicable. Rhetoric is one thing but the public is demanding some serious answers to such issues. I am concerned with clause 22(1)(a) and would like to see the form that is required under the regulations to be provided to the claimant. It would be better to tighten up the legislation and include some of the procedures and details that would ensure that the bill works in a more coherently and more continuous way.

As was the honourable member for Port Macquarie, I am concerned about clause 38, which provides for the number of days on which goods may be sold before a market day stallholder is deemed to be carrying on a business. I suggest that 12 days in any period of 12 months is more than ample. A number of stolen goods are being peddled through garage sales and it is highly unlikely that anyone would need to hold 12 sales in any period of 12 months, unless they are carrying on a business. I believe four days - one every three months - would provide a reasonable balance between what people might regard as their right to hold a garage sale and sell goods as they see fit, and public policy in relation to protecting people who purchase goods at garage sales from the possibility that some of the goods may be stolen.

I agree with the amendments foreshadowed by the honourable member for Port Macquarie regarding clause 38(1). I am also concerned about clause 38(2) and the definition of premises being occupied permanently. The Minister might inform the House whether this is covered by the Interpretation Act or some other Act. For example, will a garage be taken to be premises that are occupied? The provision relates to premises occupied permanently, regularly, or on occasion. I do not regard a garage as being occupied in a residential sense. There may be a few people who live in garages, but if the clause is designed to cover garage sales it needs strengthening. Certainly, residents often use rented garages that are situated far from their residential premises. What is the nexus between a person owning residential premises and using a garage at someone else's premises? Is the provision qualified by the use of

the words "residential premises"? Does that term relate to the person who is conducting the garage sale? I ask the Minister to address that matter in reply.

I have attempted to be constructive in this debate. I urge the Minister to consider amendments. I return to clause 22 and express concern about the requirement that a licensee give to the officer in charge of the nearest police station a copy of the licensee's statement to a claimant. That may be a realistic time frame in relation to clause 22(1)(a), but I am uncertain whether the word "and" in that paragraph suggests a conjoint requirement. I should appreciate the Minister specifically addressing that matter. It may be practicable for a licensee to deliver such a statement to the nearest police station within 24 hours where the licensee is in the metropolitan area of Sydney, but a licensee who lives a considerable distance from a police station may have difficulties complying with the provision in the time stipulated.

I am not too sure of the significance of the wording "must cause a copy" of the statement to be given to the officer in charge within 24 hours. Is it sufficient for the licensee to send the statement by post? Must the statement be personally delivered to the officer in charge at the nearest police station? It seems to me that resources are a relevant matter when considering compliance with this clause, as they are in trying to solve the continuing problem of trading in stolen goods, in many instances by pawnbrokers and second-hand dealers. I think it was the federal member of Stirling, Western Australia, Mr Eoin Cameron, who drew outrage from an Australia-wide chain store with his claim that those stores regularly peddled in stolen goods.

My concern is to ensure that garage sales will not be a forum for the sale of stolen goods. To allow a person to conduct 12 garage sales per year before being subject to notification and accountability

requirements might allow this illegal process to continue. I know that many police, certainly those in my electorate, keep an eye on newspaper advertisements for garage sales, but their resources are stretched to the limit in dealing with other duties with which they are charged. That is another matter that should be carefully considered by the Government in relation to this bill.

Mr McBRIDE (The Entrance) [12.35]: This is a substantial measure to address undesirable activities in the community. All honourable members would have been confronted by constituents' complaints about difficulties encountered by them in trying to recover stolen goods from pawnbrokers or traders in second-hand items. When a bicycle belonging to one of my children was stolen we went through the process of trying to find and recover the bicycle. We went to local pawn shops and second-hand dealers, for police had told us when we reported the matter that those were the most likely places to find the item. As it turned out, our attempts to recover the bicycle were unsuccessful. A number of people have come to my electorate office and complained about the current procedures they must go through to recover stolen goods from pawnbrokers and second-hand dealers. The present system discriminates unfairly against the consumer.

I would now like to reflect on comments made by the honourable member for Port Macquarie on the provision that will allow persons to conduct 12 garage sales a year before being required to be licensed. This matter was given serious consideration in the drafting of the bill. The view was taken that such activities do not have a high incidence of involvement with stolen goods. Further, the bill does not intend to provide for monitoring of the activities of occasional and bric-a-brac dealers. The honourable member for Gordon spoke on the issue of police lacking the resources necessary to monitor garage sales, particularly by those who conduct such operations on 12 or fewer occasions a year. The police resources required to monitor those sorts of activities under this legislation would be enormous. The restriction of the provision to local garage sales is not considered to be of sufficient importance that valuable police time should be spent on such activities. Local councils have a role in restricting the use of premises for unauthorised purposes. It is my view that the 12 occasions provision makes good sense.

It is unlikely that a person would make a living from conducting garage sales on only 12 occasions a year, let alone on the four or six occasions which the Opposition suggested should attract the licensing provisions. It is the opinion of members on this side of the House that monitoring and dealing with such activities would be a waste of police resources. It could be that police would be accused of harassing charitable and other legitimate bodies that engage in that type of trading. The intent of the bill is to catch the professional fence and discourage the dabbler in stolen property. Those on this side of the House believe that the bill gives ample powers to police to discharge those functions.

To require police to chase up people who trade in second-hand markets six times a year would be a serious waste of time, given the more pressing matters that they must deal with in this State. It should also be remembered that this bill is not the only legislation that police have at their disposal to assist in catching thieves; they have power to investigate traders or persons of dubious reputation, whether they trade once, twice or a dozen times a year; and they have power to deal with itinerant traders who choose to trade around the country without a licence. In regard to the issue of a person selling second-hand goods on 12 occasions per year before being required to be licensed, the aim of the legislation is to assist police to catch thieves, not to chase up people holding garage sales. I am sure that such a provision would be unpopular in the community if a person who was legitimately operating more than four or six times a year had to go through a licensing process and subsequently was subject to investigation by police.

Another aim of this bill is to enable the efficient return of stolen property to the rightful owners. That most important aspect of this legislation for the general community should not be underestimated. Second-hand dealing and pawnbroking markets process a substantial number of transactions every week in this State. Unfortunately, a proportion of those transactions involve stolen property. How often do we

read in the local press of someone finding a stolen bicycle or video machine in the window of a trader's shop and of the problems the person encounters in regaining possession of that property? Before speaking to the bill I was discussing the issue with the honourable member for Badgerys Creek, who pointed out that since she has been in Parliament a number of people have come to her with the complaint that they have experienced difficulty in retrieving stolen goods and in following the present legislative process. This is an issue that affects all of us as members of Parliament.

The bill proposes that when people find their property they go to the trader and lay claim to it. From that point on the goods are frozen, so to speak, in the hands of the trader, who must not dispose of or alter the goods until certain procedures have been carried out. The trader must first give the claimant a form that sets out the procedure to be followed in order for ownership of the property to be adjudicated. The claimant must give details of his identity and the background to his claim. When necessary the police may be called on to verify that such stolen property has been reported to them. If no accommodation has been reached by the trader and the claimant, either of them has the right to take the matter to the Local Court for determination.

In many cases goods that are stolen, although precious to their owner, are not very valuable. Under the current process the owner may be faced with considerable cost to recover his goods. The public might ask why they cannot just take back their goods. The possibility of direct restoration of property by using police as mediators was discussed, but this would have imposed a difficult task on the police and it was clear that it would be wise to follow the accepted legal path. However, the police will be given power to assist a claimant to navigate the legal process in cases in which this is recognised to be appropriate. The growth of other legal outlets for the processing of stolen goods is also of public concern, and this matter is also addressed in the bill.

The bill proposes remedies to the difficulty. First, a criterion has been proposed for the need for a licence. If a person trades more than 12 times a year in certain types of goods then a licence will be required. This gives both the police and traders an objective standard to use as a guide. The aim was to allow country people who trade at local monthly markets to be exempt from the need for a licence. Twelve occasions of dealing at one market per month, for example, does not constitute a full-time business and would be very unlikely to provide a trader with more than a small return. When traders deal at a different market every week, however, they come much closer to being in the business of second-hand dealing and should be required to obtain a licence.

In addition to this proviso, and in order to give the police a ready source of information on the informal dealing market, those who act as promoters of fairs, markets, et cetera, on a regular basis will be required to keep a record of those who trade at the events they run. Promoters will have to give police reasonable access to the records, without a warrant, and keep the records for three years. The intent is to give police a further source of information about those who are trading in their area. This proposal is based on the understanding that promoters need to keep records of stallholders and traders as part of the usual administration of such an event. The proposal should not impose much additional work on them. Those who run annual events such as school fetes will not be required to keep records. The intent of the law is to regulate traders, not people dealing with forms of charity or other groups and organisations.

Another important aim of the bill is to assist the police in the return of stolen property. It has been proposed that the present requirement that second-hand dealers retain purchased goods for 14 days before selling them be continued in the new legislation. Dealers have suggested that the cost of holding goods is an unfair burden. Their claim was examined in the formulation of the legislation, but it was considered that notwithstanding the costs involved the aim of the bill in this regard should be to protect consumers. It was therefore decided that the 14-day condition should remain. However, submissions from the police and others put the case that a significant amount of theft is domestic, resulting from the break up of a relationship or the presence of a drug addict in the family. In this event household goods may be stolen and sold off to local dealers.

The 14-day holding period gives household members time to discover that property is missing and to search for and recover it before it can be onsold. That was what happened to me. Under the 14-day requirement I had the opportunity to go around and pursue my property. One cannot expect the police to do that - they do not have the resources or the time to do so. As other honourable members have pointed out, this has always been the approach for people in that situation. The 14-day holding period, notwithstanding costs involved to traders, is most important to protect consumers and is considered to be a practical way of dealing with local minor theft and minimising the involvement of local police and the courts.

I turn to the issue of computer records. The Minister intends to require as a condition of licence all licensed pawnbrokers and second-hand dealers to keep computerised records. Although details will be provided in regulation form rather than in the bill, the requirement for computerised records is an important addition to the legislation and reinforces

the Government's stand on law and order. The Government is committed to assisting the police and working with the community to stamp out home burglary. Adequate phase-in time will be allowed for the organisation of technical requirements, including the training of staff in both the Police Service and the industry. Perhaps a few years ago this would have seemed to have been an unreasonable requirement but these days most small businesses have some kind of computer facility within their management structure. I stress that time will be allowed for organisations to meet the requirement.

The bill provides the police with the ability to seize stolen property. With respect to expediting the restoration of stolen property to those whose property has been the subject of court action and is thought to be held by a licensee, the court will be required, in the absence of any impediment, to direct the police to seize such property. This is an important new aspect of the legislation. It is noteworthy that the police will provide additional assistance to claimants. Authorised officers, who are usually police officers, will be able to assist the claimant of allegedly stolen property to the greatest practicable extent. This includes the power to act on the claimant's behalf in an action before the court to recover goods. As I have already said, many stolen goods are not valuable, and those who have been affected by the loss of goods often do not have the access to or the skills required to pursue the matter through the legal system. It is most important that the police and all authorised officers will be required to provide assistance before the court process and to assist people in the recovery of their goods.

The bill strengthens the licensing of traders. This is designed to combat a constant problem of a licensee being disqualified, only to be replaced by a close relative or a dummy licensee who has the disqualified person on his or her staff. This difficulty has been encountered in other areas. It is necessary to ensure that people operating a business meet the requirements of the Act. Licences will be required only by those second-hand dealers who deal in goods at a high risk of theft such as portable goods of high value - jewellery, electronic goods, power tools and so on. The bill is designed to reduce unnecessary paperwork for the police and licensees. Record keeping will be targeted at informal transactions and trade in second-hand goods of types that are perceived to be at high risk of theft. [*Time expired*.]

Debate adjourned on motion by Mr Tink.

CRIMES AMENDMENT (MANDATORY LIFE SENTENCES) BILL

Suspension of standing orders agreed to.

Second Reading

Mrs LO PO' (Penrith - Minister for Fair Trading, and Minister for Women) [12.50], on behalf of Mr Whelan: I move:

That this bill be now read a second time.

This bill was introduced in the other place on 17 April 1996 and the second reading speech appears on pages 19 and 20 of the *Hansard* proof of that day. The bill is in the same form as that introduced in the other place, and I commend it to the House.

Mr TINK (Eastwood) [12.52]: The Opposition will not oppose this bill, which will amend the Crimes Act to specify the circumstances in which it will be mandatory for a court to impose a life sentence on a person found guilty of murder or trafficking in large commercial quantities of heroin or cocaine. During the 1995 election campaign the Australian Labor Party promised to introduce mandatory life sentences for horrific crimes. However, the 1995 bill introduced by the Government did not provide mandatory life sentences as was promised.

The bill provided that, firstly, a life sentence was to be imposed if the court was satisfied that the level of culpability in the commission of the offence was so extreme that the community interest in retribution, punishment, community protection and deterrence could be met only through the imposition of that sentence. Secondly, such sentence would apply in relation to certain drug trafficking offences involving heroin or cocaine if the test to which I just referred is met, if the offence involved a high degree of planning and the use of other people acting at the direction of the defendant in the commission of the offence, if the person was solely or principally responsible for planning, organising and financing the offence, if the heroin and cocaine had a high degree of purity, and if the person committed the offence solely for financial reward.

In fact, the offence was more complicated than some of the Australian Labor Party rules, and I suspect that it was with the same purpose in mind; namely, it was deliberately intended to obscure the original promise. The net effect of the legislation is that it means nothing. The only part which has anything to do with mandatory life sentences is the title of the bill, which has nothing to do with its contents. All the offences to which the 1996 bill applies already have a maximum sentence of life imprisonment. The bill effectively maintains the discretion of judges and adds nothing to the existing law - in fact, arguably, it constrains it.

The 1995 bill was referred to the Standing Committee on Law and Justice, which recommended in its November 1995 report that the bill be amended to exclude persons under 18 years of age at the time they committed an offence, and required that the criteria outlined in proposed section 431B(2) be inserted; this states that the matter must be proved beyond a reasonable doubt before a mandatory life sentence can be imposed. The only difference between the 1995 bill and the one before the House is that the latter adopts the under 18 years of age exclusion recommended by the standing committee, and restates that the discretion of the court to impose a life sentence is

not to be undermined. The Opposition does not oppose the bill, but it criticises the Government for the hypocrisy of promising mandatory life sentences but delivering a bill which merely restates the existing law.

Lest I am thought to be misstating the position, I go to no better authority than the Director of Public Prosecutions, Mr Cowdery, QC, on this matter. He spoke courageously and openly about his problems with this legislation. On 9 October last year he drew attention to the nature of the 1995 bill - for all intents and purposes, the one before the House is identical - by stating that the Government introduced legislation which did not change the law. No less than the DPP said that the bill will do nothing, go nowhere and not meet the promise made by the ALP. The bill has nothing to do with mandatory life sentences; if anything, it entrenches the discretion of the judiciary.

For his comments, the DPP drew the personal wrath of the Premier and the Minister for Police in a disgraceful attack on the DPP's independence. Their tetchiness and embarrassment which led to that

attack arose precisely because Mr Cowdery was telling the truth and shone the searchlight on the Government's little charade. The Opposition does not oppose the bill, which takes the issue nowhere, goes nowhere and does nothing to meet the ALP promise to introduce mandatory life sentences. I am confident that this bill will be misrepresented at the next State election campaign in claims that it fulfilled the Labor Party's promise. It does not meet that promise, and that is indicated by no less an authority than the Director of Public Prosecutions.

Debate adjourned on motion by Mrs Lo Po'.

[*Mr Acting-Speaker (Mr Rogan) left the chair at 12.56 p.m. The House resumed at 2.15 p.m.*]

PETITIONS

Governor of New South Wales

Petitions praying against the downgrading of the office of Governor of New South Wales, and seeking that the role, duties and future of the office be determined by a referendum, received from **Mr Armstrong, Mr Beck, Mr Blackmore, Mr Chappell, Mrs Chikarovski, Mr Collins, Mr Debnam, Mr Downy, Mr Ellis, Ms Ficarra, Mr Glachan, Mr Hartcher, Mr Hazzard, Mr Humpherson, Mr Kerr, Mr Kinross, Mr Merton, Mr O'Doherty, Mr O'Farrell, Mr Phillips, Mr Photios, Mr Richardson, Mr Rixon, Mr Rozzoli, Mr Schipp, Mr Schultz, Mrs Skinner, Mr Smith, Mr Souris** and **Mr Tink.**

Northern Rivers Health Service

Petition praying that the Northern Rivers Health Service not be relocated from Lismore to Grafton, received from **Dr Refshauge.**

Student Transport Scheme

Petition praying that the proposed changes to the student transport scheme be abandoned, received from **Mr Blackmore**.

Disorderly Houses

Petition praying that brothels not be legalised, and that the Disorderly Houses Act is fully enforced to close all brothels, received from **Mr Beck.**

PUBLIC ACCOUNTS COMMITTEE

Report: Review of Audit Office of New South Wales

Mr Rumble, as Chairman, tabled the report of the Public Accounts Committee entitled "Review of Audit Office of New South Wales under Section 48A of the Public Finance and Audit Act Volume 3: Transcript of Evidence and Report by Mr T. Sheridan - *Independence, Mandate and Mission*".

Ordered to be printed.

INFORMATION TECHNOLOGY SHOWCASE

Mr SPEAKER: Order! I draw the attention of honourable members to the information technology showcase that is currently in the parliamentary theatrette and will be operating today and tomorrow

between the hours of 10 a.m. and 6 p.m. I urge those members who have not already attended to do so. The Parliament has spent close to $5.5 million on capital equipment to allow members to meet the technological challenges of today. I remind members that they already have access, through Parliament's computer network, to library data, statutes and regulations, as well as *Hansard*.

By September, the start of the next session, business papers, *Hansard* galleys, *Questions and Answers* and records of proceedings will be produced electronically rather than in the current printed form. The Parliament is already on the Internet and all members will be brought on line by July through their computers in Parliament House and their external offices. Members will soon have access to an electronic press clipping service using imaging technology. Finally, at 6 p.m. in the theatrette the President and I will be launching a CD-ROM developed to assist members and their staff to face the challenges of the technology revolution.

MINISTRY

Mr CARR: During the absence of the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs, who is attending the commemoration service in Tasmania for the Port Arthur shootings, I will answer questions on health. During the absence of the Minister for Urban Affairs and Planning, and Minister for Housing the Minister for Police will answer questions on that Minister's behalf.

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QUESTIONS WITHOUT NOTICE

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PORT MACQUARIE HOME BUILDING ADVISORY CENTRE

Mr COLLINS: My question is directed to the Premier. Will the Premier admit that the David Landa report, which he used last week in the House, falsely bore the name of Sydney law firm Phillips Fox when the firm had no involvement whatever with its preparation? Was the name and reputation of Phillips Fox used to add legitimacy to this fraudulent report, which the Premier described last week as red hot?

Mr SPEAKER: Order! The Premier will wait until the House comes to order. I call the Deputy Leader of the National Party to order.

[*Interruption*]

Mr CARR: The member for Sutherland interjects. Of all people in this House to make an interjection at this stage, the member for Sutherland ought to remain quiet. More of him later.

Ms Machin: On a point of order. It is very unfair in two ways for the Premier to make that allegation. Firstly, the member for Sutherland did not interject; and secondly, he is unable to stand to take the point of order himself.

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

Mr CARR: What is the essence of the indictment against the honourable member for Port Macquarie?

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

Mr CARR: What is the essential case that has been made against the honourable member?

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

Mr CARR: Simply stated, it is this: as Minister for Consumer Affairs she intervened in a decision being made by her department. She overruled departmental officers and she had an office of the Department of Consumer Affairs located in a building owned by a friend and political supporter. That is the essence of it.

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

Mr CARR: That is the nub of it. That is the core of it. That is the indictment she faces.

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

Mr CARR: Simply stated, the honourable member exercised partiality as Minister and blatantly gave a financial advantage to a friend and political supporter. She sought to give herself a political advantage, and who knows what else?

Mr Cochran: On a point of order. Once again I appeal to your sense of justice on the basis that the Premier used the excuse that a matter was before the Independent Commission Against Corruption and that he therefore could not answer questions in relation to the matter regarding the honourable member for Port Macquarie -

Mr SPEAKER: Order! The honourable member will resume his seat. No point of order is involved. The member has been here long enough to know that under the standing orders the Chair cannot direct a Minister how to answer a question.

Mr CARR: As I said in the House last week, we cannot be too harsh on Wendy over this. These are normal National Party instincts coming to the fore. They cannot help themselves. If the matter has anything to do with property or a development application, their deeply-ingrained National Party instincts get the better of them. They cannot help themselves. These are atavistic forces at work.

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order. I call the honourable member for Hawkesbury to order. I call the honourable member for Burrinjuck to order.

Mr CARR: We should not be so harsh on her. The indictment is well known: the exercise of partiality producing, she would hope, an advantage to herself - the ICAC inquiry might demonstrate in precisely what form that was delivered - but producing an advantage to a friend and political supporter, delivered by her intervention-

Mr Cochran: On a point of order.

Mr CARR: - in a decision that was taken about the location of the office. It is as simple as that.

Mr SPEAKER: Order! The honourable member for Monaro has taken a point of order. The Premier will resume his seat.

Mr CARR: Mr Speaker, I have finished.

Mr Cochran: The Premier was engaging in a personal attack on the honourable member for Port Macquarie and he should do that by way of substantive motion.

Mr SPEAKER: Order! No point of order is involved.

PORT MACQUARIE HOME BUILDING ADVISORY CENTRE

Mr SOURIS: My question without notice is directed to the Minister for Fair Trading, and Minister for Women. Did David Landa, when Ombudsman, say that a person being investigated
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must have the opportunity to comment, "in the interests of natural justice"? Why did the Minister direct Mr Landa to break this fundamental rule of the Ombudsman and the Audit Office and deny natural justice to the honourable member for Port Macquarie by failing to interview her for his report?

Mr Gaudry: On a point of order. I am sure that the question asked by the honourable member -

[*Interruption*]

Mr SPEAKER: Order! The question is in order.

Mr Whelan: On a point of order. The question does not relate to the Minister's portfolio. I am pleased that it does not relate to the fact that Ken Smithers is a former Ombudsman and the honourable member asked the Minister what she thought of Ken Smithers' duties and obligations as Ombudsman. The honourable member has addressed the question to the wrong Minister.

Mr SPEAKER: Order! No point of order is involved. It is up to the Minister to decide whether she will field the question.

Mrs LO PO': I do not know what David Landa said when he was Ombudsman, but let me tell the House about this occasion.

Mr SPEAKER: Order! I call the honourable member for Vaucluse to order for the third time.

Mrs LO PO': I have heard the honourable member for Port Macquarie say that she was not interviewed on this occasion. Honourable members might wonder why she thought she ought to have been interviewed on this occasion.

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

Mrs LO PO': Mr Landa was not asked to inquire into the former Minister for Consumer Affairs.

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

Mrs LO PO': He was asked to examine the processes and methods adopted by the management of the former Building Services Corporation in relation to the establishment of the regional network and its home building advisory centres.

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

Mrs LO PO': As soon as Mr Landa became conscious of the fact that the issues under review may have indicated undue influence by the former Minister in the process of the site selection he concluded that a threshold had been reached beyond which it would be unwise for him to conduct further interviews with potential witnesses, including the former Minister. Further, he recommended that the matter be

referred to the Independent Commission Against Corruption.

Mr SPEAKER: Order! I call the honourable member for Ku-ring-gai to order.

Mrs LO PO': It is obvious that, in part, Mr Landa's concern related to the fact that neither he nor his potential witnesses had any form of legal protection.

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

Mrs LO PO': There was no partisan advice, misuse of public funds or perversion of the public process.

McGAW HIGHER SCHOOL CERTIFICATE REPORT

Mr WATKINS: My question without notice is directed to the Minister for Education and Training. How will the Government conduct community consultation following today's release of the McGaw report into the higher school certificate?

Mr AQUILINA: I congratulate the honourable member for Gladesville for his work on and involvement in the preparation of the green paper. He is, of course, the secretary of the Government's education committee and also my nominee on the review panel. Today I take pride in publicly releasing the green paper on the reform of the higher school certificate. I also take this opportunity to place on record my congratulations and thanks to Professor Barry McGaw for his outstanding work. The preparation of the higher school certificate green paper was a key part of the Government's pre-election education platform.

Mr Photios: On a point of order. Many spurious points of order are taken - including some by me from time to time - that under the guise of some other procedure a Minister is making a ministerial statement. I suggest that nothing could fall more accurately within the definition of a ministerial statement - which relates to policy - than a detailed explanation of a green paper. A green paper is nothing more and nothing less than a policy statement. The Minister is detailing the policy position of the Government in a major green paper. I ask you to carefully consider whether his remarks fall within that ambit, or in the very least to warn him accordingly.

Mr SPEAKER: Order! I will hear no further on the point of order. There is no substance to the point of order.

Mr AQUILINA: The production of the HSC green paper represents the completion of a key election commitment, and it is another big tick for

the Carr Government. It is 40 years since the higher school certificate was designed and almost 30 years since the first HSC was held. The signs pointing to a need for a close look at the HSC have been there for years, but the Opposition has missed the boat. It had an opportunity to do something about but it did nothing.

Mr Collins: On a point of order. Common sense dictates that the Minister speak on this issue today but not in question time. Surely this is a ministerial statement.

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

Mr Collins: The Opposition had no opportunity to reply. It is an abuse of question time.

Mr SPEAKER: Order! There is no point of order. The Minister's answer is not a ministerial

statement within the terms of the standing orders.

Mr AQUILINA: There has also been debate since the late 1980s about the role of the tertiary entrance rank. A number of students have chosen subjects on the basis of perceived benefits due to the scaling of marks. They believed, rightly or wrongly, that choosing some subjects instead of others would help them in the competition to enter a university. A system which was designed to ensure that marks were awarded fairly has become so complex and difficult to understand that it has begun to distort curriculum choice. Other trends also point to the need to consider reforms. With increasing retention rates, more and more students want to attempt vocationally relevant subjects. While the number of such subjects has increased, they still represent only a small proportion of overall subjects and tend not to be recognised for the university entrance rank. Professor McGaw's paper provides an opportunity for the community to debate these trends.

Mr O'Doherty: On a point of order. On the basis of relevance I suggest that the question asked of the Minister related specifically to community consultation, not to the HSC broadly. The Minister has now had more than enough opportunity to make opening remarks and I ask you to direct him, in accordance with the standing order relating to relevance, to respond specifically about community consultation.

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

Mr AQUILINA: One would think, having been critical of the time it has taken to produce the green paper, that you would want to hear about the consultation process.

Mr SPEAKER: Order! The Minister will address his remarks through the chair.

Mr AQUILINA: Professor McGaw's report puts forward 40 options for debate. These options include the appropriate structure of subjects and courses in the curriculum, whether there should be areas of common core studies for all students in the HSC, whether we should measure students against expected standards or against the performance of other students, and a range of alternatives for reporting marks to employers, parents, universities and other relevant bodies. The Government does not have a fixed or preferred view about the options. It will listen to submissions and examine the arguments put forward. I welcome input from all honourable members and encourage them to take an active role in promoting discussion and consultation on the green paper. Then we will see how fair dinkum the Opposition is. Our guiding principle will be the need to ensure that the HSC remains fair, challenges all students -

Mr Hartcher: On a point of order. Speaker Kelly ruled:

> Statements of public importance which announce and touch on some policy of or proposed action by the Government constitute a ministerial statement.

The Minister is now speaking about matters of government policy. The Minister was asked a question about how he will communicate, and the answer to that would be relevant to the House. Pursuant to the ruling by Speaker Kelly, this answer clearly falls within the ambit of a ministerial statement.

Mr Knight: On the point of order. The Minister clearly said that the Government does not have a fixed view on which option it should adopt. Therefore it is impossible to claim that he is announcing government policy; he is announcing a consultation process, in answer to the very question he was asked.

Mr SPEAKER: Order! I will hear no more on the point of order. There is no substance to the point of order.

Mr AQUILINA: The guiding principle of the Government will be the need to ensure that the HSC

remains fair, challenges all students to reach their full potential and is trusted by the community because it can be clearly understood. Copies of the green paper will be sent to all schools - government and non-government, primary and secondary. It will also be sent to TAFE colleges, universities, parent groups, teacher organisations, employer groups and a wide range of community organisations. The green paper will also be available on the Internet and on CD-ROM. There will be a satellite broadcast over the open training and education network which will involve Professor McGaw. That broadcast will be available to all schools and TAFE colleges that have a satellite dish.

The Government will invite the widest possible community consultation and discussion, including written submissions from anyone interested in putting forward their viewpoint. Advertisements inviting public submissions will appear in this weekend's press. The closing date

for submissions will be 30 August, after which Professor McGaw will report to the Government on the outcomes of the consultation process. Early in 1997 the Government will release a white paper which will explain the future shape of the HSC. No student in year 11 or year 12 currently studying for the HSC will be affected. I take the opportunity to congratulate Professor McGaw on his outstanding work in preparing this green paper, and I look forward to the response of all honourable members and the community generally to the green paper.

HONOURABLE MEMBER FOR SUTHERLAND ELECTION CAMPAIGNS

Mr THOMPSON: My question without notice is directed to the Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development. Will the Minister outline the investigation of allegations in his department concerning raffles conducted by the honourable member for Sutherland and his supporters? Is the honourable member cooperating with the investigation?

Mr FACE: On three occasions charity inspectors from the Department of Gaming and Racing arranged meetings with the honourable member for Sutherland: on 18 April, 23 April and 30 April, as I explained to the House yesterday. On each occasion the honourable member for Sutherland failed to attend the meeting. The inspectors today again attempted to meet the honourable member, and of course they were rebuffed. A spokesperson for the honourable member said that he could only be approached by inspectors through his lawyers. There have been further developments in this affair. Last night my department received a letter from lawyers seeking a meeting between the Director-General of the Department of Gaming and Racing and the director of the Liberal Party, Mr Tony Nutt.

These lawyers do not represent the honourable member for Sutherland but the New South Wales Liberal Party. According to my department, however, it is the honourable member for Sutherland, not the Liberal Party, who is currently subject to investigation. The Liberal Party may be investigated later. I urge the honourable member for Sutherland to come forward and assist investigators with their inquiries. The subject of the honourable member's question concerns an anonymous letter that no-one but the honourable member for Sutherland has released publicly. I inform the House that my office has received eight anonymous letters since August 1995 that cover the broad spectrum of the Gaming and Racing portfolio.

I am advised by the department that the anonymous letters are always followed up wherever possible. Indeed, I am further advised that some of the best leads in inquiries have come from such letters, and that this has been a longstanding practice under successive governments. It is incumbent upon me as Minister to see that any allegation is properly investigated. When I received this letter, I referred it to my department for authentication and moreover to investigate the veracity of its claims. I report to the House that the investigation by my department so far concludes that the claims in the letter should be pursued. On legal advice, the director-general of the department referred the allegations to the Independent Commission Against Corruption.

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

Mr FACE: The letter makes allegations in relation to three fundraising raffles for the honourable member for Sutherland. The first raffle, for a $20,000 trip around the world, allegedly took place prior to the 1988 election. The raffle raised $8,000, leaving a $12,000 shortfall, which was financed by a loan.

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

Mr FACE: The second raffle, conducted prior to the 1991 State election, was conducted to raise funds to meet this $12,000 debt. It is alleged not only that the first prize of a set of golf clubs was won by a party official, but that the golf clubs did not exist. The third raffle, prior to the March 1995 election, was allegedly for a two-week holiday for 10 people on a leisure boat off the Barrier Reef. It is alleged that again this prize did not exist, and that the winner of the raffle was a cousin of a party official. I am advised that information gathered from preliminary interviews by charity inspectors does necessitate further investigation. The investigation being conducted by my department in liaison with the Police Service continues. It may shed a different light if the honourable member for Sutherland were to come forward. In order to assist the investigation, I once again plead with the honourable member for Sutherland to come forward and assist the charity inspectors, and we can clear up the whole matter.

PORT MACQUARIE HOME BUILDING ADVISORY CENTRE

Ms MACHIN: My question without notice is directed to the Minister for Fair Trading, and Minister for Women. Why did the Minister hire David Landa as a consultant for the Building Advisory Centre's inquiry when it would normally have been conducted by the Ombudsman or Auditor-General? Was this a deliberate attempt to get around the law which would have required the Ombudsman or Auditor-General to give me an opportunity to comment on the findings before making them public?

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

Mrs LO PO': I have already answered that question, but there is more.

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

Mrs LO PO': It was obvious that we were not going to have the Building Services Corporation inquire into itself, so we decided that, under ministerial power, I would be able to conduct -

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

Mrs LO PO': It was decided, in accordance with -

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

Mrs LO PO': It was decided, in accordance with implied ministerial power, that David Landa should be asked by me to conduct a compliance audit -

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

Mrs LO PO': - given the background of the management failure in the various sections of the Department of Fair Trading, which had been highlighted in the earlier report by David Landa and the later

report by Peter Crawford. It was apparent that it would not be appropriate for the department to conduct an inquiry into itself.

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

Mrs LO PO': It would not be appropriate for this to be conducted in that way. There was no aggrieved person -

Mr SPEAKER: Order! The Chair has been lenient in overlooking interjections. Six members have been called to order three times. All members who have been called to order during question time are now deemed to be on three calls to order.

Mrs LO PO': This matter does not come within the scope of the Ombudsman's Act because no individual citizen was involved and the wrong action could not have been sustained. A Minister would not ordinarily refer a matter of administrative and management practice to the Auditor-General or to the Ombudsman. In this case I, as the Minister managing the portfolio, made a decision. It comes up showing that one member of the National Party is probably involved in some corrupt conduct, and all we get from the honourable member is a shooting of the messenger.

PORT MACQUARIE HOME BUILDING ADVISORY CENTRE

Ms MACHIN: I ask the Minister for Fair Trading, and Minister for Women a supplementary question. In view of the answer just given and the Minister's remarks about concerns of corrupt conduct, why did not the director-general of her department refer the matter to the Independent Commission Against Corruption as required of her specifically by section 11 of the Independent Commission Against Corruption Act?

Mr SPEAKER: Order! I remind honourable members that all members who have been called to order are deemed to be on three calls to order.

Mrs LO PO': One more time for the dummy: it was decided, in accordance with implied ministerial power, that David Landa should be asked by me to conduct a compliance audit, given the background of the management failure in the various sections of the Department of Fair Trading, which had been highlighted in an earlier report. I would really like the honourable member to ask a question -

Mr O'Doherty: On a point of order. My point of order is one of relevance. The question specifically asked about the actions of the director-general of the department in not referring this matter to the Independent Commission Against Corruption. The Minister, by repeating her previous answer verbatim, is not coming to the substance of the question, which is why she and her department did not act as required by the Independent Commission Against Corruption Act.

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

Mrs LO PO': What I really want the National Party to ask about is the previous report done by David Landa. I am very disappointed they have not got round to that, because that is a mind blowing exercise as well. And I know you know something about it. For that reason -

Mr SPEAKER: Order! The Minister will address her remarks through the Chair.

Mrs LO PO': For that reason the honourable member for Port Macquarie is probably avoiding it like the plague.

OLYMPIC GAMES FACILITIES

Mr PRICE: I address a question without notice to the Minister for the Olympics, and Minister for Roads. What is being done to ensure that the design of buildings and open spaces at Homebush Bay and other Olympic projects will be of the highest standard possible?

Mr KNIGHT: I thank the honourable member for Waratah for his question and commend him for his strong interest in the Olympics, an interest which I hope is shared by all honourable members. I have appointed a panel of senior architects and other experts to ensure that new facilities for the Olympics and beyond are designed to meet the highest standards in the world. The new urban design review panel, chaired by the Government Architect, Mr Chris Johnson, will

report independently to the Government and to the Olympic Coordination Authority before projects get the go ahead. The new Sydney Olympic Park at Homebush Bay will have national and international significance.

For the Olympics, paralympics and beyond, it will have a diverse range of buildings and open areas. It will be the focal point of Sydney's sport, recreation and culture for the twenty-first century. Thus, Sydney Olympic Park is one of the most important urban projects in Australia. Homebush Bay will have a variety of sports facilities, business areas, entertainment centres, exhibition pavilions, open spaces, and parklands. Redevelopment of Homebush Bay will involve dozens of different projects using a large number of architects, planners and construction companies. It is therefore crucial that the development results in facilities and land uses that are functional, consistent, cohesive, attractive and appropriate. The panel will ensure that we have buildings and areas that fit together instead of a mishmash of looks and styles. The panel will also ensure that nothing looks out of place with the natural environment or conflicts with other designs. Importantly, the panel, like the Government, will not settle for cheap second-rate proposals and designs.

To ensure that we get the best possible result we need the best possible people. The Government has selected senior and respected members of the architectural community and other experts to sit on the panel. As I said, the panel will be chaired by the Government Architect, Chris Johnson, from the Department of Public Works and Services and past president of the Royal Australian Institute of Architects. Mr Johnson will be supported on the panel by Professor Lawrence Nield, Professor of Architecture at Sydney University; Michael Keniger, head of the school of architecture at the University of Queensland; Leo Schofield, Director of the Melbourne Festival and Director of the Sydney Festival from next year; Wendy McCarthy, Director of the Australian Heritage Corporation; and Leon Paroissien, Director of the Museum of Contemporary Art in Sydney. I am confident that the make-up of the panel and the scope of its work will ensure that all Australians will be proud of. Sydney Olympic Park and other Olympic-related projects.

PORT MACQUARIE HOME BUILDING ADVISORY CENTRE

Mrs CHIKAROVSKI: I ask the Minister for Fair Trading, and Minister for Women why her director-general's name was deleted from the terms of reference appointing David Landa for the Home Building Advisory Centre inquiry. Was it because the director-general insisted that the Ombudsman should be given the job and wanted no part in a political witch-hunt?

Mrs LO PO': I have already answered the first part of this question, and the answer to the second part is no.

GRAIN INDUSTRY COOPERATIVE RESEARCH CENTRES

Mr SHEDDEN: I ask the Minister for Agriculture what is being done to establish cooperative research centres for the grain industry in New South Wales.

Mr AMERY: I am pleased to again thank the honourable member for Bankstown for demonstrating his interest in rural issues.

Mr Collins: Bankstown's about as close as the Government gets to a rural seat.

Mr AMERY: Whether the issue concerns cooperative research centres, ovine Johne's disease or jobs in the Department of Agriculture, it is Government members who raise it. Honourable members should consider the priority that Opposition members have given agricultural issues this session.

Mr SPEAKER: Order! All members who had been called to order were deemed to be on three calls to order. I sought the cooperation of members to maintain decorum in the House. The honourable member for Burrinjuck has continued to interject. I ask the Serjeant-at-Arms to remove him from the Chamber.

[*The honourable member for Burrinjuck left the Chamber, accompanied by the Serjeant-at-Arms.*]

Mr AMERY: The three main rural issues raised by Opposition members include a question from the honourable member for Port Macquarie asking if I had hired a gag writer. Is that a high priority on agriculture? Wendy, do I need a gag writer when I have all this inspiration in front of me? There was also a generic question about hiring a media officer. But the best country issue, on which I could not make a contribution, was a typical scatter-gun motion from the Leader of the Opposition. I cannot recall the exact wording, but it ran something along the lines of the House condemning the Premier for allowing the Governor to drive a school bus to Lake Cowal during a time of agricultural cutbacks. That is about as close as Opposition members come to raising agricultural issues.

I still wait for the historic moment when the Opposition asks me a question on an agricultural matter. The honourable member for Bankstown asked a question which relates to what has been a priority of the Government since coming to office: to push the sustainable agriculture barrow in rural New South Wales. The Government is committed to improving the environment so that the natural resources used for agriculture are available for future generations. I am sorry if this is boring the honourable member for Sutherland, who is yawning. What a crying shame. He is the only member of an Australian parliament who has to pay a week in advance to get his pizza home delivered. It is no wonder he is bored!

The Department of Agriculture is currently sponsoring two proposals to establish cooperative research centres - CRCs. The first is for sustainable farming systems in the northern grains region. The proposal is to establish a CRC for sustainable farming systems in the northern grains region of Australia, which extends from Dubbo in central New South Wales to Emerald in Queensland. The New South Wales component of this region alone produces more than $2 billion in agricultural products annually. The objective of the CRC is to position the farmers in the region as accredited global leaders in the practice of profitable and sustainable farming practices. As a matter of interest, this financial year the Department of Agriculture attracted $22.5 million in funds from research and development corporations, which is a 6 per cent increase over last year. That will put to rest arguments that industry funds will dry up as a result of the Government's decentralisation policies.

The Grains Research and Development Council, the Queensland Department of Primary Industries, the Commonwealth Scientific and Industrial Research Organisation, the University of Western Sydney, the University of Queensland, agribusiness and farmer organisations have all shown a keen interest in being involved in the CRC for sustainable farming systems. The Director-General of the Department of Agriculture wrote to interested parties early in January inviting them to participate in an inaugural meeting

in Toowoomba on 29 January this year to discuss the proposal of the Department of Agriculture for the CRC. The proposal was enthusiastically received. A steering committee has been appointed and a workshop involving 40 participants was held at Tamworth in March to identify resources and people available and to draw up a timetable to develop the programs. The workshop provided a solid base and framework on which to build what we anticipate will be a successful application.

The CRC will link with the New South Wales Centre for Crop Improvement Research and the Australian Centre for Sustainable Agricultural Research located at Tamworth, as outlined in the recently released *Government and Agriculture - A Partnership for the Future*. I hope that all honourable members have received a copy of this non-political publication released by the Government. If not, we will ensure that everybody gets a copy of the report. I sent the publication to the Michael Photios printing company. The first draft came back with a 10 x 8 photograph of me on the first page and a passport photograph of the Premier on the second page. I said to myself, "Self, I don't think the Premier will wear this."

Mr Peacocke: On a point of order. I ask that you excoriate the Minister for gross turgidity, gross irrelevance and undue bombast, and that you do so forthwith.

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

Mr AMERY: I could not say anything insulting, although I must point out that the honourable member for Dubbo is probably the foremost exponent of male bovine dung in this House, and he should be very understanding. The second proposal for a cooperative research centre is for sustainable rice production and would be located at Yanco. I hope the honourable member for Murrumbidgee appreciates that. Recently a meeting of potential partners in a CRC for sustainable rice production was held in Sydney. Along with the Department of Agriculture, organisations represented were the Rural Industries Research and Development Corporation, the Ricegrowers Co-operative Limited, the Commonwealth Scientific and Industrial Research Organisation, the Department of Land and Water Conservation, the University of Sydney and the Charles Sturt University.

It is also proposed to seek the involvement in the CRC of the International Rice Research Institute in the Philippines. The proposal for a CRC for rice was supported in principle by all parties and the group agreed to proceed with the development of a detailed submission. The formation of this CRC is seen as an effective means of better utilising the research, development and extension resources supporting the continued sustainable and productive development of the rice industry by formalising the links between the cooperating agencies. The benefits of those CRC proposals to agriculture in New South Wales are enormous both economically and environmentally. I thank the honourable member for Bankstown for his continued interest in these matters, not only as a local member but also as a member of the Regulation Review Committee, which is reviewing many items of agricultural legislation for this Chamber.

COUNCIL RATING AND LAND TAX VALUATION COSTS

Mr HUNTER: My question is directed to the Minister for Land and Water Conservation. What steps have been taken to reduce costs in the provision of council rating and land tax valuations?

Mr YEADON: I thank the honourable member for Lake Macquarie for his very timely question. The Government plans to bring greater cost savings to local government rates valuations and land tax valuations. The Valuer-General's Office has a long and fine tradition: it was created under the Valuation of Lands Act 1916 and has provided quality valuations for local councils and the State Government for over 80 years. It operates as a separate business entity within the Department of Land and Water Conservation, and has a monopoly in the provision of valuations for local government. It conducts between 650,000 and 750,000 local government ratings each year, 60 per cent of which are in Sydney, Newcastle and Wollongong.

In 1994 the Valuer-General's Office was subject to a review by the former Trading Enterprises Reform Committee of Cabinet. The

review proposed a number of options for exposing existing operations to commercial competition while retaining community confidence in the integrity of the system. The Government will provide for the introduction of more commercial operations in Sydney, Newcastle and Wollongong as it wants to reduce the cost of valuations in these cities for both government and councils. The State Government's monopoly in mass local government valuations will be challenged in these cities.

The regulatory evaluation functions of the Valuer-General's Office will be split with two separate organisations created. One organisation, comprising the government valuers, will have to compete with the private sector valuers to win contract for mass valuation services in metropolitan areas. The second organisation, a new regulatory body, will supervise an open tendering process which will see contracts awarded to the best applicants. This body will also ensure that the private valuers which are awarded contracts are qualified and independent. Stringent selection criteria will be devised and a panel, including representatives of local government and the Office of State Revenue, will ultimately award the contracts. It will develop an auditing and monitoring procedure to ensure that quality is maintained, and it will be able to impose commercial penalties for substandard work.

Currently, the Valuer-General reviews his own valuations and defends subsequent Land and Environment Court appeals to those valuations. This situation is open to question and should not be allowed to continue. Under the reforms announced today, initial appeals will be made to the regulator organisation, and final appeals made on valuations are to be processed by the Land and Environment Court. The regulator will also maintain the State's valuation database. I have given a guarantee to union representatives involved in this process that no staff will lose jobs in the break up of the monopoly powers of the Valuer-General. These significant reforms will be undertaken in consultation with staff and stakeholders. Also, the Government does not intend to extend the introduction of competition to rural New South Wales because it is possible that the government monopoly in country areas would be replaced with a private monopoly, which would push prices up rather than down.

The time scale for these reforms has been formulated to ensure a smooth transition from a monopoly to a competition environment. Contracting out valuations will occur in phases over a number of years starting in 1997. The reorganisation of the Valuer-General's Office will occur progressively throughout this year and next year, with the separation of budgetary operations applying in July of this year. These reforms are in line with the Government's policy to improve performance of government trading enterprises and the implementation of the national competition policy. These measures will allow the Government to test the benefits of competition and to determine whether claimed efficiencies will result for government, councils and other users of valuation services.

Questions without notice concluded.

LEADER OF THE HOUSE

Mr SPEAKER: Order! For the edification of honourable members who are of an historical bent, I announce that today marks 20 years since the election of the Leader of the House to this Chamber.

QUESTIONS WITHOUT NOTICE

Supplementary Answer

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HONOURABLE MEMBER FOR SUTHERLAND ELECTION CAMPAIGNS

Mr CARR: I wish to provide supplementary information to a question I was asked yesterday. On 18 January 1996 an unsigned letter was received in the Speaker's office, and I am advised that the letter was referred to my chief of staff. As I imagine would be the case in any other similar circumstance, the chief of staff referred the letter to the office of the relevant Minister for departmental advice and/or action. On 8 February the letter was referred to the chief of staff for the Minister for Gaming and Racing, Mr Charles Shields, for investigation, and on 8 February the letter was referred to the director-general of that department. Legal advice was received on 13 March, and subsequently on 27 March the Director-General of the Department of Gaming and Racing forwarded the letter to the Independent Commission Against Corruption.

On three occasions since, charity inspectors from the Department of Gaming and Racing have arranged meetings with the member for Sutherland - on 18 April, 23 April and 30 April. However, on each of these occasions the member for Sutherland failed to front. I can report that this morning inspectors again attempted a meeting with the member - a fourth attempt - but again they were rebuffed. There have been further developments in this sad and sorry affair. I appeal to the member for Sutherland, in his own interests, to please cooperate with the authorities.

Mr Photios: On a point of order. The opportunity to provide supplementary information in relation to a question asked at a previous hour on a previous day is restricted merely to a technical, factual response. New material which was not the subject of the question is now being provided, and the answer is not relevant to yesterday's question. I ask you, Mr Speaker, to constrain the Premier to speak specifically to yesterday's question.

Mr SPEAKER: Order! The Premier may give a supplementary answer.

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Mr CARR: I was specifically asked about this matter yesterday. Again, I appeal to the member for Sutherland: please cooperate with the authorities and help them to clear this matter up in his own interests and those of the good people of the Liberal Party! They are all involved in this whole sorry saga.

Mr Hartcher: On a point of order. The Premier has gone far beyond the bounds allowed in providing a supplementary answer. I am not sure whether the Premier has concluded his answer; however, the supplementary answer procedure is designed to supply information which could not be given at the time of the question being asked. He has now embarked on an attack on the member for Sutherland, and is urging the member to follow a certain course of action. This is not appropriate for a supplementary answer.

Mr SPEAKER: Order! I have already ruled on that matter. There is no point of order.

Mr CARR: I was asked three questions on the matter yesterday and I am in a position to provide supplementary information. However, the person who can help most in this matter is the member for Sutherland himself. It is in his interest that the matter be cleared up. Also, it is in the interests of the Liberal Party members in the Sutherland shire who have been approaching the Government - it is in everyone's interest - that the member cooperates with the authorities.

Mr Kinross: More lies!

Mr SPEAKER: Order! The member for Gordon will withdraw that remark.

Mr Kinross: I seek clarification because I understand -

Mr SPEAKER: Order! The member for Gordon will withdraw that remark!

Mr Kinross: Mr Speaker, I withdraw.

Mr CARR: The three questions yesterday related to an anonymous letter, and I am advised that some of the best leads of inquiry come from such letters. It was incumbent upon the Minister -

Mr SPEAKER: Order! The honourable member for Burrinjuck has been removed from the service of the House and if other members persist in interjecting they also will leave the House.

Mr CARR: The Minister has confirmed that many useful revelations were made during that investigation. For example, on the matter of the first raffle, a prize of $20,000, only $8,000 was raised by raffle tickets.

Mr Hazzard: On a point of order. The Premier is within his rights to be giving further factual material. I would ask the Premier to indicate the source of the advice that a fraudulent document is a document he can rely on.

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

Mr CARR: I am sorry, this is a document you asked me about in three questions yesterday.

Mr Kerr: On a point of order. The Premier earlier was flashing what appeared to be raffle tickets. You have indicated that props should not be used in this Chamber. I would ask that you direct the Premier to comply with your previous rulings.

Mr SPEAKER: Order! All members who have been called to order are deemed to be on three calls to order.

Mr CARR: For the prize of a $20,000 trip around the world, the raffle raised $8,000, leaving a $12,000 shortfall financed by a loan. The second raffle, conducted prior to the 1991 State election, was conducted to raise funds to meet that $12,000 debt. They just roll on. It is alleged that not only was the first prize of a set of golf clubs won by a party official but that the golf clubs did not exist.

[*Interruption*]

You asked me about the anonymous letter, Dumbos. You asked the questions yesterday. I have found out.

Mr Collins: On a point of order. What the Premier was asked about yesterday was the use of unsigned, forged material by his staff. That is what the Premier was asked about yesterday and that is what he should be drawn back to if he is giving supplementary answers.

Mr CARR: On the point of order. I was asked on three occasions yesterday about an anonymous letter. I take those questions seriously. Not having seen the letter yesterday, I am able to report today on its context. I am not only entitled to do it; I am duty bound to do it.

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

Mr CARR: The third raffle before the March 1995 election was allegedly for a two-week holiday for 10 people on a leisure boat off the barrier reef.

Mr Richardson: On a point of order.

Mr SPEAKER: Order! I warn the member for The Hills against taking an inappropriate point of order.

Mr Richardson: I believed that the Premier was actually going to give supplementary information on questions that were asked previously.

Mr SPEAKER: Order! What is the member's point of order?

Mr Richardson: He should be giving supplementary information, new information -

Mr SPEAKER: Order! I have already ruled on that. The member will resume his seat. I warned him against taking an inappropriate point of order and he will leave the Chamber if he persists in taking such points of order.

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Mr CARR: It is alleged again that this prize did not exist and that the winner of the raffle was a cousin of a party official. I am advised that information gathered from preliminary interviews by charity inspectors -

Mr Phillips: Wrong again. False.

Mr CARR: The honourable member for Miranda is the most boring person in the Parliament. Yesterday he was in the parliamentary bar talking to a journalist. The journalist went to sleep and spilt his glass of coca-cola over his trousers. Pathetic. I am advised that information gathered from preliminary interviews by charity inspectors necessitates further investigation. Again I must appeal to the honourable member for Sutherland to cease avoiding the interviews and cooperate with the authorities. It is in his interests to do it. It is in the interest of the Parliament. It is in the interest of good members, good citizens in the Liberal Party in the Sutherland shire. The investigation being conducted by the Minister's department in liaison with the Police Service will continue, as it must, until this whole saga is cleared up to the satisfaction of all concerned. In order to assist with the investigation I plead again with the former Minister to come forward. Among other things, he can dispel the suggestion that the episode of the raffles is somehow linked to his $27,000 bill in this place.

BUSINESS OF THE HOUSE

Suspension of Standing Orders

Mr WHELAN (Ashfield - Minister for Police) [3.27]: Mr Speaker, I ask leave of the House to move a motion for suspension of standing orders to permit consideration forthwith of the notice of motion, general business given by the Leader of the Opposition.

Mr SPEAKER: Order! Could I just interrupt the Leader of the House. There is one matter I need to call over and that is orders of the day for bills.

Mr Downy: Mr Speaker -

Mr SPEAKER: Order! I will come back to you. This is a machinery matter which was left out of the business at an earlier stage. This is a call-over of orders of the day for bills, general business.

[*Placing or Disposal of Business*.]

Mr Whelan: Now that the call-over has been concluded, I ask leave of the House to move a motion

for suspension of standing orders to permit consideration forthwith of the notice of motion for general business given by the Leader of the Opposition this day relating to the censure of the Minister for Fair Trading.

Mrs Chikarovski: On a point of order. Mr Speaker, prior to the Leader of the House rising you had indicated to the honourable member for Sutherland that you would give him the call immediately after -

Mr SPEAKER: Order! No.

Mrs Chikarovski: As you are aware, Mr Speaker, he had something to -

Mr SPEAKER: Order! The honourable member misunderstood the sequence. I had already called the Minister before I realised I had omitted an earlier call-over. I asked the Minister to be seated and the member for Sutherland indicated that he wished to speak. I indicated to the member that he should wait until I had finished the call-over of business. However, the Minister had the call in the first place.

Motion, by leave, by Mr Whelan agreed to:

That standing orders be suspended to allow the consideration forthwith of the censure motion, notice of which was given this day for tomorrow.

Mr SPEAKER: Order! The honourable member for Sutherland.

Mr Downy: Mr Speaker -

Mr Rozzoli: On a point of order. I point out to you that this House has just passed a motion suspending so much of standing orders as would preclude consideration of a certain motion.

Mr Whelan: Do you want to hear from him?

Mr Rozzoli: Whilst I certainly want to hear the personal explanation from the member for Sutherland, the action of the Minister in insisting on putting his motion has cut out the opportunity for the making of a personal explanation until the motion is dispensed with.

Mr Whelan: On the point of order. That is the most ridiculous point of order I have ever heard in my life. Not only did the honourable member for Hawkesbury hamstring his speaker yesterday; he has crippled him today. He has placed Mr Speaker in a position in which he has to uphold the honourable member's point of order. That means that the honourable member for Sutherland will have to wait one hour and fifteen minutes for the conclusion of the censure debate. If that is the case, that is not my intention. It was never the intention of the Government to stop the honourable member for Sutherland saying immediately what he wanted to the House.

Mr SPEAKER: Order! Is it the wish of the House that leave be given for the member for Sutherland to make a personal explanation?

Leave granted.

HONOURABLE MEMBER FOR SUTHERLAND

Personal Explanation

Mr DOWNY: Mr Speaker, in relation to certain allegations raised in this House today by the Premier I wish to state as clearly and as categorically as I can, first, it has been proved beyond any reasonable doubt that the letter referred

to by the Premier today is a fraud. It is a forgery. It is an unsigned, undated letter with no return address. We have statutory declarations regarding all matters contained in that letter. With regard to the first two raffles that the Premier referred to, the simple fact of the matter is that the round the world trip for two and the golf clubs were not prizes in a raffle; they were in fact lucky door prizes at a dinner that was held in 1990.

Both prizes were taken. The trip has been taken by the people who won that prize and the golf clubs are still being used today by the person who won that prize. With regard to the 1994 raffle prize, that was won, but certainly not by the person indicated in the letter. As I said, the letter is a fraud. I am absolutely disgusted that Ministers of the Government can possibly say that there is any substance in those letters. Because of the way in which this matter has been investigated by government officials, who have allowed themselves to be used as political pawns in this witch-hunt, I have referred the letter to the police. I have made a formal complaint to the police. My solicitors are putting together a formal statement today. I have asked the police to investigate this matter completely. I have also written to the Independent Commission Against Corruption and I have asked the ICAC to investigate the way in which government officials and members of the Premier's personal staff have been used to undertake a political witch-hunt, which seems to be becoming the order of the day in this place, in this State. Politics in this State are becoming quite grubby and the people of this State are disgusted.

Mr SPEAKER: Order! The member is out of order.

Mr DOWNY: You are a disgrace.

Mr SPEAKER: Order! I direct the Serjeant-at-Arms to remove the member for Sutherland from the House.

[*The honourable member for Sutherland left the Chamber, accompanied by the Serjeant-at-Arms.*]

Mr Hazzard: On a point of order. In relation to the honourable member being removed from the House, I do not think that he actually heard anything that was happening because there was noise on both sides of the House.

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

MINISTER FOR FAIR TRADING, AND MINISTER FOR WOMEN

Censure

Mr COLLINS (Willoughby - Leader of the Opposition) [3.32]: I move:

That this House censures the Minister for Fair Trading, and Minister for Women for:

1. Failure to ensure David Landa followed the fundamental rules of natural justice which he espoused while Ombudsman in preparing his report into Home Advisory Centres.

2. Misleading the Parliament by tabling a report which used without authority the name of a prominent firm of solicitors, namely Phillips Fox, in an attempt to give the report credibility.

3. Failure to refer concerns about maladministration or corrupt conduct directly to the appropriate

government agencies, namely the Independent Commission Against Corruption and the Ombudsman.

4. Spending thousands of dollars of taxpayers funds by engaging a consultant to carry out work which should have been performed by government agencies.

5. Use of a purportedly independent consultant David Landa to prepare a report for overtly political purposes; and

6. Failure to comply with government guidelines for the selection of consultants.

This Minister has embarked on one of the most scurrilous and superficial political witch-hunts we have seen in New South Wales politics in recent years. She has misled the Parliament by using a report which is fraudulently labelled. She has abused the principles of natural justice and made deliberate attempts to avoid the requirements of the Independent Commission Against Corruption Act. She has wasted $20,000 of taxpayers' funds to have a flimsy six-page report produced by a supposedly independent consultant, David Landa, who has close professional links to the Minister's chief of staff.

She refused to have the matter investigated by appropriate authorities, who would have seen this for the grubby political exercise that it was. She used a private consultant because had the appropriate authorities reached the same conclusion David Landa reached in his report they would have been compelled to refer the matter directly to the ICAC - the very point she avoided answering in question time repeatedly today. This would have denied the Minister the opportunity to use the report for political purposes as it has been used by this Minister in such a tawdry manner. She and David Landa have therefore denied natural justice to the honourable member for Port Macquarie, and others, by failing to give them the opportunity to comment before the findings were released.

The Minister has also denied the honourable member for Port Macquarie an opportunity to present her case to this House. She has done all of this with the express support - indeed, the instruction - of the Premier. There is only one reason for the political hatchet job which the Minister undertook in this House last week. For the past two weeks the Opposition has embarrassed the Government with questions about the sacking of Des Semple and the resignation of Ken Baxter. We have revealed the deliberate attempt by the Carr Government to remove Des Semple and we have revealed the corruption of the processes involved. We have exposed the abuse of the standard accountability processes by the Premier in his sacking of Des Semple. We have revealed the extraordinary movements of the Premier's chief of staff, Bruce Hawker, and Gerry Gleeson, in

removing documents from Ken Baxter's office while he was in Melbourne. The sacking of Des Semple is now the subject of a full ICAC inquiry, which is starting to bear out the allegations which we raised in Parliament. The Government is noticeably edgy about this inquiry. Labor members of Parliament have lost faith in their Premier and are actively scouting around for an alternative. The Minister for Police is, of course, breathing down the Premier's neck.

The Premier has been desperate for a diversion, particularly on 23 April when he woke up to the headline "Premier to face ICAC". That is the reason for the attack by the Minister for Fair Trading, as opposed to fair debating, on 23 April. It was an attack based on rumour, innuendo and fraudulently labelled material obtained by breaking every convention in the book. It was a distraction that smacks of the desperate bucket jobs of the Unsworth Government's last days in office. This will be as successful for Bob Carr as "Fontana Films" was for Barrie Unsworth. The role of David Landa as the author of the report tabled by the Minister in Parliament last week demands attention. The Opposition believes that Mr Landa stands equally condemned with the Minister for Fair Trading. In the first paragraph of his report, David Landa says it is "strictly confidential" and "should not be copied or republished in any form to any person other than the Minister and her immediate staff or to the staff of ICAC without my express permission". In other words, David Landa gave his express permission for the report to be used for a

political smear campaign in this Parliament. It is disgraceful that a former Ombudsman of New South Wales would advocate such an approach. As he knows full well, the Independent Commission Against Corruption Act requires the Ombudsman to refer any suggestion of corrupt conduct, as inferred in Mr Landa's report, directly to the ICAC. Yet, David Landa was prepared to abandon the principles he was obliged to comply with as Ombudsman in this instance.

In doing so, David Landa lent his full support to the political hatchet job undertaken by the Minister for Fair Trading. His willingness to be used as a hired gun seriously erodes any credibility he enjoys as a private, non-partisan consultant. David Landa's report has several serious flaws. The most serious is the fraudulent use on the cover of the report of the name of the legal firm, Phillips Fox. David Landa is a part-time consultant to Phillips Fox, but not for the purposes of this exercise. Nevertheless, Mr Landa used the name of Phillips Fox in the report in a desperate attempt to give it legal credibility. He dressed up his shabby collection of hearsay, smear and innuendo, wrongly using the name of a prestigious Sydney law firm. I have here a letter from Phillips Fox, dated 24 April, making it quite clear that Mr Landa did not undertake this report for the firm, nor in any capacity as a consultant to the firm, and the Minister knows it. The letter says:

> The document which was tabled in NSW Parliament yesterday was not prepared by Mr Landa in his capacity as consultant to Phillips Fox.
>
> Mr Landa has confirmed that the coversheet, which bears the firm's name, was attached to his document inadvertently.

The firm is obviously prepared to give Mr Landa the benefit of the doubt and say the name of Phillips Fox was not used intentionally, whereas the public of New South Wales is not. If that is the case, it certainly amounts to sloppy work on the part of Mr Landa, but it makes a suitable and telling cover for the unprofessional and malicious contents of the report itself. The question also arises about why the Minister failed to advise this House of the so-called error after it was brought to Mr Landa's attention on or about 23 April or 24 April. She has had over a week to advise the House of the error in the report which she tabled on 23 April and which the Premier waved around in this Chamber last week, saying, "This is red hot". You bet it is red hot! It is red hot for the Minister because she is in the gun.

The Minister's failure to do so means she must be censured for misleading the Parliament on this matter, but the sham of this report goes well beyond the cover page. The report's credibility is seriously eroded by David Landa's failure to interview any of the key players, most notably the honourable member for Port Macquarie, who was the obvious target of the inquiry. This amounts to a deliberate denial of natural justice to the central figures in the inquiry. It also breaks the fundamental rules which David Landa was obliged to adhere to as the Ombudsman, but these rules do not count when one is doing a hatchet job for this Minister. All the rules that bound David Landa as Ombudsman went out the window when he started working for this Minister. The rules of natural justice are clearly spelt out in an Audit Office bulletin of November 1995, just five months ago. That bulletin states:

> The systems we have seek to ensure `procedural fairness' or `natural justice' so that no disadvantageous comment about a person should be made public until the person has had a reasonable opportunity to respond.
>
> Any response must then be carefully considered before the report is finalised.

If David Landa did not see those comments from the Audit Office, his memory should have been triggered by a media release issued by the New South Wales Ombudsman in October 1994. In October 1994 the New South Wales Ombudsman was David Landa! The media release refers to conduct unbecoming - the media release of October 1994 when he was Ombudsman! This is what David Landa had to say about natural justice in October 1994:

> In the interests of natural justice, the legislation requires the Ombudsman to give the subject of an investigation the opportunity to comment on his evidence and preliminary findings before finalising an investigation.

However, for this report - commissioned by this Minister, who is now being coached by the Minister for Roads - David Landa totally abandoned the

fundamental principles of natural justice. His failure to interview key people, such as the honourable member for Port Macquarie, means that the report is full of unsubstantiated quotes and references to rumour and local innuendo. Even if this was considered an audit, as the Minister's office has described it, the process breaches all Audit Office guidelines in regard to natural justice.

One of the key questions arising out of this report is why the Minister hired David Landa as a private consultant to conduct an inquiry which should have been referred to the Ombudsman or the Auditor-General. It is unlikely that the proper authorities would have conducted their inquiry in the manner set out by David Landa and the Minister, and therefore would not have reached the same conclusions as Mr Landa. But even if they had, those authorities would have had a duty under the Independent Commission Against Corruption Act to refer the matter directly to the ICAC. This would have prevented the Minister from using the report in Parliament for her own grubby political ends. Even so, the Minister deliberately ignored her own Premier's guidelines on the public reference of matters to the ICAC. Those guidelines state:

> Ministers are also requested to consider whether premature publicity might cause unfair damage to a person's reputation or whether it may otherwise prejudice any subsequent investigation . . .

The Minister must be censured for her abuse of these guidelines. It is clear that the Minister for Fair Trading has played anything but fair in this matter. She has accused the honourable member for Port Macquarie under the guise of a report which has no substance and no authority. She has gone behind all the conventions of public accountability and she has been accompanied by David Landa in that journey. She has cost taxpayers dearly in an exercise designed purely to save the political neck of her Premier. Her actions have brought this House into disrepute. The Minister did not have the courage to engage in debate on this matter. Well, this is the debate she had to have. This Minister, above all others, deserves the censure of the House.

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

Mrs LO PO' (Penrith - Minister for Fair Trading, and Minister for Women) [3.47]: I will take up just a couple of comments made by the Leader of the Opposition. I utterly refute the accusation that I misled the Parliament. Mr Landa is currently working as a consultant for Phillips Fox and that is how he brought in the report, and I tabled it in its form.

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

Mrs LO PO': If Phillips Fox has a problem, it should take it up with Mr Landa. I absolutely refute any fraudulent behaviour.

Mr SPEAKER: Order! I place the honourable member for Lane Cove on three calls to order.

Mrs LO PO': We have had a sliding scale of the cost. Last week the honourable member for Port Macquarie was touting $80,000, it slipped to $60,000 and today it is $20,000. The cost was $10,160.

Mr SPEAKER: Order! There is far too much interjection. The Leader of the Opposition was heard in silence by Government members and I expect Opposition members to listen to the reply from the Minister in silence.

Mrs LO PO': The other accusation made by the Leader of the Opposition was that there was some sort of friendly relationship between David Landa and my chief of staff. As Director of the Royal Institute of Public Administration, my chief of staff held a seminar with David Landa and the Ombudsman on police accountability. It is true that they know each other; they have worked together. The honourable member for Port Macquarie should get her money back because the Leader of the Opposition used this as an opportunity to peddle his latest item of interest, Mr Des Semple. The Leader of the Opposition spent five minutes telling us about the Premier and Des Semple so the honourable member for Port Macquarie should ask the Leader of the Opposition for her money back.

Mr SPEAKER: Order! I ask honourable members to be silent during this very serious debate. The Leader of the Opposition was heard in silence by Government members and I expect the Opposition to reciprocate the courtesy.

Mrs LO PO': Mr Landa was asked by me to conduct a compliance audit; he was not asked to conduct a hearing. He had no legal protection, nor did the witnesses, and he had no powers of a royal commission. It is therefore not true to say that he did not follow the fundamental rules of natural justice which he espoused in relation to hearings whilst he was Ombudsman. It was decided that in accordance with the implied ministerial power that David Landa -

Ms Machin: Who decided it?

Mrs LO PO': I decided it.

Mr SPEAKER: Order! The honourable member for Port Macquarie will cease interjecting. She will have an opportunity to contribute to the debate at the appropriate time.

Mrs LO PO': It was decided in accordance with implied ministerial power that David Landa should be asked by me to conduct this compliance audit. Given the background of management failure in the various sections of the Department of Fair Trading which had been highlighted in an earlier report by David Landa - the honourable member for Port Macquarie does not want to hear about that because that is the next report to be brought

forward - and a later report by Peter Crawford it was apparent that it would not be appropriate for the department to conduct an inquiry into itself. Mr Landa delivered this report to me prior to Parliament on 23 April. Mr Landa authorised me to table the report in Parliament because he was particularly concerned that he had reached a threshold beyond which it would have been unwise for him to conduct further interviews with potential witnesses without lack of protection.

Mr Landa concluded that his report would be referred to the Independent Commission Against Corruption. Whilst I have no obligation under section 11 to report corruption to the ICAC I did so, in accordance with section 10, on 24 April. This matter did not come within the scope of the Ombudsman Act because no individual citizen was involved, and the wrong action could not have been sustained. I would not have referred a matter of possible administrative management malpractice to the Auditor-General to investigate in the first instance. However, it should be noted that the Auditor-General had been briefed on certain matters relating to Mr Baldwin, the Federal member for Paterson - that is another matter.

Mr SPEAKER: Order! I place the honourable member for Wakehurst on three calls to order. If the honourable member attracts my attention again he will be removed from the Chamber.

Mrs LO PO': That is another matter that the Opposition does not want to raise.

Mr Hartcher: On a point of order. I ask that the document from which the Minister read when she

quoted the $10,160 payment be tabled.

Mr Beckroge: On a point of order. That point of order should have been taken at the time the document was referred to. A member cannot ask for the tabling of a document unless it is contemporaneous with what is being discussed.

Mr Hartcher: It is contemporaneous because the Minister is still on her feet. The ruling of previous Speakers has been that if the honourable member had finished then, of course, one could not ask for it to be tabled, but she is still speaking and therefore the request is contemporaneous.

Mr SPEAKER: Order! If an honourable member wishes to have an item tabled, it should be sought to be tabled at the time the matter is under discussion. The Minister has moved passed that and is now discussing other aspects of the censure motion.

Mrs LO PO': Mr Landa was never asked to inquire into the former Minister for Consumer Affairs. He was asked to examine processes and methods adopted by the management of the former Building Services Corporation in relation to the establishment of regional networks of the home building advisory centres. This was particularly important as the Crawford report had indicated some significant administrative failures in the former Building Services Corporation. It was against this background that I sought an independent examination of available facts to determine if the administrative procedures of the department were themselves subject to systemic failures and could impede the reform and restructure of the new Department of Fair Trading.

As soon as Mr Landa became conscious of the fact that the issues under review may have indicated undue influence by the former Minister in the process of site selection, he concluded that a threshold had been reached beyond which it would be unwise for him to conduct further interviews with potential witnesses, including the former Minister. Further, he recommended that the matter be referred to the Independent Commission Against Corruption. I stress that as soon as concerns about maladministration and corrupt conduct became evident I referred the matter to the Independent Commission Against Corruption, as Mr Landa advised. It is obvious that in part Mr Landa's concern related to the fact that neither he nor his potential witnesses had any form of legal protection. I refute utterly the accusation of the Leader of the Opposition that I was misleading Parliament by using the name of the prominent firm of solicitors Phillips Fox in an attempt to give the report credibility. Mr Landa is currently working as a consultant with the firm of Phillips Fox. I employed Mr Landa and all invoices were sent to me on behalf of David Landa Consulting Australia.

Mr Hartcher: On a point of order. The Minister has now referred to invoices which were sent to her by David Landa. It is contemporaneous, and I ask that the documents be tabled.

Mrs LO PO': By leave, I table those documents. The report was provided to me in the form that it was presented to the Parliament. If the partners of Phillips Fox have difficulty with this I believe that they should take it up with Mr Landa. David Landa is a man of great public credibility, discretion and honour. It is indeed an outrageous act for the Leader of the Opposition to imply that his actions are partial and that he was asked to prepare a report for an overtly political purpose. I can assure this House that Mr Landa has not been a member of the Australian Labor Party. There were accusations last week that Mr Landa was a member of the Labor Party and he was a mayor of Hunters Hill. He was a member of the council at Hunters Hill but he was an independent mayor; he has never been a member of the Labor Party. I have the greatest respect for Mr Landa's work and for him as a person and I am aware that he is also held in high esteem in the community.

Mr SPEAKER: Order! I place the honourable member for Upper Hunter on three calls to order.

Mrs LO PO': At no stage did David Landa act in a political way. In fact, in relation to the first inquiry he undertook on my behalf he did so with the blessing and imprimatur of the ICAC. The ICAC

asked for a review to be undertaken of the

corruption, the sexual harassment and intimidation of employees in the Department of Consumer Affairs, which was left in tatters by the honourable member for Port Macquarie. Because these allegations were levelled at the senior executive service, which was not able to conduct an inquiry into its own procedures, we employed David Landa as the former Ombudsman to do that. But that is a story for another day when I will tell the Parliament about the mess that the honourable member for Port Macquarie left behind in the Department of Consumer Affairs. A whole department was on stress leave.

Mr Hazzard: On a point of order. The six-part motion is quite specific. Nothing in the leave of the motion encompasses the matter that the Minister is now addressing. I ask that she be directed back to addressing the motion.

Mr Knight: On the point of order. Censure is the most serious matter that any member of this Parliament can face. On such matters it has been the tradition of the House to allow wide ranging debate. The Leader of the Opposition was allowed to range far and wide. It is typical of the attitude of Opposition members that they will not allow the Minister a fair go to defend herself.

Mr Hazzard: Further to the point of order.

Mr SPEAKER: Order! I have heard enough on the point of order. The motion is not as restrictive as the honourable member would have the House believe. For instance, part 4 of the motion relates to works performed by government agencies. The Minister is in order.

Mrs LO PO': At some point I will bring a full report before the Parliament about why David Landa was employed by me last year to review what was happening in the Department of Consumer Affairs, now the Department of Fair Trading. In that regard the honourable member for Port Macquarie will not come up in a good light either, because certain actions she did not take, certain actions she supported and condoned, certain people she supported, and certain business that she did not get done created an appalling state in the then Department of Consumer Affairs. But that is a story for another day.

There was no partisan advice, misuse of funds or perversion of public process. Mr Landa was a sound choice given his background as a former Ombudsman and his vast experience with matters of public sector management. As is the right of all ministers, I decided that David Landa should be asked to conduct a compliance audit. Mr Landa was paid a total of $10,160.

[*Interruption*]

The honourable member for Wakehurst should catch up with the latest; I have tabled the document. I say to him: wake up, Australia needs you. As honourable members would be aware, the Public Employment Office recently published a document entitled - [*Time expired.*]

Mr TURNER (Myall Lakes) [4.02]: David Landa, hired gun; $1,600 a day to do a dump on the honourable member for Port Macquarie. That is what it was - a political dump. And it has come back to haunt this Minister. The Minister said a moment ago that the report was done by Phillips Fox. That is how Landa tried to dress it up to give it credibility. In fact, the account was payable to David Landa, not Phillips Fox. The Minister has misled the House already in this debate, and that might be worthy of further censure. She said that the accounts were payable to Phillips Fox. I have a copy of that account and it states, "Please pay this bill, Robyn Henderson," and it is dated 22 April. Though the Minister said she got the report on 23 April, she got the bill on 22 April. That is interesting.

It is not as though David Landa had not done such a thing before. David Landa, when Ombudsman, used the Ombudsman's letterhead to castigate a travel firm for some muck-up in his private business. It shows the calibre of the man that he would try to stand over a private travel agency by using

official Ombudsman's letterhead for his own private purposes. The man has no credibility. His report has even less credibility. This report is beyond the pale. David Landa is a Queen's Counsel and former Ombudsman, yet he did not allow natural justice to occur; he did not allow the right of reply.

We heard today from the Leader of the Opposition that natural justice had to prevail. But not as far as Mr Landa was concerned. He was paid $10,000-odd to do a hatchet job. I understand David Landa went to Port Macquarie. Minister, I hope that the bill does not reveal that he did as he did when he went to Forster and Taree as Ombudsman. David Landa flew to Taree, but had his car driven to Taree to meet him off the plane, drive him round Taree to see police, and drive him back to the airport. David Landa then flew home and sent the car back to Sydney. I hope the Minister did not pay for something as silly as that. The man has no integrity, yet he has the temerity to try to dress up the report as being proper and precise. The report is full of innuendo, inference and suggestion. The ridiculousness of the report can be gauged from Mr Landa's need to mention Mr Baldwin. Mr Baldwin was an employee at all relevant times.

Mrs Lo Po': But an interesting one.

Mr TURNER: Mr Baldwin is the Liberal Party candidate who was elected to the House of Representatives. Of what relevance is that to this report?

Mrs Lo Po': A statement of fact.

Mr TURNER: Statement of fact! It is the only statement in the report that is a statement of fact. Yes, Mr Baldwin is a member of the Federal Parliament. Let us look at some of the other statements made in this report:

I was able to obtain one such officer's records at a meeting.

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David Landa managed to find one officer. The honourable member for Port Macquarie has an office in Port Macquarie, and I am sure she would have given David Landa a cup of tea and had a yarn with him if he had knocked on the door. But, no, he did not bother to contact the honourable member for Port Macquarie because that would not have suited Mr Landa - and it would not have suited you, Minister, because it would have revealed the facts and shown that there is no truth in this complaint at all. Other such terminology in the report includes "it is possible to infer" - wonderful legalese. I am glad that he is not acting for me as Queen's Counsel when he uses such terms. Where is the natural justice in that sort of statement? He uses other terms such as "it has been suggested" and "it has been hinted".

Mrs Lo Po': I sent it on to the Independent Commission Against Corruption.

Mr TURNER: The Minister interjects and states that she sent the matter on to the ICAC. Was that on the basis that "it is possible to infer", or "has been suggested" or "It has been hinted"? What wonderful stuff to be sending to the ICAC! I am sure ICAC officers will be pleased that their time is being wasted investigating a reference from an incompetent Minister acting on a scandalous report such as this. Some sort of close relationship has been alleged because the honourable member for Port Macquarie writes a column. So do I. Most country members do.

Mrs Lo Po': Do you wear a swimming costume in your photos?

Mr TURNER: Talking about posing, the Ombudsman has posed. He came and had lunch with me one day, but shot through while we were dining at the table. He said he had to go and move the car. In fact, he went off posing at Channel 10 and bucketed me, then came back and ate his meal and said, "Thanks." He is a shonk. He hides behind words such as "infer", "has been hinted" and so on. This

report is without credibility. The Minister is without credibility, and she deserves to be censured for allowing the Parliament to be abused in the manner in which it has - as does the Premier need to be censured for wandering around and waving this red-hot document. It is a fool's document, and David Landa is seen for what he is. [*Time expired.*]

Mr McBRIDE (The Entrance) [4.07]: What is the problem? The matter was referred to the ICAC, which will resolve the matter. Where is the problem in that? The credibility of the honourable member for Port Macquarie is on the line. The ICAC will test her credibility. Opposition members are happy about the ICAC's investigations into matters involving the Premier and Mr Semple. That is fine, but when it is their turn there is a problem. They should go along to the ICAC and find out what is being said. The honourable member for Myall Lakes felt no embarrassment whatsoever about slandering the former State Ombudsman. He also alleged a close personal relationship between the Minister and the former State Ombudsman.

Mr Jeffery: On a point of order.

Mr SPEAKER: Order! I anticipate the member's point of order. I will be interrupting the contribution of the honourable member for The Entrance a minute before his allotted time expires.

Mr McBRIDE: On Tuesday 23 April the Minister for Fair Trading, and Minister for Women reported on an investigation into the establishment of the Port Macquarie home building advisory centre. That report was by the former Ombudsman. The report went off like a bomb. It was great to watch. It is interesting to note that when the Minister got up to answer the question, 11 points of order were raised - five from the honourable member for Gosford and three from the Deputy Leader of the Opposition.

Mr Photios: Is this all -

Mr McBRIDE: The honourable member should wait. It is coming; it is coming. We have talked about close personal relationships, and I shall talk about a close personal relationship between the honourable member for Gosford and the Deputy Leader of the Opposition. The report refers to a Building Services Corporation officer, the manager of consumer services and the departmental officer charged with the establishment of the BSC advisory centre, Bob Baldwin. Such was the significant importance of this officer that the honourable member for Port Macquarie felt it necessary to totally disassociate herself from him. In her personal explanation she said:

> I can recall no involvement of myself and Mr Baldwin; I was not even aware of his other political interests. I can recall no discussions with Mr Baldwin.

She was saying, "I don't know this guy." The honourable member for Gosford knows that guy very well and so does the Deputy Leader of the Opposition, and we shall come to some other connections between the Liberal Party and -

Mr Photios: Of course we know other members of our party.

Mr McBRIDE: You know them, but apparently the honourable member for Port Macquarie does not. On Port Macquarie radio the following day the announcer asked the honourable member to go back to the start and say why there was an inquiry into Mr Bob Baldwin, now the Federal member for Paterson. The honourable member for Port Macquarie said:

> Well, I think it was the case of he works for the BSC.

Mr Photios: On a point of order. I ask that the honourable member be directed to table the document from which he is reading.

Mr SPEAKER: Order! The member has not quoted sufficient of the document to warrant its being tabled.

Mr McBRIDE: She continued:

> He was a Liberal candidate at the time of the Federal
> Page 668
> election, I don't believe he was when I was minister I didn't know him.

It would appear that she does not know anything about Bob Baldwin. Let us turn to Bob Baldwin, the candidate for Paterson. Back in 1993 -

Mr Photios: On a point of order. Now would be an appropriate time for the member to table the document.

Mr McBRIDE: By leave, I table the document. [*Time expired*.]

Ms MACHIN (Port Macquarie) [4.12]: The Minister deserves the censure of the House. As the Leader of the Opposition said, this is a debate she has to have because the Government has tried desperately to deny the Opposition a say on these matters. The Minister talks about people getting caught. Let us wait until the appropriate authorities interview her and her staff on the way in which she has gone about this issue. The report tabled in Parliament last week, the day after the Minister's chief of staff ordered the bill to be paid, raised serious allegations. I quote a couple of sections from the report, sections that the Minister did not quote in her dorothy dix answer to the House because it would not have suited her agenda.

Mrs Lo Po': Why didn't you ask me a question? You can ask questions.

Ms MACHIN: Opposition members asked the Minister five questions today but she could not answer them. The report states:

> My visit to Port Macquarie provided more areas of unconfirmed relationships between the Minister and the Thompsons. None of these I have attempted to confirm for reasons set out shortly.

Mr Landa did not even attempt to confirm those rumours. The report continues:

> There were many other innuendos of the association, which I do not intend to relate as I did not follow up or confirm or refute those rumours and the innuendos again for reasons set out hereafter. Sufficient to say, however, that the suggestion of a close relationship between the Thompsons and the Minister was very clear and consistent.

No-one central to the report was interviewed in this process, but obviously some people spoke to Mr Landa as he snuck around Port Macquarie at taxpayers' expense. Who were they? Who made these suggestions? Is the Minister prepared to say where Mr Landa got his information? Is Mr Landa prepared to say that, in order to comply with the issues addressed in his press release headed "Conduct Unbecoming"? In that release Mr Landa stated:

> In the interests of natural justice subjects of an investigation should be given the opportunity to comment on evidence in the investigation.

The report talked about Mr Thompson being a close friend. The Minister tried to make that phrase drip with innuendo, which was very unbecoming of the Minister for Women. Mr Thompson is a journalist in my town of Port Macquarie, which is a reasonably small to medium-sized country town. Most local members know their local news media. The report by Mr Landa is wrong in fact. It names this Mr

Thompson as running a weekly newspaper called the *Port Macquarie Express*. Mr Thompson does not own or run that newspaper.

Mrs Lo Po': He used to own it.

Ms MACHIN: Twelve or 14 years ago, according to the current owners. He now owns an entirely different magazine. The report says that this was an inappropriate location, yet there is no evidence of Mr Landa going out to that particular site. He says that the site is five kilometres from town; it so happens that the site is in the heart of all building suppliers at Port Macquarie, servicing an area up and down the mid-north coast -

[*Interruption*]

Mr Landa has never been regarded as a reasonable person. For this report Mr Landa sneaked around town, interviewed secret characters, did not visit the site of which he is so critical, and then came back to say that the site was in the wrong place. In fact, the site is in the right location; it is in the heart of all building suppliers. The cosy relationship between the Minister and Mr Landa, as she is going to tell us at a later stage, obviously continues. Mr Landa has already been paid $19,400 - conveniently under the $20,000 threshold, above which three quotes are necessary. It is hardly surprising that his bill, at such a reasonable rate, came in for payment before the report was received. The worst aspect is that this Minister of the Crown with significant powers commissioned a secret report involving a number of people not involved in government, innocent people who are trying to get on with their lives.

This is a Star Chamber exercise. I am more than happy to go to the Independent Commission Against Corruption about this. The commission will question the Minister and her staff about this matter. Opposition members look forward to pursuing the issue of public administration in this State in a number of ways. We have a lot more information to come out on the matter and we look forward to pursuing it. This is a witch-hunt that started out at taxpayers' expense to try to get a Federal Liberal candidate off the rails. It was then expanded deliberately, with the complicity of Mr Landa, to suit the political agenda of the Premier and the Minister.

Ms MEAGHER (Cabramatta) [4.17]: I reject the censure motion, which is nothing more than a beat-up and a smokescreen to cover the honourable member for Port Macquarie's butt. The report is a sad indictment on management practices within the department. There has been all sorts of help to protect the honourable member for Port Macquarie. In fact the Leader of the Opposition in speaking to the censure motion has lied to the House. He has

misled the Parliament. He said that the commissioning of this report -

Mr Cochran: On a point of order. I ask that the member be asked to withdraw her statement that the Leader of the Opposition lied to the Parliament. Unless she is prepared to put forward a substantive motion to that effect, she should be asked to withdraw.

Mr SPEAKER: Order! The honourable member for Cabramatta did not say that the Leader of the Opposition is a liar. She said that he has lied to the House. That form of words has been accepted in debate.

Ms MEAGHER: I am prepared to tell honourable members how the Leader of the Opposition has misled the House. He said in the Chamber that the commissioning of the report was contrary to all parliamentary history and practice. Under the former Government, section 48 of the Public Sector Management Act allowed for a review of management practices within the whole of a department or part thereof by a Minister. Subsection 48(3) of that Act allowed the Minister to appoint an authority to carry out the management review on her behalf. The Leader of the Opposition has deliberately misled the House about the practice with these kinds of management reviews, which is a very sad indictment of the

Opposition and shows the depths to which it is willing to stoop.

The Public Sector Management Act was subsequently reviewed, of which the Leader of the Opposition should have been aware as the section relating to Ministers was ultra vires the Constitution. However, as the Minister has already pointed out, she still has the power to conduct these reviews within implied ministerial responsibility. The next level to which the Opposition stooped in trying to protect the honourable member for Port Macquarie was to impugn David Landa's character. The former Ombudsman was regarded as of fit and proper character by the ICAC as it approved his recommendation to carry out the investigation. I refer to correspondence from the Independent Commission Against Corruption to the Minister which read:

> I refer the matter to you under section 53 and 54 of the ICAC Act to refer the matter to you as the Minister for investigation.

It was good enough for the ICAC to tell the Minister to carry out the investigation. The correspondence continued:

> A report was required on the outcome of the investigation, and that report was to be provided to the commission.

That was done and the Minister followed fit and proper practice. Further, the ICAC wrote to the Minister and said that it was with the commission's concurrence that Mr David Landa was appointed to conduct an independent inquiry into the matters raised. That demonstrates that provision exists for the Minister to carry out this kind of review of management practices. The allegations were there and should have been sent to the Independent Commission Against Corruption for full and proper investigation. If the member for Port Macquarie feels that she has been hard done by, she should tell that to the ICAC commissioner. In rejecting the comments of the Leader of the Opposition who sought to deliberately mislead the House on the status of this type of investigation, I urge the House to reject the censure motion.

Mrs LO PO' (Penrith - Minister for Fair Trading, and Minister for Women) [4.22], in response: I shall refer to a number of false points which were bandied around in this debate. Some Opposition members have told members of the press gallery that David Landa was a Labor mayor of Hunters Hill, but David Landa has not been a member of the Labor Party for the last 35 or 40 years. He was the Mayor of Hunters Hill - that part was right. The other lie which we need to put to bed was the comment that I should have referred the matter to the Independent Commission Against Corruption under section 11. That is not true. It goes to the ICAC under section 10.

The member for Port Macquarie said, "Why was the matter not given to the Ombudsman?" Ombudsmen do not do compliance audits. The worst aspect of this matter is that although the member for Port Macquarie feels somewhat injured by this matter, the Leader of the Opposition moved censure against me. The member for Port Macquarie spoke for five minutes, and the Leader of the Opposition may speak for 25 minutes in this debate. Either the member does not have the courage of her convictions, or she does not know how to defend herself.

Mr Hazzard: On a point of order. The motion is a censure of the Minister, not a censure -

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

Mrs LO PO': The honourable member for Port Macquarie, who feels under incredible threat, passed the ball to the Leader of the Opposition in an attempt to get away with this action. I was looking forward to her contribution. She created a barney about not having the opportunity to debate this issue, yet with the opportunity to move the motion and speak for 25 minutes - 15 at the beginning and 10 minutes in reply - she squibbed and spoke for five minutes. The member is not fair dinkum; if she were, she would have taken the running on this debate. The Leader of the Opposition used this debate as an

excuse to do a little Premier bashing, as he is prone to do. Instead of keeping to the issue at hand, he branched off onto Premier bashing. The honourable member for Port Macquarie did not want to use 25 minutes to defend herself; therefore, any suggestion that she needed time to defend herself is absolutely ludicrous.

Ms Machin: Defend yourself.

Mrs LO PO': I can defend myself. Clearly,

the honourable member for Port Macquarie left behind an appalling set of circumstances. She left behind unaddressed matters at the Building Services Corporation, and she left people totally aggrieved. She left issues unaddressed at the former Department of Consumer Affairs. The new Government moved in and conducted a couple of inquiries, and the member screams about it. The honourable member for Port Macquarie was Minister for Consumer Affairs for two years, in which time she introduced a total of four pieces of legislation. She was a totally incompetent Minister. She was referred to as Snow White because she could be snowed about anything! She has the audacity to censure me because I caught her in the act of doing something which she clearly knows was not right.

The former Minister presided over the Building Services Corporation, which did not deal with community grievances. People were ringing my office in my first weeks in the portfolio saying, "All we want to do is meet the Minister, but the former Minister refused to allow that." She turned her back on the people to whom she was meant to provide services. She was a Minister for Consumer Affairs who did not care about consumers! Also, the former Department of Consumer Affairs was in an absolute shambles, which this Government has been working steadily to clean up. The former Minister wrote in the department's last annual report that she was satisfied with the management of that body, yet chaos reigned in the department. Senior executive service people did not know that a memorandum had been distributed around the public service regarding part-time work and flexitime, and women in the department were disadvantaged because senior people chose to ignore orders from the Public Employment Office. The Minister supported that approach, and wrote in the annual report that she thought it was a very good thing.

Ms Machin: Where is your evidence?

Mrs LO PO': The member should look at the annual report.

Mr SPEAKER: Order! I place the member for Monaro on three calls to order.

Mrs LO PO': I now outline for members the chronology of what happened at Port Macquarie. On 12 August 1994 a progress report was released indicating that a site was to be secured for a home building advisory centre. On 2 September the honourable member for Port Macquarie, the then responsible Minister, opened Mr Thompson's Port Macquarie building information centre. Somewhere, the member for Port Macquarie said that she did not do that. But she did. On 7 September a decision was to be made on whether the location of the Port Macquarie office should be at the Port Shore Settlement Centre or in an adjacent building. Therefore, two places in Port Macquarie were being considered as locations for the Home Building Advisory Centre. What happened? Out of the blue a third site appeared. No documentation can be found for this site, and people could not understand approaches by the department about the other sites because one place was unavailable and another was not taken seriously. These were shams to cover up what the then Minister intended to do all along: to place the centre where her friend was.

Ms Machin: In the last three years 7,000 people went there.

Mrs LO PO': The officers of the department were so concerned about this that they took photographs of the two locations on a Saturday and Sunday. The Jindalee Road site had no consumers

on the Saturday, and many consumers attended the other site which should have been chosen. On the Sunday one family visited the Jindalee Road site, and the other site was very busy. So the officers of the department were very suspicious. The site was out in the boondocks - where the builders are. The advisory council gives people advice.

Mr Chappell: Have a look at it.

Mrs LO PO': I have been to building advisory councils, and they give advice. They do not have to be there with the roofing, the tiles and the windows. People sit down and get advice. The member for Port Macquarie has put her head in a noose. She was saying with some sort of flourish -

[*Interruption*]

Mr SPEAKER: Order! The member for Lane Cove is on three calls to order and if she attracts my attention again she will be removed from the Chamber.

Mrs LO PO': The member for Port Macquarie actually said -

Mr Hazzard: On a point of order. This is the opportunity for the Minister to respond, not to raise new material. She is now raising new material.

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

Mrs LO PO': The member for Port Macquarie in one of the interviews very proudly said, "And the place out at Jindalee was half the price of the one in town." Anybody who knows anything about property would know that if it is half the price it means it does not have a very good locale. It does not have the consumer rates that the other one has. So did it not occur to you, if you were getting -

Mr SPEAKER: Order! The Minister will address her remarks through the Chair.

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Mrs LO PO': It would occur to anybody that if you are getting the rent for half the price you are getting half the deal. But this member thought that it was very clever to go out into the boondocks. The consumers do not go out there. We have photographic evidence to prove that they do not go out there, and any suggestion that it is very well frequented is just ludicrous. The photographs show that there were no consumers out there one day and that on another day there was only one family of consumers. Yet the former Minister decided that this highly used service should go out in the boondocks where there were no customers. She has a lot to answer for. It is ludicrous to locate an advisory council five kilometres out of town. [*Time expired*.]

Mr COLLINS (Willoughby - Leader of the Opposition) [4.32], in reply: Where are the frontbench colleagues of the Minister for Fair Trading, and Minister for Women? Where are the heavyweights coming in to defend her? Where are the backbench government members? Even they are not here; only the teachers' friend from Fairfield. It is good to see the honourable member for Heffron present in the Chamber. She is waiting in the wings. It is just a matter of time until she is back on the frontbench. We have seen this terrified Minister before the House this afternoon clutching her script and not moving away from it, just reading the words over and over again. She works on the principle that if one reads out the words often enough they will come true. What a pathetic performance by the Minister in question time and in this debate. She is undefended. She is deserted by her colleagues. It does not matter how many times she reads out the words, she is an embarrassment.

The situation reminds me of an item on television a couple of weeks ago about an IRA bomber on his way to plant a bomb, and the bomb he was carrying blew up. I think it was the honourable member

for The Entrance who said that last week there was a bombshell in the House. Yes there was, and it went off today and it blew up the Minister. After preliminary inquiries revealed that there was absolutely nothing to these flimsy, paltry allegations most politicians would have backed off. But not this Minister. Why? Because she had invested her $10,000, spent it on David Landa, and it did not matter what the report said or whose letterhead the report was on; she was going to table it.

She said, "So what? It was not really by Phillips Fox but that is a problem for David Landa." It is a problem for the Minister. She has misled the Parliament. She has the name of one of the State's most reputable law firms on the document which she tabled, thereby misleading the Parliament. This is a fraudulent use of the name of a reputable firm of solicitors and she knows it. No, this is not a problem for Mr Landa, it is a problem for the Minister because she has misled the Parliament with the document. It is patently false. She did it deliberately to dress up this paltry report.

Let us talk about the content of the report. The Minister said, "This was not a report into the honourable member for Port Macquarie; this was a report into building advisory centres." What does one get for $10,000 with David Landa and the Minister? Six or seven pages. No-one would want to try to work out a policy on building advisory centres using this pathetic, flimsy, malicious phial of political poison, which is all this document is. When the Minister got the document, the Minister did not have the common sense to call David Landa in and say, "Hey, look, I think we have overpaid you for this, David. Just between us, why do we not forget about it? Do not mention you have done this report to anyone." Not the Minister: she was going to use the report no matter what. Why? Because the Premier said, "You get out there and get this report up and running. We need a distraction. We need a smokescreen." She is not the Minister for Fair Trading; she is the Minister for smokescreens. She has tarnished her reputation and an important ministry. It has a small budget but it is very important. It has important traditions.

The Minister for Fair Trading, previously known as the Minister for Consumer Affairs, was meant to be a pretty straight sort of politician, to set standards for consumers, to set standards of truth and accountability. She has dragged the reputation of the consumer affairs ministry, now known as fair trading, into the gutter. There have been some very proud bearers of the title of Minister for Consumer Affairs. One has to ask whether this is the sort of thing that Syd Einfeld would have done. He would not have traduced his reputation. He would not have been so stupid as to take a dump like this, run with it and not know when to back off. He was smarter than that. The honourable member for Bathurst knows that. He remembers Syd Einfeld in this Chamber being a bit quicker on his feet than the Minister. He was not as confined to his script as the Minister is.

The Minister tabled accounts to David E. Landa. Why did she not just come into the Chamber and say, "I plead guilty. I misled Parliament"? She should have said, "The Opposition has a good point: I did mislead Parliament. I am sorry that I did not tell Parliament a week ago when I first discovered this." Instead she said, "Oh well, that is not my problem; that is David Landa's problem, and here are his bills", proving that it is David Landa's problem. The accounts are payable to David E. Landa. There is a note from a Ms Robyn Henderson of the Minister's office.

Of course, Robyn Henderson is the Minister's Chief of Staff and a former member of the Australian Labor Party in the Australian Capital Territory Assembly. She said, "Please ensure this bill is paid." It is worth remembering that David Landa personally appointed Ms Henderson to a committee he established while he was Ombudsman. It all comes together. They are one big happy

family over there; if one is not born into the family, one is in deep trouble. The Minister paid Mr Landa nearly $20,000 - $19,468 - in the past year for other consultancy work. Now $10,000 has been paid for a seven-page fraudulent report, the so-called Phillips Fox report, which they say they knew nothing about - they had absolutely no idea about this report! The reputation of a former Ombudsman has been brought into great disrepute by this Minister using the Ombudsman for an overt political witch-hunt: that is all it was. This was not a fair dinkum inquiry, it was not an inquiry into the building advisory services - it was a

political witch-hunt. The brief to David Landa was: go out and get some dirt on the former Minister; if you have to embellish it or cut a few corners, that is the way it goes, do it. That is why David Landa was used and that is why the Minister did not use the director-general of her department. That is the truth of this matter. It does not matter how many times she reads out that flimsy piece of paper, this Minister will be remembered for what she has done.

Mrs Lo Po': I hope so.

Mr COLLINS: She hopes so. She hopes it is the truth. She might also go beyond the single-page script and try to answer the odd question without having to rely repeatedly on the single A4 page - her lifeline to her fading credibility. It is about time the Government stopped using the Independent Commission Against Corruption, the Ombudsman and the police in the way it is using them in this Chamber, or used them with meaning. If the Minister has been chasing the wrong lead she should have the intelligence to back off and admit her mistake. The Minister should try to get away from her mistakes and learn from them. This Minister has been a disgrace in bringing this matter before the House, and she should be censured. [*Time expired*.]

Question - That the motion be agreed to - put.

The House divided.

Ayes, 39

Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Chappell	Mr Phillips
Mrs Chikarovski	Mr Photios
Mr Cochran	Mr Richardson
Mr Collins	Mr Rixon
Mr Debnam	Mr Rozzoli
Mr Ellis	Mr Schipp
Ms Ficarra	Mr Schultz
Mr Fraser	Mrs Skinner
Mr Glachan	Mr Slack-Smith
Mr Hartcher	Mr Small
Mr Hazzard	Mr Smith
Mr Kinross	Mr Souris
Dr Macdonald	Mr Tink
Ms Machin	Mr Turner
Mr Merton	Mr Windsor
Ms Moore	*Tellers*,
Mr O'Doherty	Mr Jeffery
Mr O'Farrell	Mr Kerr

Noes, 45

Mr Amery	Mr McManus
Mr Anderson	Mr Martin
Ms Andrews	Ms Meagher
Mr Aquilina	Mr Mills
Mrs Beamer	Mr Moss
Mr Carr	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori

Mr Debus	Mr E. T. Page
Mr Face	Mr Price
Mr Gaudry	Mr Rogan
Mr Gibson	Mr Rumble
Mrs Grusovin	Mr Scully
Ms Hall	Mr Shedden
Mr Harrison	Mr Stewart
Ms Harrison	Mr Sullivan
Mr Hunter	Mr Tripodi
Mr Iemma	Mr Watkins
Mr Knight	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	*Tellers*,
Mr Lynch	Mr Beckroge
Mr McBride	Mr Thompson

Pairs

Mr Armstrong	Ms Allan
Mr Cruickshank	Mr Knowles
Mr Humpherson	Mr Markham
Dr Kernohan	Dr Refshauge

Question so resolved in the negative.

Motion negatived.

CONSIDERATION OF URGENT MOTIONS

Ovine Johne's Disease

Mr AMERY (Mount Druitt - Minister for Agriculture) [4.50]: The House is being asked to determine whether the motion for urgent consideration relating to the impact of ovine Johne's disease on sheep flocks in New South Wales, of which I gave notice today, should receive priority over a motion, notice of which has been given by the Opposition, relating to the sale or melting down of firearms presently on issue to New South Wales police as a result of a recent announcement by the Minister for Police that new firearms would be purchased for the Police Service. I submit that the issue of ovine Johne's disease should be placed on the public record because it is a growing problem within rural New South Wales. The disease, as I will outline more fully should the House grant this motion priority, was first detected in 1989 on 16 properties in this State. By last year that figure had increased to 100 properties and today sheep flocks on more than 100 properties may be affected by the disease.

The disease was first located in the central

west and has spread throughout New South Wales. I believe I should place on record the extent of the problem and what the Government, working with industry, intends to do to eradicate it. Further strengthening the Government's case for priority is the fact that a number of misleading statements have made about the disease, including reference to the impact that Government policy could have on the spread of this disease. Statements have been made in the media. Of particular note have been comments in rural newspapers and statements in the Legislative Council by the Leader of the Australian Democrats attempting to tie this disease to the Government's decision about rationalisation of veterinary laboratories.

A number of comments have been made by various rural spokespersons about inertia on this issue. A proper debate of the issue will show just who was responsible for the inertia, and that for quite some time there has been not so much neglect but a lack of action by governments - not this government - to actively address the problem on behalf of the farmers of New South Wales. With those comments I submit that this very important motion should receive priority today, rather than the Opposition's motion, which I believe could be best handled by way of a question on notice or a question without notice.

Police Service Updated Weapons Supply

Mr TINK (Eastwood) [4.53]: I believe my motion deserves priority over that of the Minister for Agriculture because it would allow the House to fully examine the comments of the Minister for Police in the House on 18 April that, in order to reduce costs associated with the purchase of new weapons for the Police Service, tenderers have been asked to indicate any trade-in arrangements they can provide in respect of current weapons. It is urgent that this House debate the fact that the Minister for Police would at any time consider trading in 13,000 revolvers. It is urgent that the House debate the fact that the Government would at any stage consider putting on the market more than three times the number of revolvers surrendered during the gun amnesty referred to by the Premier yesterday. The matter is urgent because the revenue that would be obtained from such a trade-in is out of proportion, in terms of its consequence, to what would happen if these guns were on the market.

The matter is urgent because the Government, contemplating these guns being on the market at any time, could not have ruled out the possibility that one or more of these weapons could have been used, with tragic irony, to kill a police officer; or, more generally, that a number of these weapons might have been used in illegal activities in other countries. According to the Premier's statement yesterday, under the trade-in deal the Government would receive revenue of about $750,000, more than the approximate $500,000 spent on the gun amnesty.

I attempted to raise this matter of public importance on both 23 April and 30 April, without success, and it has been proposed as a matter of urgency today. It is of more than passing coincidence that in conjunction with my motion for urgent consideration today the Minister for Police has made an announcement that the Government will forego the trade-in. However, very important questions remain for the urgent consideration of this House. How could the Government have contemplated trading in 13,000 hand guns? How could the Government have contemplated allowing 13,000 hand guns to come on to the market? How could the Government have contemplated holding out for about $750,000 when that trade-in would put on the market more than three times the number of guns surrendered during the amnesty? The matter is urgent because we must explore the reason the Minister put this proposal to the Parliament in the first place and why the Government's change of heart has not been explained to the House.

The Minister for Police owes the Parliament an explanation for his change of heart. What has occurred since 18 April to change his mind? This is not something that can be done by issuing a press release; it is a matter that this House deserves to hear about and to have on the record. The only matter on the record at the moment is the Government's plan to trade in the weapons. We are only four days on from the Tasmanian massacre, and the Minister should explain his actions to the House: a motion for urgent consideration is the appropriate way to do that. The ultimate tragedy would occur if one of the weapons traded in were used to kill a police officer. If the trade-in goes ahead, It is reasonable to expect that such a tragedy could occur in the future. I am pleased that the Minister for Police has had a change of heart, but it is of the utmost importance that he explain to this House why this measure was ever contemplated in the first place. For that reason I believe this matter should be granted priority.

Question - That the notice for urgent consideration of Mr Amery be proceeded with - put.

The House divided.

Ayes, 44

Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Mr Moss
Mrs Beamer	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Debus	Mr E. T. Page
Mr Face	Mr Price
Mr Gaudry	Mr Rogan
Mr Gibson	Mr Rumble
Mrs Grusovin	Mr Scully
Ms Hall	Mr Shedden
Mr Harrison	Mr Stewart
Ms Harrison	Mr Sullivan
Mr Hunter	Mr Tripodi
Mr Iemma	Mr Watkins
Mr Knight	Mr Whelan
Mr Langton	Mr Yeadon

Mrs Lo Po'	
Mr Lynch	*Tellers*,
Mr McBride	Mr Beckroge
Mr McManus	Mr Thompson

Noes, 38

Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Chappell	Mr Phillips
Mrs Chikarovski	Mr Richardson
Mr Cochran	Mr Rixon
Mr Collins	Mr Rozzoli
Mr Debnam	Mr Schipp
Mr Ellis	Mr Schultz
Ms Ficarra	Mrs Skinner
Mr Fraser	Mr Slack-Smith
Mr Glachan	Mr Small
Mr Hartcher	Mr Smith
Mr Hazzard	Mr Souris
Mr Kinross	Mr Tink
Dr Macdonald	Mr Turner
Ms Machin	Mr Windsor
Mr Merton	
Ms Moore	*Tellers*,
Mr O'Doherty	Mr Jeffery
Mr O'Farrell	Mr Kerr

Pairs

Ms Allan	Mr Armstrong

Mr Carr	Mr Cruickshank
Mr Knowles	Mr Humpherson
Mr Markham	Dr Kernohan
Dr Refshauge	Mr Photios

Question so resolved in the affirmative.

OVINE JOHNE'S DISEASE

Consideration of Urgent Motion

Mr AMERY (Mount Druitt - Minister for Agriculture) [5.05]: I move:

That this House notes as a matter of urgency the impact Ovine Johne's Disease is having on NSW sheep flocks and the measures being take to counteract the disease.

I thank the House for giving this matter priority this afternoon. This matter is urgent because ovine Johne's disease is a chronic intestinal disorder of sheep caused by a tuberculosis-like bacteria. The disease spreads slowly through flocks once introduced, normally causing between 2 and 5 per cent and sometimes as high as 15 per cent annual mortality in older sheep once established. The disease is incurable in individual sheep. The only reliable method of eradication from flocks is by de-stocking, followed by spelling of pastures for at least two summers before reintroducing sheep to those pastures. Ovine Johne's disease is particularly difficult to diagnose and there is no suitable diagnostic test at this stage. Diagnosis is usually by examining the intestinal tract of sheep after slaughter. At the present time the disease has been diagnosed on about 100 properties, the majority of which are located in the Central Tablelands. However, the industry is concerned that an even larger number of properties are effected because of the uncertainty of what may happen to property owners and farmers once their sheep have been diagnosed as suffering with this disease. Extension of the disease to Goulburn, Albury and Young from its original area of Bathurst and Carcoar has caused increasing concern in the sheep industry.

Currently where infection is diagnosed on a property the owner is advised that the stock can only be sold for slaughter and not for restocking or breeding purposes. This places a financial burden on our sheep industries and particularly on sheep stud breeders. In order to protect our susceptible sheep flocks, restrictions have been placed on movement of sheep from at-risk areas. At a meeting of industry representatives in late 1995 it was resolved that there was a need for concerted and coordinated industry action to prevent the spread of the disease. As a result the industry has formed a steering committee chaired by Mr Peter Merton who is also the chairman of the State Council of the Rural Lands Protection Boards.

The committee is representative of all industry stakeholders. The committee is currently developing a strategic plan with proposals for funding disease control, regulatory action to reduce the spread of the disease and a market assurance program for sheep breeders, and strategies and conditions for control of the disease on infected properties. This plan is in its final stages and is due to be released in June this year. The eventual aim is eradication. The Government, through New South Wales Agriculture, is also taking a leading role in the management of this disease, by working with industry to not only determine the extent of the disease but also to reallocate resources to ensure the most appropriate controls are put in place.

On 16 April I announced an active veterinary surveillance program across the State in a bid to control and eradicate ovine Johne's disease. Active surveillance means having technicians, predominantly veterinarians, on the ground sampling animals in a strategic and statistically valid way. Passive surveillance was the main method previously used in New South Wales. Active surveillance can

provide relatively precise information on the disease's presence, prevalence, geography and demographic distribution and trends in the occurrence of the disease. This will assist the industry steering committee to fine tune strategies for control and eradication.

Whilst active surveillance can be more expensive than passive surveillance, it is justified given the extent of this debilitating disease and its impact on our industry. Under the recent General Agreement on Tariffs and Trade, GATT, there is increased emphasis on active disease surveillance to support claims of area disease status in the international market place. Passive surveillance, though supplying supporting evidence, is no longer

sufficient data to be relied on in all circumstances. Active surveillance is becoming increasingly important in this area of international trade. Similar programs are also in place for the ovine footrot strategy and the cattle tick program.

In order to further enhance the protection of our sheep and wool industries I have also very recently announced New South Wales Agriculture's Orange regional veterinary laboratory as the new State centre of excellence for sheep disease investigation. Research is currently being undertaken at the regional veterinary laboratory at Orange into improved flock diagnostic tests. With the assistance of the research and development corporations, more resources have been allocated to ensure that the enzyme linked immunosorbent assay test, ELISA - a reliable flock diagnostic test - is expedited.

New South Wales Agriculture has appointed a State ovine Johne's disease coordinator, Mr Laurie Denholme, who will liaise with industry and will further develop policies and strategies to achieve our goals of disease containment and eradication. Discussions are being held with research and development corporations regarding the research priorities. Industry priorities are also being considered, including the length of time the organism will survive on paddocks. Quality or market assurance schemes will subsequently be developed as soon as there is confidence in a flock diagnostic test. New South Wales Agriculture staff will liaise closely with interstate staff to minimise the effect of movement restrictions on the New South Wales sheep industry. Other States are closely watching the strategies that have been developed in New South Wales to ensure that the national herd is adequately protected.

It is important that research regarding a disease such as Johne's disease has support and commitment from all in the industry. The industry recognises the need to work collectively and cooperatively on this issue and ensure minimal impact on and financial loss by primary producers. As I said in debate earlier today when arguing that this matter should receive priority consideration, there has been much comment in regional media and in speeches delivered by members in this Parliament. Those comments and speeches have caused uncertainty in rural areas about what is being done about this disease. In fact, there are claims that very little is being done about Johne's disease.

On 16 April the Hon. Elisabeth Kirkby in a speech in the upper House implied that the State sheep flock had been put at risk through the closure of the veterinary laboratories at Wagga Wagga and Armidale. Clearly, when the honourable member made her statement she was not aware of initiatives to nominate the Orange veterinary laboratory as a centre of excellence for sheep disease. The Orange veterinary laboratory will be critically involved in the testing of samples from sheep in Johne's disease at-risk areas. That initiative, along with active surveillance initiatives and the pending development and use of the ELISA test to accurately diagnose samples, should allay any fears that the honourable member may have had that the Government was not acting responsibly in respect of the management of Johne's disease.

When I argued in the earlier debate that this matter should be given priority I said that Johne's disease has been a problem that had been identified by the sheep industry quite some time ago. In fact, in 1989, one year after the former coalition Government came to office in New South Wales, some 16 properties were identified as having sheep suffering from Johne's disease. Issues were raised in the press, and farmers made representations, but like so many issues that were found to be in the bottom

drawer when Labor came to office in April last year, there had been no action whatsoever by the previous Government to tackle Johne's disease. That inaction led to a lack of confidence within the wool and sheep industry in what governments were doing about this problem.

As a result of inaction by the former government, the number of properties that were identified as being infected had increased from 16 in 1989 to at least 100 by the time Labor was elected to office. I repeat, that is only an estimate of the number of affected properties. It can be seen that the disease has spread dramatically in that short period of time. The previous Government really stands condemned for doing so little - even saying so little - about Johne's disease in the period since 1989, when the disease was identified.

I am pleased to put on the record what this Labor Government has done. It has been at the forefront in so many other matters that had been stashed away in the bottom drawer and not dealt with until I became Minister. I refer to initiatives like the Helix assistance package to assist our meat industry, reform of our veterinary laboratories and decentralisation of research bodies. One of the dividends to be paid from the restructure of our agriculture industry will be the cooperation and support of the sheep and wool industries for the Government's attempts to make sure we completely eradicate Johne's disease before it becomes a national problem. At this stage it is perhaps fortunate that the disease has been confined to this State. [*Time expired*.]

Mr SLACK-SMITH (Barwon) [5.15]: The Opposition shares the Government's concern about Johne's disease and its rapid spread throughout central and southern New South Wales. But why did the Minister not think about this problem before he closed the veterinary laboratories at Armidale and Wagga Wagga? It can be seen now that the chickens are coming home to roost; a $3,000 million sheep industry is being put at risk as a result of the spread of this disease. Johne's disease was first detected in 1981 in New South Wales.
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Previously, it had been detected in New Zealand. At this stage Johne's disease has been restricted to cooler climate regions of the State. I refer to the central tablelands and the area on the border of Victoria. I believe it will not be long before the northern tablelands and New England areas will also be affected by this disease.

I would like to refer to a statement on Johne's disease by Dr Denholme, technology coordinator of the New South Wales Department of Agriculture. He is reported by the *Land* to have said that at this point the disease has been detected on 110 New South Wales properties and one property in Victoria, but that it would be realistic to expect, having regard to the inaccurate testing that has been carried out, that more than 500 properties and more than a million sheep could be affected in New South Wales and Victoria.

Johne's disease affects lambs through to older sheep. But the symptoms of the disease can only be seen when sheep are two and three years old, that is, when they are two- and four-tooth sheep. Therefore until sheep become four-tooth we cannot tell whether there are diseased sheep on a property. Johne's disease is a notifiable disease, which means that by law property owners must report its existence to their local rural land protection boards. The trouble is that the ELISA blood test, as the Minister said, is the only test that can be carried out to test for the presence of the disease, and that test is very inaccurate. That is why sheep are tested by the herd; there is an 85 to 90 per cent chance that the test is inaccurate, but if one test comes up positive there is a 50 per cent chance that the disease is present in the herd. The centre of excellence in Orange has been hampered by a lack of staff. Orange still has a research officer position not filled. As I said before, it is obvious that ovine Johne's disease will spread to the northern tablelands yet the Minister has closed the Armidale veterinary laboratories. The cost of sending samples to Orange from New England has been quoted by Australian Regional Airfreight, which is 50 per cent owned by Australia Post, as being approximately $100.

Mr Amery: What? On Concorde?

Mr SLACK-SMITH: That comprises $85 for the consignment and $3.85 per kilogram.

Mr Amery: Via London.

Mr SLACK-SMITH: The Minister has not accepted that and does not appear to believe that those are the correct figures. It is obvious that he is not the Treasurer. Last week 520 ewes at Condobolin fetched $2.20 each. Not many farmers would spend $100 on an inaccurate test when their class 4 aged ewes or 6-tooth ewes, off shears, bring $2.20. Wool is at its lowest price ever in purchasing power. Farmers are not likely to spend $100 to send a test away for a sheep worth $2.20. The Minister has said that the department is in active surveillance.

Mr Amery: Farmers don't send the samples; the vets do.

Mr SLACK-SMITH: I thank the Minister for his wisdom. However, I have sent samples away, with the involvement of the local vet, and I think I know a little more about this than the Minister does. The Minister says that his department is in active surveillance - meaning that the department is looking at the spread of the disease throughout New South Wales and Victoria - it will not be very long before the disease has spread to the northern part of this State and the department is incapable of doing anything about it. The Minister has burnt his bridges and is trapped. He can continue his active surveillance but Opposition members would like some active action.

Mr CLOUGH (Bathurst) [5.21]: The sad thing about this debate is that, instead of giving wholehearted support to the Minister for Agriculture in a matter affecting the sheep and wool industries - particularly where the disease was first noted, just south of my electorate - the National Party joined the Liberal Party in opposition when the question that the matter be accorded urgency was debated. According to the way in which the National Party voted, there was not going to be any debate on ovine Johne's disease. There is not a single member of the National Party in the House now; they have all walked out of the Chamber. Not one of them is interested in Johne's disease.

The disease was first located in a sheep flock near Carcoar in 1980. Carcoar is in the rural land protection board to the south of the Bathurst board. I am pleased that the Minister mentioned Mr Peter Merton as being to the forefront in the attempt not only to restrain ovine Johne's disease but to find a solution to the problem which could have a tremendous effect upon this State's wool industry. It has been proved that the disease is found in various types of livestock, but the strain that affects sheep does not appear to affect other animals. Irrespective of the cost of sending a sample to the Orange testing facility, those involved in the wool industry will meet the price because their livelihood is at stake.

I reject completely the position put forward by the honourable member for Barwon that there is a degree of fault applicable to the Minister for Agriculture for the decisions that have been made. The existence of ovine Johne's disease in Australia has been recorded since 1980. The disease started to spread in 1987, yet when the previous Government came to power it did not do a damned thing about it. It is the actions of people such as Peter Merton who have persisted in bringing the issue before the annual conference of the rural lands protection boards and the New South Wales Farmers Association that have led to this debate. This issue is vital to the wool industry and to the sheep flocks in my electorate. That is where the infestation started and that is where it is manifesting itself more today than it has in the past. We must

grasp the nettle.

I shall put before the Minister a proposal that the Government subsidise any form of testing that has to be carried out if there are costs that are beyond the capacity of the people to pay. There is more at stake than just the few dollars involved in forwarding samples to Orange. The whole of the sheep industry is anxiously monitoring the development of the disease. If ovine Johne's disease is not

controlled, some of the dangers referred to by the honourable member for Barwon will almost certainly take place. It is no good for Opposition members to whinge about the cost of testing and that some of the facilities have been closed. The facility at Orange is capable of dealing with the matter, there is no question about that.

It concerns me that in instances such as this the National Party will not support a sensible move on the part of the New South Wales Government, not because it is ineffective or inappropriate but purely because it has been proposed by a Labor government. The people in the bush deserve better representation. They have had inadequate representation for years. The strange thing is that they never wake up to the Nationals and contrast their approach in the electorate to their approach in Sydney. In the many years I have been a member of this Parliament - and it is 20 years today since I came here - I have noticed that the attitude of the National Party in Sydney and in this Chamber is completely contradictory to the attitude taken in the electorates. [*Time expired*.]

Mr McMANUS (Bulli) [5.26]: For the second time in a week I speak in support of the Minister on agricultural matters. I am astounded that during the contributions made by the previous two speakers not one National Party member has been present in the Chamber - except for the honourable member for Barwon, who made a contribution - to support what the Labor Minister is doing in the bush. The matter is ludicrous. National Party members represent country people yet they voted against debate on an urgency motion to discuss the protection of farmers. They told the people of New South Wales that they would rather discuss something other than a problem with sheep. That is a disgrace. People throughout the State should be told exactly what is going on here. The honourable member for Barwon at least declared support for the Government, although he then launched into rhetoric about veterinary laboratories. This problem was first evident in 1980 and was brought to the fore in 1989. The Labor Party was not in government then; the Liberal-National Party coalition was. The coalition had the veterinary laboratories which Opposition members now talk about so often but it did not use them.

They allowed this disease to spread through the Carcoar, Bathurst and Yass areas, and to spread north, as the honourable member for Barwon indicated. It is no good to say that the Labor Party knows about this problem, that it will be two months before we can do anything about it, or that it will cost too much money. When members opposite had the opportunity to do something for New South Wales farmers, they did nothing. They left it in the bottom of the barrel to which the Minister referred, under the Wendygate file. When this Government dug into the barrel last week, it found the exhibited animals legislation and a host of other matters that had been hidden away for years and that the National Party hoped would not come to the fore. They must come to the fore, and we will ensure that they do.

The Minister's committee, of which I am a member, will ensure that these matters are drawn from the bottom drawer and that farmers of this State receive a fair go. They should not be treated as second-class citizens. Farmers have animals to protect, and if their animals become diseased they would want the Government to rectify the situation. It is crazy that the Opposition does not accept that this is a serious situation. If we do not stop the spread of this disease, we could end up like New Zealand where it is reported that 50 per cent of the country's sheep flock is infected with this disease. We do not want that to happen here. Farmers have enough problems surviving in the bush with issues such as drought.

It is time to stop hiding to support farmers. The spread of this disease throughout our State has to be stopped. Another area that has not been mentioned in this debate, and also needs protection, is Young. The honourable member for Bathurst and the Minister referred to the resources available at the facility at Orange. If we use those resources to carry out testing, we may have a chance with this disease. It about time we got together to ensure that farmers get a fair chance. As I have done in the past, and will continue to do, I support the Minister's initiative.

Mr AMERY (Mount Druitt - Minister for Agriculture) [5.31], in reply: I am responding sooner than I thought I would. The Opposition's lack of interest in this matter has been highlighted by the fact that the

honourable member for Barwon spoke for six of his allocated 10 minutes in this debate. His comments were not supported by one other member of the National Party. This issue affects the sheep and wool industries in this State, yet the National Party made a six-minute contribution to the debate.

The honourable member for Barwon could only grab an old press release and tie the ovine Johne's disease with the veterinary laboratory issue, but the honourable members for Bulli and Bathurst tidied up that argument. In 1989, when 16 properties were identified as being infected with that disease, there were five veterinary laboratories in this State, yet the previous Government saw no benefit in those five facilities. Even if the previous Government had 50 such laboratories, it would still have done nothing. To argue that a certain number of laboratories are required to control this disease is

a red herring - it does not matter whether there are 50 or five such laboratories. The Government will centre the Johne's disease work at Orange, and the provision of samples to Orange will not be a problem as the sheep industry is concerned about this disease and strongly supports efforts to control it. I am confident that the Government will receive the support of the industry. Any sideline debate about the number of veterinary laboratories indicates the lack of preparation by the Opposition on this matter.

The honourable member for Bathurst said that he was first elected to this Parliament 20 years ago today, and I congratulate him on behalf of the House. He came to this Parliament when the Wran Government was elected, and during his parliamentary career he defeated three sitting members, something equalled by no other member in New South Wales and probably throughout Australia. The honourable member for Bathurst indicated - I had already highlighted this - that the Government wanted to give the ovine Johne's disease debate priority today in this House, yet the National Party and country Liberal Party members voted against this motion being debated. Instead, they wanted to debate the melting down of second-hand police pistols, which I did not think was a major issue. We will highlight the Opposition's attitude in country New South Wales.

I am delighted that the member for Bathurst recognised the work of Mr Peter Merton, the Chairman of the Rural Lands Protection Board and chairman of the steering committee considering ovine Johne's disease. I do not agree with all his public comments on rural issues; nevertheless, he has been professional and dedicated in bringing this issue to the fore and applying pressure to the Government. I hope that he will acknowledge that he has had far more success in placing the ovine Johne's disease on the agenda under this Government than occurred during the seven years in office of the coalition Government. I have already alluded to that Government's inertia on problems facing farming communities.

The honourable member for Bathurst concluded by referring to the industry watching developments. I assure the member that the Government will work cooperatively with the industry in introducing new testing procedures, in providing resources to the Orange veterinary laboratory, and in putting in place active surveillance procedures. I thank the honourable member for Bulli - a member of the agriculture caucus committee - for his contribution supporting the Government on this important issue. He highlighted the lack of coalition interest in this matter. When the honourable member for Barwon left the Chamber, not one National Party member remained in the Chamber for the debate.

In 1989, 39 cases of ovine Johne's disease were identified but the veterinary laboratories did nothing, and this shoots down the flimsy argument made by the honourable member for Barwon in that regard. It is important that the Opposition - despite its performance here today - supports the Government in doing all it can to work with the industry to ensure that ovine Johne's disease is promptly dealt with in this State.

Motion agreed to.

BUSINESS OF THE HOUSE

Order of Business

Motion, by leave, by Mr Whelan agreed to:

That standing orders be suspended to permit private members' statements to proceed until 5.45 p.m. and for government business order of the day No. 2 to be called on.

PRIVATE MEMBERS' STATEMENTS

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HELENSBURGH OVAL

Mr McMANUS (Bulli) [5.37]: As a matter of urgency I raise an issue affecting the small town of Helensburgh in my electorate; that is, the requirement for land to be applied to extend the existing oval to facilitate local sporting bodies, particularly the Helensburgh Little Athletics Club, in achieving the long-term goal of attaining their own sporting fields. This acquisition of land would also enable the Helensburgh Thistle Soccer Club to reorganise its activities and move into the main league of soccer, a dream it has had for years.

I discussed this matter last week with most sporting codes in Helensburgh, and it is clear that an investigation is necessary regarding the acquisition of land currently in the hands of the Minister for Land and Water Conservation. I seek the Minister's assurance that an urgent investigation will be undertaken regarding acquisition of land that is in government ownership and adjacent to the existing ovals to be used to extend that sporting facility. Drainage would need to be investigated. Helensburgh oval was developed under a Labor Government many years ago with a proposal similar to that which I am putting forward now. The local coalmine has said that it will make available its mining waste for fill.

As in the past, the community will have input into providing proper sporting facilities for the region. I commend the efforts of the Helensburgh Thistle Soccer Club in seeking its own oval. Little athletics allows young people to participate in sport, and the residents of Engadine and the rest of the Sutherland shire also would benefit from provision of the facilities. I hope the Minister will accede to my request for an urgent investigation into the possibility of acquiring the necessary land. Should a deputation be necessary, I would be happy to address the Minister on the issue. The Minister and the Government will respond to community representations as in the past. I note in particular the work done by sporting bodies in the Helensburgh community and put on record that it is

well recognised in the Parliament. I hope the Government will respond accordingly.

LIFE INSURANCE POLICY STAMP DUTY

Mr SCHULTZ (Burrinjuck) [5.42]: When the Labor Government was elected in March 1995 much was made by the Premier of the need to remove bureaucratic obstacles in the way of small business. I raise an example which is reminiscent of what occurred in the 1860s. I received a letter from a constituent of mine, Mr Geoff Davidson, a Life and General Insurance multi-agent who lives in Adelong. He raised the issue of stamp duty applying to some of his clients. Clients of his, a husband and wife, needed to change ownership of an existing term life insurance policy, which incidentally has no ongoing monetary value, from the wife owning a policy on the husband to a joint-owned policy covering both lives.

Having sent the document to the life office for processing, it was returned with a request for payment of stamp duty on the transfer of ownership. When he asked the life office for details of the method of payment and the amount involved he was told that it could not help much other than saying, "We think it is about $2 but the stamp duties office will only deal with the policyholder." On behalf of his clients he

started investigations. In his correspondence to me he stated that the only government information service is an 1800 number. After two phone calls he was advised that the stamp duty is indeed $2 and that he could not buy a duty stamp at the post office as the transfer document has to be physically embossed and would need to be sent to Sydney with the payment.

Taking everybody's time and expense into account, Mr Davidson claims that there would be little change out of $50 involved in the collection of the $2 stamp duty. In addition, there is the undue delay in updating the insurance of his clients. He asked me to raise the matter with the appropriate Minister, who I would presume is the Treasurer. The most obvious solution would be to assess the duty at zero rather than $2, given the cost of collecting a minimal duty. Should the people of New South Wales live with such an archaic stamp duty system? The present situation is a nonsense. I ask the Premier, representing the Treasurer in another place, to consider this anomalous position.

Duty stamps are not available anywhere in my electorate, certainly not at post offices. This is a classic example of the bureaucratic nonsense which has occurred in government departments for many years. It is not confined to the present Government, but this Government should be realistic and enable people in small business such as Mr Davidson to service their clients efficiently and in keeping with 1996, not 1896.

Pursuant to resolution, debate interrupted.

PAWNBROKERS AND SECOND-HAND DEALERS BILL

Second Reading

Debate resumed from an earlier hour.

Mr DEPUTY-SPEAKER: Order! I call the honourable member for Peats to make her inaugural address. I ask members to remain silent while she is speaking.

Ms ANDREWS (Peats) [5.48]: I congratulate the Minister for Fair Trading, and Minister for Women, the Hon. Faye Lo Po', on introducing the Pawnbrokers and Second-hand Dealers Bill 1996 into the House. The main aim of the bill is to restrict the trade in stolen goods and to assist the rightful owners to recover their lost property - particularly high-risk-of-theft goods such as valuable portable items: for example, jewellery, power tools and electronic appliances. Unfortunately, in the Peats electorate, which is probably no different from other electorates, there are a number of home burglaries and people are left devastated when theft occurs. All too often in the past it has been relatively easy for offenders to find a ready market for their ill-gotten goods. The bill is aimed at making it harder for thieves while simultaneously making it easier for victims to recover their stolen belongings.

I am pleased that the Minister announced in her second reading speech that the Government was committed to cooperating with the community and assisting the police in stamping out home burglaries. It is important to note that the regulations will be accomplished by requiring licensed second-hand dealers and pawnbrokers to record proof of identity from the person or persons pawning or selling second-hand goods. Up to this point in time, while second-hand dealers and pawnbrokers have had to provide a description of the goods, they have not been required to provide a description of the vendor. Also, proof of identity will be recorded.

Imagine how frustrating it is for persons who have been victims of a home burglary to later find their stolen possessions, many of which have a sentimental value, in the window of a second-hand dealer or pawnbroker, quite often close to their home, and yet be required, because of loopholes in the current legislation, to buy them back - their own goods. The bill addresses this loophole by tightening up procedures to be followed by second-hand dealers and pawnbrokers. Upon identification, a trader will

now be required to supply the victims of the home burglary with a document setting out the procedure to be followed in claiming their property, as well as supplying a copy to the police should they not already be involved in the matter. In turn, the claimants will be required to supply certain information to the dealer and to act within a certain time frame.

I am pleased that I have the opportunity to make my inaugural speech on a bill which I am confident will be welcomed by the vast majority of
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electors residing in the Peats electorate. I now wish to speak about the electorate of Peats, which I feel proud and honoured to represent. The total area of the Peats electorate is 706 square kilometres, of which national parks and State forests comprise approximately 26,691 hectares. The campaign for Peats on behalf of the Australian Labor Party at the 1995 State election was very successful due largely to the organising skills and diligence of my campaign director, Bruce Penton. Councillor Judy Penton, wife of Bruce, was also one of the main strengths behind the campaign. I place on record my deep appreciation to them both. Bruce and Judy are in the gallery this evening.

I wish to thank a number of persons for helping in Labor's campaign in Peats. Firstly, I sincerely wish to thank all the loyal and sincere branch members and loyal supporters of the Australian Labor Party within the Peats electorate. Those people who assisted in the lead-up to election day and on election day itself, 25 March 1995, worked exceptionally long and hard. To Australian Labor Party life members Vince Martin, former member for Banks, and Jean Martin, both of whom are here tonight, and Frank Peters, I extend a special word of thanks. I am, however, very grateful for the encouragement, support and assistance rendered to Labor's campaign in Peats by so many of my fraternal brothers and sisters in the trade union movement and my parliamentary colleagues. I was most fortunate to have the support of so many of them. I claim to be the only candidate in any campaign, whether State or Federal, to have had the great honour of having three former and two current State union secretaries and one former State president working on my behalf.

These were Jack Maddox and Jim Walshe, retired State secretaries of the former New South Wales branch of the Australian Railways Union, now the Public Transport Union, and Vince Higgins, retired secretary of the New South Wales branch of the Federated Clerks Union. All three have been awarded the Order of Australia for their contributions to either the Australian trade union movement or the community. Vince and his wife Mary are also in the gallery. Also working on my behalf were Harold Dwyer, current secretary of the New South Wales branch of the Public Transport Union, and Michael Want, current secretary of the New South Wales Clerical and Administrative Branch of the Australian Services Union, formerly the Federated Clerks Union of Australia, together with Colin Hilder, retired president of that organisation.

I also particularly want to mention Kevin O'Neill, the compensation officer for the Public Transport Union, who also assisted in the campaign. Kevin is the son of the late Bill O'Neill, former president and long-serving officer of the New South Wales branch of the Australian Railways Union. I also thank Ken Sullivan, Public Transport Union organiser who, despite the fact that he was waging an all-out campaign in Southern Highlands as Labor's candidate always found time to give me a ring to offer me words of encouragement. To my former work colleagues in the Public Transport Union I say thank you for all your co-operation and assistance over the years. Many of them also worked in the campaign and I am happy to see so many of them here tonight.

I wish to express my appreciation to members of my family, many of whom I am proud to say are also here tonight. Firstly, to my mother I reserve a special thank you for always putting her family first and for her unswathing support in all I do. That support was readily forthcoming in the campaign for Peats and continues today. To my brother, John, my three sisters Margaret, Clare and Pauline, my brothers-in-law Owen Bowland and Alan Staunton, my cousin Patricia O'Brien and her husband Peter, and my nieces and nephews, I am deeply grateful for all their concerted efforts towards Labor's campaign in Peats.

I wish to pay tribute to my late sister-in-law, Jan Andrews, who worked very hard during the campaign and who unfortunately died suddenly in August last year. Jan will always be remembered with deep affection by all who knew her. To my electoral office staff Camille Stephens and Louise Kelleher, I wish to express my sincere appreciation for their loyalty to me and for their kindness, dedication and hard work performed on behalf of the people of the Peats electorate. My association with the trade union movement is one which I have always cherished. When I commenced employment in the New South Wales branch office of the Australian Railways Union in 1978 I very much felt among friends as my late father, Arthur Andrews, as a union activist enjoyed a long association with the ARU, serving firstly as a union representative, sub-branch officer, State councillor and union representative on the Transport Appeals Board. Upon his retirement in 1974 after 43 years service to the union and the New South Wales railways he was awarded life membership of the ARU, and he was justifiably proud of that honour.

My father was also an active member of the Australian Labor Party and was campaign director for the endorsed candidates in the Federal seat of Cowper. Grafton was the centre for that electorate and the family then resided in South Grafton. Believe me, those campaigns were strongly fought. As so often happens in life in the Andrews family, it was very much a case of father following son. My grandfather, John Andrews, was also a very loyal member of the Australian Labor Party. The highlight of his party membership came when he was acknowledged on the stage of Sydney Town Hall on the occasion of his fiftieth consecutive attendance at the ALP State conference. That was a newsworthy item at the time. He served for many years as a member of the New South Wales State

Executive of the Australian Labor Party. My grandfather was an organiser on the northern tablelands for the Australian Workers Union and in 1917 he contested the State seat of Armidale as an anti-conscription Labor candidate. He polled very well, missing out by only a very narrow margin.

Undoubtedly my grandfather's and great-grandfather's involvement in the Labor movement was an influencing factor in my father's life. My great-grandfather, Arthur Andrews, was in 1891 a foundation member of the Australian Labor Party. He, too, served the party with great distinction. Little wonder then that with such a background I took a keen interest in politics at an early age, although it has taken me a long time to reach this high level. I am honoured to be here. I have been fortunate to have been further influenced when I first joined the ALP in 1960 by exceptionally good local State and Federal Labor members. I particularly mention Norm Ryan, member for Marrickville and later Minister for Public Works during the controversy over the now world-renowned Sydney Opera House. Norm and his wife, Dorothy, retired to the central coast at the conclusion of Norm's public life.

Fred Daly, long-serving member for Grayndler and Minister for Administrative Services during the reign of Gough Whitlam, consented to open the 1995 campaign for Peats and in true Fred Daly style he ensured the audience received a generous serving of his great sense of humour and quick wit. Fred was indeed a true believer and he will be long remembered by the Labor movement. Although I feel that there are many who have contributed much more than I have to the industrial wing of the Labor movement, I was honoured to have bestowed upon me life membership of the Australian Services Union and the scroll of honour of the Labor Council of New South Wales. Both certificates have pride of place in the Peats electorate office.

I pay tribute to the leaders and executive of the Labor Council of New South Wales, both past and present, for their responsible and enlightened attitudes not only towards the union movement but to our society at large. All too often, I believe, unions are unjustly criticised within some circles in our society. However, it is only on rare occasions that unions are given credit for all the positive things they do in our society such as protecting their members from unscrupulous employers and actively supporting many charitable organisations including a number whose main objective is to help young people. Of course, the Australian Labor Party arose from the trade union movement and thus it is quite in keeping with long-held tradition that in the near future this Parliament will be debating a bill on reforming the industrial relations legislation in this State; in other words, dismantling much of the offensive legislation brought in

by a coalition government which severely restricted union activities in this State.

Both the political and industrial wings of the Labor movement are still male dominated, but I applaud the leaders of our day in their sincere attempts to encourage more women to take a more active role in both the union movement and the Labor Party. In this respect I believe I have been fortunate to have had the support of unionists such as Jim Walshe, Vince Higgins and Michael Want, all of whom I mentioned earlier, together with Betty Spears, OAM, former Deputy President of the New South Wales branch of the Federated Clerks' Union of Australia, and Beryl Ashe, former Executive Officer of the Labor Council of New South Wales. All of those people encouraged me to become more active in the trade union movement in particular, and I believe I owe them all a debt of thanks for encouraging me to nominate for executive positions within the former Federated Clerks' Union and later the New South Wales Clerical and Administrative Branch of the Australian Services Union.

I consider it to be a great honour to have served the union at such a level and to have worked with such dedicated men and women who are totally committed to improving and protecting the living and working conditions of Australian workers - and going beyond that to workers in overseas countries, particularly in the neighbouring South pacific and Asian regions. I wish to pay tribute here to both Betty Spears and Beryl Ashe for the many years they have devoted to helping others, especially through their trade union involvement. The marked improvement to equality and fairness in the work force, particularly in the State of New South Wales, has to a large extent been due to their efforts. On the first day that the Fifty-First Parliament met in this Chamber I joined my parliamentary colleagues in paying tribute to my predecessor, the late Tony Doyle. Tony served the electorate of Peats with much distinction from 1984 until his untimely death in December 1994.

I concluded my remarks then by saying that if before I leave this House I can earn the depth of warmth and respect from my constituents that Tony enjoyed, I will know that I have served them well. On 12 February this year Premier Bob Carr and the Minister for the Environment, the Hon. Pam Allan, jointly opened the Tony Doyle Track at the Warrah trig station within the Brisbane Waters National Park. The views along that track and at the lookout at the end of the walk are quite spectacular and they are a fitting tribute to the memory of Tony Doyle. The park's headquarters are located at Girrakool, which means place of water. As I said earlier, the electorate of Peats has a total area of 706 square kilometres and the population in the 1991 report of the Bureau of Statistics was shown as 53,045. Undoubtedly it has grown since that census was taken.

Peats ranks fourth in the State with the largest number of senior citizens aged 60 years or over. They represent 24.2 per cent of the population of the Peats electorate. There are, however, young families moving into the electorate because it is an

attractive area with some of the most sweeping water views to be found anywhere in this great State of ours. Yet it is within fairly reasonable access to Sydney, with thousands of persons commuting to the city for their employment - ten thousand persons use Woy Woy railway station on any working day. Since Labor took office in March last year, the central coast rail services have been improved with two additional services to Sydney via the north shore. With the recent installation of bi-directional signalling the reliability of the rail service has been vastly improved, and should a train break down in the steep grades of the Cowan bank, it will now be possible for trains following to bypass the failed train. It is intended that further improvements to the timetable will be implemented in the October 1996 timetable.

The Carr Labor Government has committed a large injection of funds for improved road works, including safe pedestrian crossings around Woy Woy railway station, an area which was sadly neglected by the previous Liberal-National Government. Already the extensions to the undercover parking have begun and these are expected to be completed in September. Two lifts will be provided. New undercover bus shelters, a kiss and ride facility, an upgraded railway station to include a new booking office, a family waiting room and lifts - one on the street side of the station and another onto the platform - will provide the area with a much improved user-friendly facility. The Carr Government has honoured its

election promise to provide a police shopfront in Umina. The shopfront was officially opened by the Minister for Police, Paul Whelan, in December 1995. This was in marked contrast to the actions of the previous Government which sold off the land at Ettalong that had been designated for a police station.

TAFE will receive funding from the State Government of $18 million to provide central coast students with state-of-the-art facilities. Hairdressing courses will be available at Gosford TAFE in 1997. This will free a large number of students, most of whom are young females, from the necessity of having to travel to Hornsby for these courses, and represents a positive response to my representations to Minister John Aquilina on the matter. Sections of the F3 within the Peats electorate are being upgraded for the overall benefit of motorists. Floodplain management proposals by Gosford City Council have been boosted to the tune of approximately $1,267,000. The future of Narara Horticultural Station has been secured by the recent announcement by the Minister for Agriculture, Richard Amery, that the station would be one of five key centres attached to the nine centres of excellence operating around the State.

The electorate has many unique features, some of which I will mention here today. Wondabyne is the only railway station in Australia which has no road access. Wondabyne can only be reached by either rail or water. It would have to be one of the State's best kept secrets and the scenery that can be seen from the windows of the train would be hard to surpass. The electorate has many Aboriginal sites and therefore it is quite in keeping that a number of areas have been given Aboriginal names, for example, Woy Woy, meaning deepwater; Umina, meaning rest or slumber; Ettalong, meaning place of many waterholes; Mooney Mooney, meaning name of an Aboriginal person; and Narara, meaning black snake. It is perhaps appropriate because of my relationship with the trade union movement that I am delivering my inaugural speech on May Day, known as International Workers' Day. In New South Wales, of course, we traditionally commemorate workers' day on Labor Day, the Monday of the first weekend in October. I joined the Australian Labor Party in 1960 and soon became involved in what was then known as the Youth Council - nowadays, of course, it is Young Labor.

At the helm of that organisation at that time was Johnno Johnson, a member of the Legislative Council and a former President of that House; John Ducker, who went on to have a distinguished career in both the union movement and the Labor Party; the Hon. Deirdre Grusovin, then Deirdre Brereton, the honourable member for Heffron and one of a small number of parliamentarians who have made the move from the upper House to the lower House; Peter Nagle, the honourable member for Auburn; George Thompson, the honourable member for Rockdale; and Terry Rumble, the honourable member for Illawarra. Unfortunately, Youth Council momentarily folded up only to be resuscitated, mainly through the efforts of a fine young man, Peter Gould, in the mid-1960s. I might add that a former Assistant General Secretary of the Australian Labor Party, later to become a Federal member of the House of Representatives, Mr John Armitage, was most supportive in that resuscitation drive, as was former Labor Senator from New South Wales, Tony Mulvihill, an Australian Railways Union and Australian Labor Party life member.

The rebirth of Youth Council paved the way for a former Prime Minister of Australia, Paul Keating, as well as serving Federal parliamentarians Laurie Brereton, Leo McLeay and indeed our own Treasurer, Michael Egan, to develop their talents as good grass roots parliamentarians and debaters. I am sure that all of us in this Chamber today acknowledge that unless we have young people taking an active part in our great party, the Australian Labor Party, we do not have a bright future. The youth of today, largely due to the foresightedness of Labor governments at both Federal and New South Wales level, now have more educational opportunities than did the generations before them. I have met, over the years, many young people of excellent calibre and I would encourage more of them to take an active role in public life. They are well equipped to meet the challenges which an ever-evolving society has to offer. Certainly they will encounter setbacks along

the way, but these will be well overshadowed by the great satisfaction they will derive from being an integral part of a rapidly changing world.

I congratulate the Government for its commitment to give the teaching of civics in our schools a much higher profile. I feel sure we will all benefit in the future because of this. I thank honourable members for the courtesy extended to me by allowing me to deliver my inaugural speech in this, the oldest Parliament in Australia, in silence. I may not be so fortunate on the next occasion as the House truly is the bear pit of Australian politics, and I now look forward to participating in many more parliamentary debates and to adding my support to bills which I feel sure will advance the interests of the people residing within the electorate of Peats. I commend the bill to the House.

Mr GLACHAN (Albury) [6.08]: I congratulate the honourable member for Peats on her maiden speech.

Debate adjourned on motion by Mr Glachan.

PRIVATE MEMBERS' STATEMENTS

(Resumed)

LAKE MACQUARIE ELECTORATE HEALTH SERVICES

Mr HUNTER (Lake Macquarie) [6.10]: I wish to raise the concerns of people living in the Lake Macquarie electorate regarding the provision of adequate health facilities in the area. For many years I, and my predecessor, my father Merv Hunter, have been calling on the Government to provide improved health services to the people of west Lake Macquarie. I would like to detail the fight for improved health services in Lake Macquarie, a fight that dates back to the mid-1980s when my father was lobbying his own government to gain something like a polyclinic for the area. Prior to the State election in 1988 the then Minister for Health Mr Anderson announced that the Government proposed to build a $2 million polyclinic on the western side of Lake Macquarie. He advised my father that planning would start for the polyclinic, which would be completed in approximately 1991.

My father pointed out at the time that residents of the area faced substantial travel time to get to Newcastle hospitals, and that the development of a purpose built polyclinic and community health facilities would significantly enhance the public health services in the area. After the 1988 election - the Australian Labor Party was not re-elected - Mr Collins, the current Leader of the Opposition, became the Minister for Health, and he replied to representations made on behalf of the local Labor Party that he was not proposing to proceed with the polyclinic. He said:

> At this stage there is no intention to proceed with the planning and construction of a Polyclinic in the Westlakes Area.

Certainly the local people were not deterred. They called upon the Opposition to come to the area to hear their concerns, and they tried to gain a commitment from the then shadow minister Dr Andrew Refshauge that a polyclinic would be built if Labor were to be elected at a future date. In September 1990 the shadow minister visited the area and said that he would certainly consider the proposal. In March 1991 the shadow minister made the commitment that if Labor were to be elected at the next State election a polyclinic would be built in the area and improved community health services would be provided. He made that commitment after he spoke with workers at the local community health centre at Toronto and he was certainly horrified to hear from them of the running down of the services under the Greiner Government.

Shortly after the State election in June 1991, when I was elected as the new member for Lake Macquarie, I again renewed the push for a Westlakes polyclinic. I invited the then health Minister, John Hannaford, to visit the Westlakes and see for himself the need for a polyclinic. I thought that if he came

along, met the local people, and saw the isolation of the Westlakes from other health services, he would change the Government position and proceed with a polyclinic. Unfortunately, on 4 July the Minister replied to me, thanked me for my invitation, but expressed regret that commitments precluded him from visiting the electorate. Unfortunately, from that day the former Government never gave any commitment or showed any interest in the establishment of a polyclinic and improved services in the Westlakes.

In March 1992 in my address-in-reply speech I talked about the need for better health services in Lake Macquarie. In the Budget Speech of 14 October 1992 I again raised the need for some kind of casualty facility in the Westlakes, as people were isolated from casualty facilities and had to travel either to Wyong or into Newcastle for those services. Prior to the 1995 election the shadow minister, Dr Andrew Refshauge, again made the commitment that he would establish a polyclinic in the Westlakes, with an extended hours casualty service, if Labor was elected to government. More than 12 months have passed since the election of the Carr Labor Government. I call on the Government and the Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development to give some indication to the people of Lake Macquarie when such a facility may be established in the Lake Macquarie electorate.

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [6.15]: I thank the honourable member for Lake Macquarie for his statement. I congratulate him on his unceasing commitment to see this project through, a commitment that his father, his predecessor, held

dear to him. I am informed by the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs that this was a prime example of a local member never letting a matter rest on behalf of his constituents. The Carr Government will provide a massive capital injection into community health services in Lake Macquarie to build the Westlakes polyclinic. The $4.95 million project will be a major boost for local health. It will become one of the outstanding purpose-built community health facilities in New South Wales. The new polyclinic will also include extensive new services previously not provided in Lake Macquarie, especially in the west. The clinic will consolidate a wide range of community-based health services and introduce new services.

Community health services will include nursing services, services for the aged and disabled, health education and promotion, counselling services, speech pathology, early childhood and family health, mental health outreach and sexual health. Aged and disabled rehabilitation services will include occupational health, physiotherapy, special geriatrician, rehabilitation therapy and treatment. The extended hours primary care casualty service will offer general practice services, pathology and x-ray services. Antenatal and post-natal services will enhance services for mothers in the Westlakes area. Diabetes education and diabetes care - a very important service - will be provided. The Newcastle Mater Misericordiae Hospital will run an outreach chemotherapy service from Waratah. Both adults and children will be treated at a new dental clinic. The new polyclinic at Westlakes will maximise the potential to provide services locally. Westlakes residents will no longer have to travel to Newcastle for many important health services. This will decrease the pressure on services in Newcastle including the John Hunter emergency department, Wallsend dental unit and Mater oncology. This is a great step forward for health in the Hunter.

I would like to pay tribute to Merv Hunter, the former member for Lake Macquarie, who was ever persistent on health care as long as I have been in this Parliament. He has grown with the Westlakes from the time that he and his wife Bette went out to Wangi Wangi when the power station there was built. He grew up with that area, he saw it develop, and he was at one time the shire president. It is a great tribute to him that I, one of his proteges, am in this House in a position to ensure that one of his dreams comes true and meets the need for extension of health care on the west side of Lake Macquarie.

BAULKHAM HILLS ELECTORATE TRAFFIC SIGNALS

Mr MERTON (Baulkham Hills) [6.17]: I raise for the attention of the Minister for the Olympics, and Minister for Roads the need to improve the safety of students who attend North Rocks Public School and Muirfield technology high school, which are located within my electorate. Parents and teachers from both schools have been in touch with my office over a long period of time and a number of on-site meetings have been held in an attempt to get the relevant authorities to take action to relocate the traffic lights at the intersection of Barclay Road and Tiernan Avenue. Following my representations a response was received from the Roads and Traffic Authority in March last year which indicated that the relocation of the traffic signals in Barclay Road to a point outside the entrance to Muirfield school was estimated to cost in the vicinity of $100,000 and that the RTA could not justify this outlay. The director of the RTA, Sydney region, stated that whilst it was appreciated that site distance could be improved if the school entrance was relocated to another site further east of the crest, Barclay Road comes under the responsibility of Baulkham Hills Shire Council.

The safety of students at North Rocks Public School is also dependent upon alteration of those traffic lights. The front of this school is located on busy North Rocks Road, which makes it extremely dangerous for parents to drop off their children. They need the installation of traffic lights at Tiernan Avenue. Safe turning into and out of Tiernan Avenue is required by parents to enable them to drop their students at the rear entrance to the school. I tried bringing this matter to the attention of the Minister for Education. His response in January of this year was that he had referred the matter to the Minister for Roads. On 21 March I received a letter from the honourable member for The Entrance, Mr Grant McBride, Parliamentary Secretary for Roads. I quote from that letter:

> The desirability of providing signals on Barclay Road at Tiernan Avenue is recognised and that a proposal was being coordinated by Baulkham Hills Shire Council and the RTA had been asked to liaise with council with a view to progressing the matter.

I have only recently received a letter from the Baulkham Hills Shire Council indicating that at a meeting held at Muirfield High School on Thursday 8 June 1995 the mayor of Baulkham Hills indicated that as there were benefits in the proposal to all major participants - the Department of Education, the council, the Roads and Traffic Authority - the signals should be funded on a one-to-one basis. In the council's latest correspondence from the Department of Education, received on 5 September 1995, it was indicated that the project had been listed for consideration in the department's capital works program.

Council has said that it is most concerned at the action taken by the Minister for Education in referring my correspondence to the Minister for Roads, tending to indicate that the Minister for Education does not intend to provide that department's share of funding. How much longer must we wait for these lights to be installed? The cost of the installation is $100,000, but what is that compared with the safety and lives of our children? Some 740 pupils attend Muirfield High School and another 475 attend North Rocks Public School. Is it not about time that the authorities stopped pussyfooting around and installed these lights as a

matter of public safety. My constituents demand an explanation. They are entitled to reasonable safety for the children and the parents who deliver and collect the children.

HABITAT FOR HUMANITY

Mr NAGLE (Auburn) [6.21]: Recently, while on a plane trip, I sat next to an American gentleman who had visited Australia as senior executive officer for an organisation called Habitat for Humanity. He told me about his organisation's activities in Australia. I investigated this organisation. It has as its motto: "We can put roofs over heads and hope in their hearts." Other key points in their motto are "Action", "Faith" and "Together". There are 40,000 homeless individuals in Australia, 60,000 people on the verge of homelessness, 200,000 families living permanently in caravan parks, and 172,000 families

on public housing waiting lists.

Habitat was founded in the United States of America in 1976 by Millard and Linda Fuller, who traded their highly profitable business for a more meaningful life - working with families in need of decent housing. Unwilling to accept the fact that millions of people live without adequate shelter, Habitat challenges communities, business organisations, churches and individuals to join in partnership with disadvantaged families to improve their living conditions. Habitat's concept is one of partnership housing - where those in need work side by side with volunteers from all walks of life to build simple, decent houses. Through that partnership process, families with low incomes, low morale and low self-esteem discover the satisfaction of building and owning their own homes and find new levels of dignity and motivation.

In its first seven years in Australia Habitat has housed seven families - not a great number, but those seven families are now housed when perhaps normally they would not have been housed. In 1995, five families were housed throughout Australia. The keys of the house built by TAFE students at the 1995 Housing Industry Association home work show at Rosehill were handed to members of a select family who have since agreed to support Habitat for Humanity in a number of ways. The family, from the Macarthur area, were selected from applicant families on the basis of need. That family, Mr and Mrs Pilet and their three children, lost their home through the HomeFund scheme and are still paying off a substantial debt as a result of that scheme.

Five townhouses at Oakhurst have now been completed and are occupied by needy families. Among the families is one in which the husband is working to support his family on an income that is lower than he would be receiving if he were unemployed and on social security. Another family consists of a single mother and the family that she is bringing up, and a third is a Moslem refugee family from Bosnia. The National Executive Director of Habitat for Humanity Australia, Mr Bob Mitchell, was formerly a TAFE principal. He went on almost 12 months leave prior to retirement in October 1994 and worked as a volunteer for that period on a part-time basis. Habitat Australia now employs an administrative assistant in the national office because of the work that he did. Bob Mitchell has now taken early retirement from TAFE and is continuing to work part-time for Habitat for Humanity on a nominal salary. The national executive director and the administration assistant are the only two paid employees of Habitat for Humanity.

Habitat for Humanity, whether in Australia or in countries like Nepal or the United States, does not seek even a cent in monetary assistance from government, but it does seek occasionally a donation of land and infrastructure on a trust basis so that low income earners can attain self-esteem and self-respect through building their own homes, thus giving them the dignity and humanity they need. I request that the Minister for the Olympics, and Minister for Roads refer this speech to the Minister for Housing - who has just become a father and therefore is not present in the Chamber - so that he can talk to the people from Habitat for Humanity with a view to working with that organisation for the betterment of Australian families that are in need of housing. Finally, even though I recognise that this matter is not relevant to this speech, I inform the House that my project officer, Mr Daniel Wright, who did a wonderful job on the Committee on the Independent Commission Against Corruption, has now left the services of the Parliament to better himself overseas. That is a great loss to this institution. To Daniel I say: the Parliament and I wish you all the best for the future.

Mr KNIGHT (Campbelltown - Minister for the Olympics, and Minister for Roads) [6.25]: I have listened carefully to the matter raised by the honourable member for Auburn. As he indicated, the Minister for Housing cannot be in the Parliament today, for the best of all possible reasons, that is, he is on the parliamentary equivalent of paternity leave. I certainly will refer the matter raised by the honourable member to the Minister.

NORTH COAST INDUSTRY INCENTIVES

Mr RIXON (Lismore) [6.26]: The northern boundary of the Lismore electorate is the Queensland border. This means that cooperation with Queensland is especially important to the people of the towns on the far north coast, notably in road building and many business ventures. But in other matters, not just State of Origin matches, there is great rivalry. In the local government areas on each side of the Queensland-New South Wales border there is great competition to encourage new industries to set up on their side of the border in their council areas. This competition is heavily weighted against establishment in New South Wales. The Queensland Government provides a range of incentives not available in New South Wales. One

of the most important of those is the lower cost of power.

State fuel taxes in New South Wales make the cost of petrol, diesel oil and other fuel oils cheaper in Queensland. But the most glaring example of higher energy costs is that of the cost of electricity in New South Wales. Many examples can be given of businesses that have set up in Queensland although it had been their original intention to establish in northern New South Wales. Let us look closely at one particular company. We in New South Wales have been keen to encourage value adding in the timber industry, and much has been happening in this industry on the far north coast.

A company called Pro-Timbers Pty Limited is trying to establish a business which uses as its raw materials offcuts from the timber milling process. This company has been negotiating to buy five hectares of land in the Casino council's industrial estate. Initially, it wished to start up with 35 workers in one shed, building up to 200 workers in three sheds in the longer term. Those workers will be using materials including waste products from other mills to make a variety of products, including doors. All negotiations had been proceeding satisfactorily, but Pro-Timbers Pty Limited has been put in a very difficult position by the terms and conditions letter received by the company from NorthPower for electric power supply to the companies proposed development. Those terms and conditions outline costs in excess of $250,000, which will put a great strain on the company's resources at the very start of its proposed development.

That burden has forced some companies to move across the border. Remember, Casino is only 100 kilometres from the border, and in Queensland no such contributions are required. I hope that some relief could be provided for Pro-Timber Pty Limited in this instance. I hope such relief is carefully considered. Perhaps, for the future, changes could be made. These changes could include provisions such as that the costs incurred in building infrastructure to meet development conditions, subject to consumption of certain static quantities of electricity, where the infrastructure can be used by other consumers, be refunded over a period of time. The transformer costs could also be refunded after a period of time, as the distributor certainly recoups costs over time once such industries are in production.

I am very concerned about the encouragement and discouragement of industry on the far-north coast and the part NorthPower may play in this. It should be noted, however, that this is a problem for north-western as well as north-eastern New South Wales. The Namoi cotton cooperative, for example, built its cotton gin in Goondiwindi in Queensland instead of in Boggabilla in New South Wales, which meant that this State lost the benefits of the industry to Queensland. I ask the relevant Ministers in charge of energy and fuel supplies, in charge of encouraging the development of small business, in charge of encouraging decentralisation, and in charge of encouraging the development of value adding of primary resources, to investigate this problem fully. The Ministers' answers will be of special interest to all people near the Queensland border.

WOLLONGONG ELECTORATE PUBLIC HOUSING

Mr SULLIVAN (Wollongong) [6.31]: I wish to speak on the performance of the Department of Housing in the Wollongong electorate during the past 12 months in particular. I compliment the Minister

for Urban Affairs and Planning, and Minister for Housing, who has done an excellent job. In the campaign leading up to my election to Parliament in 1991 I had the opportunity to visit many Department of Housing centres, units and residents. I found a unit in a cluster development at west Wollongong in which water from the bath had leaked through and was rotting the carpet in the living room. The unit could not be secured because an internal door had been installed as the external back door, causing it to rot away, resulting in someone always having to stay at home because anyone could crawl in under the bottom of the door. There had been movements in the foundations of a house at Warrawong, which meant that the jamb had parted and the door was about an inch from the timber it was supposed to be hard up against. In that instance also the resident could not leave his home secured. Units in Greene Street, Warrawong, had been neglected for many years. Those are just a few examples.

When I was elected I made it my aim to redress that problem. In my first couple of years as a member of Parliament, work associated with existing tenants of the Department of Housing constituted about 80 per cent of the workload through my office. We have slowly got on top of the problem. It took some time before the previous Government and some departmental officers in Wollongong accepted that changes had to be made and there had to be significant investment in repairs and maintenance. That has all changed. There is now a strong feeling among Department of Housing personnel that there is a minimum standard expected of departmental rental property. The work through my office from tenants of the Department of Housing might not be even 15 per cent of the workload now. The achievement is as much as anything the result of work done by departmental officers and a change in attitude.

In the current financial year, 1995-96, capital improvement work undertaken by the department in the Wollongong electorate was targeted at almost $1 million on upgrading the common areas of major departmental centres. A total of $223,000 was spent at the Tobruk Avenue centre at Port Kembla. The expenditure was made up of site establishment and demolition costs of $24,000. The construction

of paving, brick walling, stormwater pits, fencing and letterboxes, drying areas and screening and outdoor seating areas amounted to $106,000. An amount of $36,000 was spent on landscaping. Expenditure of $38,000 was spent on securing the area and providing security lighting. Roof restoration cost $19,000.

Work at the Five Islands Court, a complex of buildings in Todd, Greene and Bent Streets, Warrawong, amounted to $604,000. There were site establishment and demolition costs of $35,000. Concrete paving, brick and block walling, stormwater pits, fencing and letterboxes, drying areas and screening, outdoor seating areas and car barriers and resurfacing of the car park amounted to $291,000. An amount of $44,000 was spent on landscaping. Security lighting cost $63,000. Roof restoration expenditure came to $30,000. The tiling of stairwells cost $63,000. External painting work cost $46,000. The re-roofing of Bent Street flats cost $32,000.

At the Bundaleer estate, Minnegang, and at Griffin Street and at Wegit, Nyan and Kully ways, Warrawong, at this stage $100,000 has been spent on the enclosure of walkways, graffiti removal and security lighting and landscaping, with a further $6,000 being contributed to a landcare and environment action plan for the further upgrading of a park that adjoins the Department of Housing complex, which has been made very usable. These achievements are a great tribute to the present Minister and Government. I place on record my appreciation of the many residents of the Department of Housing units, who certainly enjoy living in individual residential units in a centre that they are happy to have friends visit rather than one they are ashamed of because of the deplorable condition and state of the common areas.

ULLADULLA PUBLIC SCHOOL

Mr SMITH (Bega) [6.36]: Last year I raised in the House the plight that faced members of the Ulladulla public school community. I am concerned that there has been no indication that the school will be upgraded. As I am now receiving further correspondence from the parents and citizens association

and parents I would like to reiterate the real need for this work to be carried out. This is particularly timely in the light of the upcoming budget - budget day being set for 21 May. As it is only a couple of weeks before the budget will be brought down, I hope that the Minister will consider the upgrading of the Ulladulla public school within that budget.

The school was founded 135 years ago and is situated in very pleasant surroundings within both natural bushland and established gardens. With more than 700 students - which is twice the capacity of existing buildings, which were built for a student population of 300 - it has been necessary to provide increased accommodation with seven demountable classrooms, one demountable library and a demountable administration block. A massive amount of the school accommodation is now in demountable buildings, which is not good for education. The demountable buildings have been in place for some years now and it is difficult to keep up with the necessary maintenance. The library leaks, which is very distressing to the parents and citizens association as many of the books and equipment stored there were provided through parents and citizens funds or personal donations. In the past few years resources to the value of more than $21,000 have been provided in this way, and it is a disgrace that they are susceptible to such damage.

Termite infestation is a recurring problem. I am sure honourable members would agree that continuous treatment with arsenous trioxide dust is most undesirable and would be unnecessary if the buildings were brought up to the standard of permanent buildings. I have previously publicly congratulated the staff for providing excellent educational programs, which are delivered in a warm and caring environment. However, patience is wearing very thin, particularly when expectations were raised to the highest level that funds would be made available for the upgrading to commence. Plans for a new library, hall, canteen, covered outdoor learning area, classrooms, and staff and student amenities were started in 1993-94. In keeping with the historic nature of the site, the sandstone cottage which houses the school residence and staffroom were also to be restored.

The department led the school to understand that funds for construction work would be available the following year. I assure the House that it was a devastating blow when the funds did not eventuate. It is indicative of the quality of the staff that, despite such a bitter disappointment, the students have continued to receive the very best education possible, with the appropriate learning programs directed to the individual needs of the children. Over $70,000 has been provided by the community towards these learning programs and aids, and the Minister has a duty to provide a quality school to complement such outstanding community support. I call on the Minister to honour the commitment already given by his department to upgrade the school.

Ulladulla is a very fast growing area, and the 700 students undoubtedly need to be housed. However, a building program is required which considers the future and I am sure that the detailed planning currently being done has taken into account future growth rates. Two years ago the school was number 51 on a statewide priority listing for the capital works program - we missed out that year and last year - and I hope that the forthcoming capital works program will contain an allocation to complete the ongoing planning work to ensure that the Ulladulla Primary School is brought up to scratch. Primary education in Ulladulla should be of

the very highest standard for the students and the rest of the local community. [*Time expired*.]

TRIUMPH OVER PHOBIAS SELF-HELP PROGRAM

Mr WATKINS (Gladesville) [6.41]: I draw the attention of the House to the recent establishment of Triumph Over Phobias - TOP - New South Wales. This is an innovative self-help treatment program providing behaviour therapy in the treatment of obsessive compulsive disorders and phobias, which are especially debilitating and frustrating conditions for sufferers and their families and loved ones. The term "obsessive compulsive disorder" covers a wide range of behaviours. Some disorders are managed by

sufferers relatively well, but other sufferers can have their lives virtually destroyed by the obsessive compulsive behaviour the disorder causes. A typical example of the behaviour would be an obsession with cleanliness that leads to an often uncontrollable urge to wash hands, bathe, or clean an object, room or house. Such a compulsive behaviour can almost totally disrupt someone's life and may involve the collection of objects, such as newspapers, shopping bags, shopping receipts or almost any other object imagined.

The constant checking of whether doors are locked, the power is turned off or a car is parked correctly can also become an obsession. In serious cases, this disorder can stop someone from working, caring for a family or partaking in normal human relationships. The obsessive compulsive behaviour may be driven by unreasonable fear or phobia, and that fear can distort a sufferer's perception of reality and behaviour. I heard one sufferer describe her condition as being related to a constantly recurring thought which had been with her for many years, causing her great pain.

The understanding of obsessive compulsive disorders has been growing in recent years as it has received increasing attention from the medical profession. However, some of the best treatment and support for the condition has come from self-help and support groups. Last year I visited such a support group which meets at Gladesville Hospital where I met several committed people intent on providing support to these needy people. I particularly mention Ms Jenny Learmont, AM, who is the chairperson of the obsessive compulsive disorder standing committee and provides sensitive and caring direction to the group. I found the honesty and deep human regard evident in all those present at the self-help group most striking. They have realised, often after years of pain, that self-help and support for each other were essential if they were to deal with their disorders and phobias. The TOP program grew out of the realisation that the best answer lay in self-treatment. It is a treatment program by consumers for consumers.

In the establishment of TOP New South Wales, great direction has been received by TOP United Kingdom, and from Professor Isaac Marks from the University of London who is a world renowned expert in the field. Professor Marks launched TOP New South Wales in February this year. I understand that this was made possible by a grant of $69,000 from the New South Wales Government. I was both fascinated and moved at the launch by the honesty of sufferers and the self-empowerment model that was being described and put in place. The program stresses the need for sufferers to learn skills to cure themselves. Therefore, it is a unique and personally empowering process which gives great hope to sufferers.

I have great pleasure in bringing this matter to the attention of the House. I hope that this address has some use in advertising the TOP program so that as many sufferers as possible know of its existence. The other purpose of raising this matter is to help lessen, if possible, the stigma attached to such mental health problems. I was deeply impressed by the human dignity, good sense and intelligence of the sufferers I met. They often have acute self-realisation of their problems, which they had a deep desire and determination to overcome. They are to be encouraged and supported in their struggle.

LORD HOWE ISLAND BALLS PYRAMID EXPEDITION

Mr FRASER (Coffs Harbour) [6.46]: I rise on behalf of a constituent, Mr Fulvio Fabreschi, who spent a number of years in the armed services in the special operations unit and who has many years' experience in outdoor activities as a very adventurous man. He manages a building society branch in Coffs Harbour, and he is well respected in the community. Fulvio has organised a four-week expedition to Lord Howe Island, particularly to Balls Pyramid, in April 1997. The expedition will involve eight to 12 people travelling from Coffs Harbour to Lord Howe Island - a distance of 650 kilometres - and return by kayak, a total trip of 1,300 kilometres. A support boat will be taken. Obviously, everybody who will undertake the program will be put through a rigorous screening process as they will need to be extremely

fit.

The expedition has received a letter indicating the full support of Mr Dick Smith, who we all know is a great adventurer. The trip is also a scientific expedition in part. All climbers have the ambition of climbing Balls Pyramid, and these people have a great interest in the phasmid, which is a land lobster believed to have been extinct for some time. Apparently, the early settlers on Lord Howe Island ate the phasmid as a delicacy, but it is rumoured that it may still survive on Balls Pyramid. I have written to the Minister for the Environment - as have Dick Smith and Fulvio - seeking permission for the expedition to climb Balls Pyramid and, at the same time, to conduct the expedition in search of this elusive creature.

The Lord Howe Island Board supports the expedition and has included recreational climbing of Balls Pyramid for scientific purposes in its

management plan presented to the Minister. The people involved with the expedition are not yahoos, but responsible people. Nevertheless, the bureaucrats at the department have decided to recommend to the Minister that the opportunity be denied for the expedition to climb Balls Pyramid to search for the elusive phasmid. This is a great tragedy, not only because these people regard this as a scientific expedition, but also because it is one of the last few great adventures. The bureaucrats advising the Minister have said, "No, we can't let them do it." No real reason has been offered for this decision, apart from the fact that people may hurt themselves in the expedition. At great danger people climb Mount Everest with the support of the Government of Nepal.

Balls Pyramid is the size of three skyscrapers, and it is not a climb I would like to undertake. Even with your interest in matters of nature, Mr Acting-Speaker, I doubt that you would like to undertake that climb either. However, these people are keen, prepared, experienced and well equipped for the expedition. I ask the Minister for Public Works and Services, Minister for the Olympics, and Minister for Roads to raise this matter with the acting Minister for the Environment to give these people an opportunity to return to the old days of exploration and adventure and, at the same time, possibly provide valuable information about the supposedly extinct phasmid. Mr Dick Smith in his letter to the Minister wrote:

> After an extensive consultation process, amendments to the Plan were recommended, allowing recreational climbing . . . I now find that even though the Lord Howe Island Board supported this amendment you have rejected it. Could you advise me of the reasons for the decision?

No advice has been given to either Dick Smith or Fulvio, and I have had no response to my request to the Minister. I ask the responsible Minister to treat the request favourably in order to revive a little of the great Australian sense of adventure that is missing these days.

PALLIDOTOMY

Mr McBRIDE (The Entrance) [6.51]: Tonight I take the opportunity to relate the story of a recent medical miracle that changed the life of my good friend Bronco Whyte, aged 52 years - a wonderful character. He was assistant secretary of the Seamen's Union of Australia, a wharfie, a seaman and a professional football player. He has lived on the central coast for 23 years. Seven years ago he became afflicted by Parkinson's disease. Since then I have watched him steadily decay. He was an incredibly strong, tough character, a typical Balmain boy. His great love was the Balmain Tigers. When he moved to the central coast he became very much associated with The Entrance Leagues Club, which is also known as the Tigers and plays in the same colours.

He has been a coach there, and a manager and a trainer. Such is his commitment to his community that as he became increasingly disabled he would clean the floors and sweep the dressing room. In the past 12 months it took every ounce of his courage just to get around. He used to walk from home to help us in the office with the mail. If he did not walk he could not walk. Every day he had

to start moving with a shuffle, taking slightly larger steps until he could walk. He continued doing whatever he could in supporting the community.

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Two years ago he set up the Bateau Bay Parkinson's syndrome support group. It meets at the Tuggerah Lakes Memorial Club at 1.30 p.m. on the last Wednesday of the month. Patron of the group is George Whittingstall, who is also chairman of the Tuggerah Lakes club.

Two weeks ago Bronco had an operation known as a pallidotomy. I did not realise what was involved in the operation or the courage required by patients until the recent *Quantum* program. I formed the impression that the operation was at the forefront of medical science and being carried out only in other countries. However, three weeks ago my friend Bronco had the operation. The television program showed that holes are drilled in the patient's skull and electrodes are inserted into the brain under local anaesthetic: the patient is awake during the operation. Each electrode is inserted to the required point in the brain determined by previous X-rays. The electrodes are then heated to destroy small parts of the brain.

In the television program the patient was encouraged to move during the operation to ensure that the electrodes were properly positioned. I had not realised Bronco's courage. He said that he was worried about the operation and that the chances of success were about 20 per cent. But his disabilities were so severe that he was prepared to give the operation a go. His quality of life was continually deteriorating to the point at which he could not control his shaking and was taking about 20 pills a day.

Five days after the operation when I opened the door of my office and saw him I thought I was in another land. Given the trouble it took to get him into hospital, I was surprised that he was up and around so soon. Special mention must be made of Dr Denis Crimmins, a Gosford neurologist, and the Royal North Shore Hospital, where the operation was carried out. I have been informed that the operation on Bronco was possibly the most successful they have had. I commend the hospital and the doctor and acknowledge the courage of my good friend. The doctors say it is a dangerous operation and, having seen it on television, I know that it is a dangerous operation. It is wonderful that services such as this are available in our health system to ordinary working people who in systems other than Medicare would not be able to have the operation. It is a tribute to our medical system and to Labor governments.

Private members' statements noted.

House adjourned at 6.56 p.m.