LEGISLATIVE ASSEMBLY

Wednesday 10 March 2004

———

ABSENCE OF MR SPEAKER

The Clerk announced the absence of Mr Speaker.

Mr Deputy-Speaker (Mr John Charles Price) took the chair at 10.00 a.m.

Mr Deputy-Speaker offered the Prayer.

BILLS RETURNED

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

Wool, Hide and Skin Dealers Bill

LORD HOWE ISLAND AMENDMENT BILL

Second Reading

Debate resumed from 29 October 2003.

Mr MICHAEL RICHARDSON (The Hills) [10.02 a.m.]: Lord Howe Island is located about 500 kilometres east of Port Macquarie. Discovered and named by Lieutenant H. L. Ball just 22 days after landing at Sydney Cove in 1788, the island is unique in that, despite being designated part of New South Wales from 1853 on, it has been colonised by plants not just from Australia but also from New Zealand and the Pacific. Half of the 241 species of plants identified on Lord Howe Island are endemic to the island and found nowhere else. It is primarily because of this that the tiny island was designated a World Heritage Area in 1982, registering its importance not just to New South Wales and Australia but to the whole world.

Lord Howe Island is the only part of New South Wales to be governed by its own Act. This came about primarily because of problems associated with land tenure. The first permanent settlers arrived on the island in 1842. The Government surveyed their lands in 1878, granting 12 five-year special leases ostensibly for the cultivation of coffee. Thirteen more special leases were surveyed in 1880. In 1889 many of the squatters were given permissive occupancy over their lands but the Government rejected a petition to convert these permissive occupancies into freehold in 1905 because it said that the jurisdiction of the Crown Lands Act stopped at the New South Wales coastline. It is not clear why Parliament did not simply amend the Act at that time to include Lord Howe Island, but the fact is that it did not.

In 1913, following two royal commissions into the island, a board of control was constituted, which included the Minister for Lands. But it was not until the then Minister, W.F. Sheahan, visited the island in 1948 that it was decided to draft a specific bill covering the management of the island, in particular dealing with the thorny issue of land tenure. That Act, the Lord Howe Island Act, came into being in 1953. Since then it has been amended twice—in 1967 and in 1981. In its current form it establishes the Lord Howe Island board and its powers, vests the island in the Crown, grants perpetual leases of up to two hectares, establishes special leases for agricultural purposes, and provides for the Lord Howe Island permanent park reserve—which is about 90 per cent of the island and is a unique category within the national parks system.

Much of the Act focuses on land tenure. I visited the island in February and found that this and the question of eligibility to acquire land are still the most contentious issues on the island. Perhaps that is because it is such a small place—just 11 kilometres long, two kilometres wide and 1,540 hectares in area. But the population is commensurately small. There are about 350 residents, fewer than 200 of whom qualify as islanders—that is, people who have lived continuously on the island for the past 10 years. That definition is important because islanders have first right to buy any land that is sold on the island. Any land must be advertised on the board's noticeboard before it can be sold to a mainlander or to any other person who does not live on the island. All residents on the electoral roll can vote in board elections but only islanders are eligible to stand for election to the board.

When I visited the island a couple of people suggested to me that the Lord Howe Island Act was not necessary and that the island could be managed under the National Parks and Wildlife Act and the Local Government Act. I reject that assertion. The fact is that the island and its World Heritage status are inextricably intertwined and it would be very difficult to separate the two and govern the island on the basis of the Local Government Act and the National Parks and Wildlife Act. The island was isolated for about 12 million years and its environment is so fragile that I think maintaining the Lord Howe Island Act is the only solution. Small country towns are renowned for being places where everyone knows everyone else's business.

Mr Bob Debus: It's nothing compared with Lord Howe Island.

Mr MICHAEL RICHARDSON: The Attorney General, and Minister for the Environment is spot on: That situation is magnified tenfold on Lord Howe Island. Perhaps because of its isolation and because so many islanders are related to one another, there is considerable scope for conflict, nepotism and cronyism. According to ICAC, the instance of complaints is about 300 times the State average—although I suspect that those statistics are amplified to some extent by the small population sample that was taken. As a result, ICAC became involved in 1995 and wrote a report entitled, "Preserving Paradise—good governance guidance for small communities—Lord Howe Island", which attempted to address some of the conflict of interest problems but I suspect did not do so altogether satisfactorily.

In fact, ICAC offered no real solution to the problem of having a single individual occupying perhaps four different important positions on the island. To my way of thinking, the ICAC report did not address properly the questions of the potential for those positions sometimes to conflict or for that person's business interests to intertwine with his or her role as an official. Despite the fact that a code of conduct was implemented for board members and staff, ICAC continued to receive complaints from the island. The ICAC wrote that although none of the Lord Howe Island complaints has led to findings of corrupt conduct, their frequency and similarity are of great concern. The issues that the ICAC dealt with are as follows:

- the central issue generally has been conflicts of interests which lead to alleged abuse of the situation and/or victimisation
- governance of the Island is an issue in that the LHI Board has been the subject of 20 of the 29 referrals to the ICAC. The LHI Board is discussed in more detail below
- shipping services to the Island require particular attention as they have been the subject of 19 of the 29 referrals. Of these 19, 16 relate to the LHI Board. Shipping services are also discussed in more detail below.

There are currently five members of the board, two appointed by the Minister from his department and the National Parks and Wildlife Service, and three elected by the island's residents every three years. The Minister appoints the chairman—currently the Northern Area Manager of the National Parks and Wildlife Service, John O'Gorman, who is based in Coffs Harbour—while the board elects the deputy chairman from the islander members. The bill would increase the membership to seven, having someone with experience in business and tourism and, to balance things out, another islander. This sounds good in theory but remember what I said previously: the pool of talent from which to draw these board members is small—something like 200 people are eligible to stand for election to the board. At the time of the last board elections only six candidates nominated for the three positions. While I was there, almost everyone I spoke to told me that they almost never seem to agree on anything. The problem is that if another board member were to be elected from the islanders, insufficient candidates may stand for the available positions. That situation should be avoided.

It might be claimed that bringing in an extra person with experience in business and tourism would be advantageous—I do not necessarily disagree with that—but it is already open to the Minister to appoint someone with experience in business and tourism. I foreshadow that the Opposition will oppose this provision. We do not believe that it provides any tangible benefits. It was opposed by virtually everyone I spoke to on the island. I just throw this point into the mixing pot: The Minister should also consider the possibility of allowing all those who are eligible to vote to stand for office. Where else in Australia is a person eligible to vote but not eligible to be elected to office? An example of how poorly the bill has been drafted is that in the explanatory note on page 2 it states:

> As is currently the case, the Islander members are to be elected by Islanders.

The fact is that the islander members are not elected by islanders but by all those on the electoral roll. Division 3 9B of the Act states:

> A person enrolled on the State electoral roll for the electorate in which the Island is situated is entitled to be enrolled as an elector for an election under this Division if the person is resident on the Island and the person's address on that electoral roll is an address on the Island.

If the bill were passed in its current form we probably could not hold elections on the island. I suspect that was not the intention of the Minister or his staff, or indeed of Parliamentary Counsel in drafting the bill. The bill also introduces a charter for the board similar to a local council's charter under the Local Government Act. I do not believe this will make much practical difference to the way in which the island is run, but it does emphasise the board's responsibility to manage the island in a manner that recognises its World Heritage values. As I said previously, I believe that having a specific Act to administer Lord Howe Island is the way to go. It is important to balance the critical issues of land tenure and the rights of the islanders—many are fourth-generation islanders—and the extraordinarily high conservation values of the island. An issue that highlights the deficiency of the current Act more than any other issue is that of corrupt conduct. The island is literally a law unto itself, as we have heard. ICAC, in its report "Preserving Paradise", points to significant difficulties in the Lord Howe Island Act. It states:

> The deficiencies are particularly evident when examining the provisions that apply to elected Island Board members. The LHI Act makes it difficult for Board members to be removed if they breach the Code of Conduct, contravene agreed procedures, or otherwise abuse their office (without committing an indictable offence). .. as the LHI Act stands, it would be difficult for the ICAC to make a corruption finding against an Island Board member.

That is an absurd state of affairs. While the island is a law unto itself it certainly is not right that board members should be above the Independent Commission Against Corruption Act. The Minister should have the right to remove an island board member for corrupt conduct. I understand that the Government has drafted an amendment to allow a board member to be stood aside rather than dismissed on the basis of a charge of corrupt conduct being laid against that board member. That is a matter of procedural fairness. The report states:

> The LHI Board is the primary decision maker and government services provider on the Island. The functions of the LHI Board are to undertake the care, control and management of the Island and trading affairs on the Island, including electricity supply, public health, roads and public facilities generally, tourist trade and dealings in leases. It also manages all Crown Land, conducts a palm nursery and a liquor distribution outlet, owns, maintains and operates the local aerodrome, and acts on behalf of the NSW Registrar of Births Deaths and Marriages. It is also responsible for the management of the Island Permanent Parks Reserve and the Gower Wilson Memorial Hospital.

So it is much more than simply being a local council. But the Act has not gone quite so far as the legislation for Norfolk Island, which has its own Legislative Assembly. I understand that Norfolk Island is suffering economically as a consequence of incorrect decisions taken there. The pecuniary interests of board members have been declared since the early 1990s following a Public Accounts Committee report in December 1990. I must say that I found it astounding that prior to that time board members were not required to declare their pecuniary interests. Among ICAC's many recommendations are:

> That the LHI Board should review its code of conduct and the code of conduct for board staff to ensure they are relevant and to incorporate up-to-date provisions.

The board accepted this recommendation and believed that the simplest way to manage the issue was to adopt the disclosure of pecuniary interests requirements in the Local Government Act 1993. The board also said that it had begun drafting conflict of interest provisions tailored for Lord Howe Island to take into consideration non-pecuniary conflicts of interest. ICAC noted that that was encouraging as it is essential that any action taken by the board in respect of conflict of interest on the island covered both pecuniary and non-pecuniary conflicts of interest. I have to say that when such a small pool of people occupy so many different roles, regardless of whether a declaration of conflict of interest is made, the potential for a perceived conflict of interest exists even if the conflict of interest is not actual. The Minister probably agrees with me on that issue.

The problem is that even if board members disclose their interests and absent themselves from a board meeting there will always be allegations of favouritism and influence. I refer honourable members to a decision made by Cabinet to allow poker machines in hotels when the then Minister for Police, a large hotelier in his own right, informed the House and the public that he had withdrawn from Cabinet at that time and therefore claimed that he had no influence on the vote. Of course, one does not have to be in a room and cast a vote to influence a decision. That is potentially the situation on Lord Howe Island, an issue that has not been resolved.

Lord Howe Island Board members make the declarations of conflict of interest only during a meeting. Under the code of conduct it has been the practice of the board to discuss the nature and effect of the conflict of interest. The chairman is given considerable power as he rules on what action should be taken. In fact, board

members were quite concerned about that power because they believed that the chairman could exclude them from voting on a particular issue and the chairman's ruling was absolute. One issue is unquestionably the 17 special leases on the island. As all three Lord Howe Island Board members are special lease-holders, all three board members would have a conflict of interest and would have to absent themselves when the issue of special leases is considered.

Clause 8 (8) of new schedule 1A to the Act provides that the Minister makes the decision, which was of concern to elected board members who believe they should be able to vote on an issue and relay their decision to the Minister for ratification. I cannot see anything wrong with islander members advising the Minister, but equally someone who has no direct interest in the issue must make the decision ultimately. I understand that is incorporated in some foreshadowed amendments. All board meetings are open to the public, although a lot of business—too much, many islanders say—is conducted in camera. ICAC suggests that currently a board member who withdraws from discussing a matter can remain and participate as an ordinary member of the public, heavying the others and members of the public.

When I visited and suggested that a public meeting be held so that islanders could express their concerns about the amendment bill I was told that other people on the island would not open up in front of the board members who would be present because they would be concerned about repercussions. That gives honourable members an idea of the hothouse atmosphere of the island, because it has such a small population. Clause 8 (4) of new schedule 1A to the Act provides that a board member who has disclosed an interest in a matter cannot be present during any deliberation of the board with respect to the matter. That is certainly an improvement but it still does not mean that he cannot influence the proceedings.

The biggest area of complaint to ICAC was shipping services to the island, which ICAC said required particular attention. As I said previously, shipping service issues were the subject of 19 of the 29 referrals to ICAC. A whole chapter in "Preserving Paradise" is on shipping and no fewer than 14 recommendations relate to those issues, none of which appear to have been addressed in this bill. Recommendation 20 on page 18 states:

> NSW Supply and LHI Board should examine a range of options to resolve disputes, including those about shipping services … [including the] establishment of a LHI Grievance Officer or Ombudsman … establishment of an Island Complaints Resolution Panel, or similar, comprising objective representatives with no island interests.

To my knowledge, that has not been done and there is nothing in the bill about that issue. ICAC also recommended that the New South Wales Waterways Authority develop a code of conduct for the port operations manager and assistant port operations manager. A range of other recommendations relate to these positions. Waterways has a generic code of ethics and standard of conduct dating from January 2000, but it is tailored to much bigger ports and communities than Lord Howe Island. It is difficult to compare, for example, the port of Sydney with the port of Lord Howe Island, where one ship appears once every fortnight. That of course is the nub of the problem. On Lord Howe Island the same person, Mr Gower Wilson, is a Waterways employee, a Lord Howe Island Board member, a marine pollution inspector and a director of Lord Howe Island Seafreight, which won the fuel contract and general cargo contract for the island.

In July 2000 a half-hour documentary on the island was shown on *A Current Affair*. I recommend that honourable members obtain a copy of that excellent program, which is riveting viewing. It was highly critical of the way the Government has been handling shipping issues relating to the island, as indeed it might be. The contracts to supply general cargo and fuel to the island have been a bone of contention for several years now. In January 2002, following a tendering process managed by the Department of Public Works and Services, the Carr Government awarded the two contracts to carry Lord Howe Island Board cargo, representing 40 per cent of total shipping business, to the MV *Island Trader*. Its rival, the MV *Sitka*, was forced to withdraw from the route and is presently tied up at Yamba, creating a monopoly for the islander-owned *Island Trader*. According to documents obtained under freedom of information provisions, this monopoly situation was foreseen by NSW Supply before the tenders were awarded. A memo dated 21 November 2001 from Mr Don Murphy, General Manager, NSW Supply, stated:

> The awarding of both tenders to the one company may cause the loser to cease trading to the island. This would create a monopoly situation and could immediately impact on the residents of the island through lack of choice and higher freight charges.

When he read the memo, the then Director-General of the Department of Public Works and Services, Mr Dick Persson, who is now the administrator of Warringah Shire Council, wrote:

> It seems to me that we should have foreseen this outcome when we made the decision to go to tender.

> Nevertheless I feel the best option would be to give the larger contract to the 'winner' and award the lesser to the other supplier to ensure competition. Is this option legally defensible?
>
> … If there is no risk involved, I feel that the LHI Minister should be consulted.

Why was the advice of Mr Persson ignored? Why did the Government decide to create a monopoly on the island? The residents are so concerned that they have formed a lobby group called "Concerned Citizens of Lord Howe Island". Half of the island's 260 adult residents have signed a petition to re-establish competition.

Mr Bob Debus: Everybody always signs all the petitions!

Mr MICHAEL RICHARDSON: The Minister said that everybody on the island always signs all the petitions but, in fact, that is not the case because some fear repercussions. I have outlined that ongoing problem on the island previously. It is clear that only half the number of islanders signed the petition, but that issue should have been taken into account. It is not surprising that the islanders were concerned about both prices and back-up for their lifeline to the island. Part of the tender conditions was that a suitable back-up vessel should be provided to supply the island.

The back-up to the *Island Trader* is a seagoing tug, the *Betts Bay*, towing a barge, the *DW1*, registered for use in partially smooth and smooth, sheltered waters only. One would be gilding the lily to suggest that the sea between the coast of New South Wales and Lord Howe Island qualifies as partially smooth and smooth, sheltered waters only as it can be as rough as any waters in the ocean. The barge would probably sink on its maiden voyage. Naturally that was a genuine concern of those island residents who signed the petition: it was not a matter of them signing the petition only because everybody signs it.

On 16 July the Minister responded to the concerned citizens of Lord Howe Island stating that the existing freight services contract contains stringent measures that must be met by the contractor to provide continuity of service should the current vessel not be operational for any reason. That requirement was assessed by an independent maritime industry expert during the tender evaluation process and deemed to be adequate and proper. I do not understand; perhaps the Minister can explain how a seagoing tug towing a barge registered for use in partially smooth and smooth, sheltered waters only can qualify as a suitable backup to the *Island Trader*. That issue has yet to be addressed, and it must be addressed to ensure continuity of supply to the island.

Even more alarmingly from an environmental perspective is the fact that the *Island Trader* carries up to 58,000 litres of fuel oil for the island's power station in its cargo tanks every fortnight. I brought that fact to the attention of the House a couple of weeks ago. The ship is not registered as an oil tanker and it is not double skinned. The oil is held in its hull in what are known as double-bottom tanks—one skin being the bottom of the ship and the other the bottom of the cargo hold. As marine surveyor Captain David Pyett told the *Australian*, the slightest mistake could result in the ship's bottom being torn out.

The Waterways Authority seems to think that arrangement is perfectly satisfactory. It said in answer to written questions put to it by Steve Barrett from the *Australian* that it had a copy of the Bureau Veritas stability booklet dated 2001 and other Bureau Veritas drawings that designate a number of the *Island Trader's* double-bottom tanks for the carriage of fuel oil. Bureau Veritas is an international shipping classification society. It says that it never classified the ship to transport diesel oil as cargo in its double-bottom tanks; it was classified to carry fuel only for the ship's engines. The ship's classification and its insurance are both as a general cargo ship, not as an oil tanker.

If that is the case, it means that from January 2001, when the ship first started carrying fuel oil in its double-bottom tanks to the island, until now it has been operating illegally—the claim made in the *Australian*—and contrary to its contract, which requires it to carry appropriate protection indemnity insurance at all times. For the benefit of the honourable member for Port Macquarie, who has raised the matter with me, I have seen current insurance documents for the ship provided by Hungerford Gault and Armstrong. Those documents classify the ship not as an oil tanker but as a roll-on, roll-off vessel because it is a converted landing barge. I cannot see how the ship's owners can claim to have appropriate insurance for a ship that is operating as an oil tanker when the insurance company has classified it as a roll-on, roll-off vessel. Cars are not driven on and off the ship.

The Lord Howe Island lagoon is full of sharp coral that could easily rip open the ship's hull and tanks. At low tide when the ship is being loaded and unloaded alongside the jetty its hull rests on the bottom. Of course, it was built as a landing barge, so I am prepared to accept that that activity is safe. However, I have seen

aerial pictures of the ship coming into the lagoon and it is clearly causing a significant amount of damage to the coral because of its deep draught. It is interesting to note that on 29 September Milo Dunphy—a great friend of the Premier's—wrote to the honourable member for Gosford when he was Minister for the Environment expressing concern about the damage that could be caused to the floor of the lagoon by ships. The letter states:

> Damage to floor of Lord Howe Island Lagoon by vessels
>
> Total Environment Centre has previously reported to you damage done to the floor of the Lagoon at Lord Howe Island.
>
> The attached photographs show the nature of the damage. I am advised the photographs were taken 'about March 1994'.
>
> Photograph 1 shows the scrape and jet marks from the Lagoon entrance to the jetty.
>
> Photograph 2 shows these marks in a somewhat closer view.
>
> Photograph 3 shows the hole beside the vessel where the propeller blast has removed sand, trying to pull the bow off the shore.
>
> It is understood that the scrape marks are now more marked and the hole at the jetty is now deeper and that grounding and scraping of the present contract vessel the barge 'Island Trader' continues.
>
> I remember your personal concern that this problem was occurring on this World Heritage Island. Whatever was done to correct the problem seems to have failed. It seems unlikely that the vessel currently contracted, the barge 'The Island Trader' can avoid the problem. Therefore it appears that, in the interest of protecting the island, another vessel with shallower draught should be considered.
>
> It is understood that at least one member of the Lord Howe Island Board has a financial involvement with the present contract vessel. Your assurance that any such members do not take part in the Board debates regarding awarding of its shipping contract or in discussion of sanctions, would be appreciated.

That speaks for itself. The environment movement has significant concerns about the way in which the island is being serviced by shipping.

Mr Paul Gibson: What did Mr Hartcher do about it?

Mr MICHAEL RICHARDSON: Since the letter was dated 29 September 1994, and we unfortunately lost government in March 1995, the interjection is answered by the timing. At the end of last year, following a series of questions asked in Parliament, the Waterways Authority gave Lord Howe Island Sea Freight Pty Ltd 14 days to provide a copy of the insurance policy held in relation to damage caused by a discharge of oil from the vessel. Incredibly, that was more than a month after the authority had obtained verbal advice on 10 November 2003 that the *Island Trader* was carrying marine liability insurance. That verbal advice led to the Minister for Infrastructure and Planning informing the House on 20 November, in answer to a question I placed on notice, that the ship was carrying appropriate insurance.

It is not appropriate for a Minister of the Crown to obtain verbal advice on a issue as important as the protection of a world heritage listed island, particularly given the series of articles in the *Australian* clearly indicating the problems with the ship's insurance and the way in which the island is being serviced. I am astounded that the Minister did not bother to check his facts nor ask for a copy of the insurance policy. It gets worse. On 4 December the Minister for Transport Services misled the Parliament when he answered another question about the ship. The Hon. Michael Gallacher in another place asked:

> (1) Is the vessel MV *Island Trader*, that currently has the NSW Government contracts for sea freight supply of general cargo and fuel to Lord Howe Island, entitled to carry fuel oil cargo in double bottom tanks into the Lord Howe Island Lagoon?
>
> (2) Does the vessel's shipping classification as a BV class type General Cargo ship allow the carrying of fuel oil as cargo?
>
> (3) Does the vessel currently hold a valid Certificate of Survey issued by the NSW Waterways Authority?
>
> (4) Does this vessel currently have a valid insurance policy?
>
> (a) If so, does the insurance policy include coverage for the carriage of fuel oil as cargo by the vessel MV *Island Trader*?
>
> (b) Does this vessel's insurance policy indemnify the NSW Government from liability for damages in the event of an oil spill?

The Minister for Transport Services answered:

I am advised:

(1) The MV *Island Trader* is entitled to carry fuel oil cargo.

(2) The MV *Island Trader* did have Bureau Veritas (BV) classification and was permitted under that classification to carry fuel oil as cargo. However, the vessel now operates under the Waterways Authority's *Commercial Vessels Act 1979*. The NSW Waterways Authority has accepted the previous BV classification and permits the *Island Trader* to carry fuel as cargo.

(3) The MV *Island Trader* currently holds a valid Certificate of Survey as issued by the NSW Waterways Authority.

(4) The MV *Island Trader* currently holds a valid insurance policy.

(a) Details of the insurance policy are a matter for the owner of the vessel.

(b) In the event of pollution, liability rests with the vessel owner.

The fact is—as Steve Barrett from the *Australian* has shown—the MV *Island Trader* did not at that time have Bureau Veritas classification as an oil tanker. So she was not permitted to carry fuel oil as cargo; she was classified as a general cargo ship. And the oil was supposed to be carried, not in bulk, but in 200-litre drums as part of the ship's general cargo. That is what happened on 20 February, following the series of articles in the *Australian* that I have mentioned and following also my raising the matter in Parliament. The MV *Island Trader* left Yamba, bound for Lord Howe Island, carrying 29,000 litres of fuel oil in 200-litre drums. I believe that is what she should have done all along. Quite frankly, I cannot understand how the Minister for the Environment and the Government, which prides itself on its green credentials, could have allowed her to operate carrying the fuel in double-bottom tanks.

Honourable members will be interested to know that the Waterways Authority insisted in 1986 that the *Sitka* be refitted with special tanks so that she would not be carrying the oil in her double-bottom tanks. That was done to protect the island's fragile environment. That was done by the previous Labor administration—one of the things it got right. It did not get much right, but that is one of the things it did get right. I cannot understand how the current Minister for the Environment and the Government, which prides itself on its green credentials, could have allowed the current situation to continue. Or perhaps I can, because the Carr Government has also spent $860,000 of taxpayers' money persecuting the owners of the *Sitka* over an eight-litre oil spill because—shock, horror—they were using non-union labour.

The saga of the *Sitka* began on 1 December 1996, when the 400-tonne vessel, servicing Lord Howe Island out of Yamba, was unloading a cargo of road base bags at the island jetty. A hose fitted to the ship's crane ruptured, discharging a small quantity of hydraulic fluid—maybe five litres—into the water. We are not quite sure exactly how much went into the water. The spill was immediately reported and cleaned up within two hours. The following September the Carr Government threw everything it had at the vessel's owners and its master, Captain Harry Peacock. So keen was the Government to help its union mates that it appealed the case all the way to the High Court—at taxpayers' expense. Let us hear what Justice Mahla Pearlman of the Land and Environment Court had to say about this issue:

> First, the trivial nature of the offence. I do not consider that the offence of discharging polluting material into water is of a trivial nature. But I take into account, in the circumstances of the application of s 10 in these proceedings, that this offence was minor. The amount of oil which was discharged into the water was five litres and, although it is important to consider that in its context, as Mr Hill, appearing for the prosecutor, urged, that amount is, by any standard, small. I take into account in this connection that the discharge was readily mopped up, although it took some two hours to do so, and I take into account in this connection that there was no evidence of any environmental harm of any sort.

I repeat, "no evidence of any environmental harm of any sort." The Government was prepared to spend $860,000 to prosecute and persecute the owners of this ship, yet it allowed another ship to carry fuel oil into the lagoon in a manner which a marine expert has described as unsafe. The Government's hypocrisy stands revealed for all to see.

If that were not enough for the Government, the Director of Public Prosecutions spent a further $200,000 appealing the decision—and, not surprisingly, he lost. This is the man who thinks Parliament should not have any say in what he does. This is the man who thinks he stands above the Parliament and every other citizen in New South Wales. This is the man who will not appeal a decision in a case of extraordinary importance that the people of New South Wales and the Parliament have very genuine concerns about. A classic example, which was referred to only this week by the honourable member for Epping, involved the Court of Criminal Appeal decision to overturn the conviction of Tayyab Sheikh on a charge of rape. That decision will

require the victim to suffer an enormous amount of additional trauma because Justice Mason and Justice Wood believed the jury could—I emphasise could—have been influenced by the sensational amount of publicity that surrounded the matter.

Nicholas Cowdrey spent a further $200,000 appealing the decision of Justice Mahla Pearlman. If I remember correctly he described the offence as a major offence and said that Justice Mahla Pearlman was completely wrong at law in coming to her decision. I cannot, for the life of me, understand how the Carr Government can justify the expenditure of $860,000 of taxpayers' money pursuing this unintentional, minor breach of the law. This was hydraulic fluid that was spilt from a crane that had been overhauled six months earlier and certified by Bureau Veritas. As Justice Mahla Pearlman said, the owners of the *Sitka* could not have anticipated a spill into the lagoon, and there was no environmental damage whatsoever. From the way this Government went on, you would think a catastrophe on the scale of the *Exxon Valdez* had occurred—not a minor spill, which was cleaned up within two hours, that caused no environmental damage, and involved no negligence on the part of the ship's owners or its captain.

There is more. Before the articles appeared in the *Australian* I received an anonymous letter that alleged there may have been fraud involving the Federal Government's Petroleum Products Freight Subsidy Scheme. The allegations have been circulating for some time. They are too serious to be ignored. The Government needs to investigate the matter and ensure that the tender was awarded on the basis of a level playing field. In a letter dated 28 September 2001 from Peter Riddle, Director of Lord Howe Island Seafreight, to Matthew Chalder of NSW Supply, Mr Chalder was asked to confirm the ACCC rate for fuel delivered to Lord Howe Island. The letter states:

> We have been advised by AusIndustry, Mr Stacey Shores, Customer Service Officer, that there is no subsidy for bulk fuel to Lord Howe Island. Please confirm.

He goes on to say:

> If there is no subsidy on bulk fuel to Lord Howe Island is it your intention to proceed with the Tender in its present format?

I can understand that, because I believe Lord Howe Island Seafreight is in fact getting a subsidy of 23.2¢ per litre for fuel that is carried to the island from AusIndustry, that is, from the Commonwealth, and that that subsidy was not available to the *Sitka* because the ship had been modified so that she carried the fuel in bulk, not in 200-litre drums, which I understand is a prerequisite for gaining the subsidy. On that basis, the question is: Has the tender for the island's cargo been awarded fairly? I make no judgment on those matters. I simply think that because there has been so much concern about this issue, because of the series of articles in the *Australian*, and because of the amount of correspondence I have received on the matter, the Government should resolve it once and for all. It should resolve also the question of safety in the way in which fuel is being carried to the island.

I would like the Government to confirm—not on the basis of a letter that the Minister wrote to the *Australian*—that the way in which the fuel is being carried is the right and appropriate way; that the subsidy is appropriate; and that the ship is properly insured. I do not seek verbal commitments: I seek assurance of signed documents that clearly show the ship is entitled to be carrying the fuel oil in this way. If that is the case, the owners of Lord Howe Island Seafreight will have been vindicated. However, I would still have some serious concerns about oil being brought into the Lord Howe Island lagoon in the double-bottom tanks of any ship, regardless of what ship it might be. The bill is an attempt to address some of the problems facing Lord Howe Island, but I do not believe it goes far enough. There must be a desire on the part of both the Government and the Lord Howe Island Board to fix those problems, and I am not sure how fair dinkum the Government is about dealing with some of them.

Another important issue that is dealt with in the bill is the removal of the board's monopoly on the gathering, collection and sale of Kentia palms. This is an interesting issue, stemming from the May 2000 national competition policy review of the Act. The Kentia palm is the symbol of Lord Howe Island; it is one of the four palms endemic to the island. It has been used as an indoor palm for more than 120 years. Indeed, I understand that it even featured at Queen Victoria's funeral, at her request. So it has taken a prominent place as an indoor palm for many years. For many years the Kentia palm was the economic mainstay of the island, particularly after World War I. Currently all seeds grown on the island belong to the board, and people earn a good living from picking them, both from lease areas and in the wild. In recent times the board has also planted 3,000 trees in plantations.

However, as ACIL Consulting Pty Ltd identified in its review of the national competition policy, Lord Howe Island has very little power to influence the Kentia palm seed and seedling markets. Lord Howe Island

grows 800 to 1,600 bushels of seed, the mainland grows 2,000 bushels, Norfolk Island grows 2,000 bushels, and the Canary Islands grow at least 2,000 bushels. California, Italy, Japan, The Netherlands, Belgium, Korea and Japan are also involved in growing Kentia palm seedlings. The Norfolk Island operation is much more efficient than the Lord Howe Island operation because private growers are involved. They sell the seed on the open market, like any other agricultural product.

I suggest that anyone could germinate the Kentia seed, given the right conditions. There is a low cost of entry to the industry, there are no natural barriers, and that is why Lord Howe Island cannot claim to control the market for Kentia seed production. The only reason Lord Howe Island stays in the game is its claim to a purer product, on the basis of the genetics of the seed that the island collects, as opposed to that grown overseas. That is probably a dubious claim. However, the island is doing its best to ensure the quality of its product.

The Lord Howe Island Board nursery, which is run by Larry Wilson, is an efficient operation employing six people full time and many more part time. The nursery has ISO 9001-rated quality assurance, and all seedlings can be tracked back to the regional tree or trees. If a Kentia palm is sold in Europe or the United States of America, it is possible to ascertain the place of harvest of the seed that created that tree. The nursery also culls trees that do not germinate at the appropriate time. The nursery is doing a first-rate job, but it is suffering from the mistakes of the past.

The islanders have mixed views about abolishing the board's monopoly in relation to Kentia palms, as they do about other matters. Some islanders believe that leaseholders should have the right to own the seed but should not be able to sell it off the island. Under the amendment they will be able to do so. It is difficult to justify the board's monopoly given national competition policy and the fact that Lord Howe Island does not control the world Kentia palm market. The fact that Norfolk Island, in particular, has managed to steal a large slice of that market from Lord Howe Island because production has been commercialised in private hands is a clear indication of that.

The bill also addresses special leases. As I said, currently there are 17 leaseholders, such as all three board members, who hold special leases for up to 10 years. The island is only 11 kilometres long and 2 kilometres wide, and 90 per cent of it is permanent park preserve, so the amount of land available for development is extremely limited. I do not think anyone would seriously suggest that some of the permanent park reserve should be cleared to allow the construction of more houses or guesthouses. Therefore, the only land on the island that is available for development is land that is the subject of special leases.

Many of those special leases have been in a particular family for generations, and the land must be used for agricultural purposes or the leases are forfeited. Some of the special leaseholders, such as Gower Wilson, take their agricultural pursuits seriously. Many others do not, and I understand that their cattle are not well looked after and that there is no justification for their retaining their special leases. The bill amends section 22 to effectively allow the Minister to divide up those special leases for building blocks or unspecified public purposes. Compensation is payable, and is to be determined by the Valuer-General. I understand that the Government will move a further amendment to provide for compensation to relate to five years worth of production from those leases, as opposed to 18 months worth of production as provided in the bill.

Mr Bob Debus: That is correct.

Mr MICHAEL RICHARDSON: The Opposition supports the payment of compensation to holders of special leases who have those leases revoked. However, we do not support their conversion to perpetual leases, which is one of three types of land tenure on the island. On my visit to the island a number of people—presumably special leaseholders—lobbied me about converting the special leases to perpetual leases. This would result in a windfall profit for those special leaseholders, which does not seem to be appropriate.

The bill also amends sections 21 and 22, which set the maximum perpetual lease rental at $200 per hectare. Currently the maximum perpetual lease rental can be redetermined only once every 10 years and then to a maximum of an additional $100 per hectare. Appropriate rent determination should be set out in regulations and the review period should be reduced to three years. The setting of lease rentals will take into account advice from the Valuer-General, which is obviously a safeguard on the value of those rentals. The Government has said that there will be public consultation on this issue, which we welcome.

Penalties for allegedly minor offences have been increased to make them consistent with those under the National Parks and Wildlife Act. That is sensible, but it is possible for an offence to carry a maximum fine

of 50 penalty units, which equates to $5,500. I ask the Minister to explain how the Government will ensure that these penalties are to be equitably set and fairly applied, given that I and other members on this side of the House have considerable concerns about the level of penalties that the Government is applying to comparatively minor offences in other areas. In his second reading speech the Parliamentary Secretary said:

> This is a timely and responsible bill that addresses a number of recommendations from independent reviews as well as ensures that the operation of the board is viable, accountable and in line with accepted best practice.

The question is: Will it do those things? The Government should also have looked at the whole land tenure question, including the consequences of perpetual leases having to be offered to islanders first, at a price determined by the Valuer-General before they go on the open market. I heard of some instances in which that process had been corrupted. As one islander pointed out to me, there are now only two couples who are married islander to islander. All other marriages are islander to mainlander or other person. The term "other person" refers to a person who is not an Australian citizen. Moreover, because of the 10-year rule, it is possible for a person who is not an Australian citizen to become an islander and be elected to the board. In other words, a non-Australian citizen who stays on the island for 10 years may become an islander and be elected to the board, even though that person cannot vote in Australian elections. The narrowing of the pool of buyers in this way is anticompetitive and probably contrary to the Trade Practices Act.

However, Murray Carter, the Chief Executive Officer of the Lord Howe Island Board, says that a combination of converting land title to freehold and abolishing the islander qualification would result in most of the homes on the island becoming holiday homes for rich mainlanders. This would reduce the number of passengers for Qantas, thus making air and shipping services less viable, which would impact significantly on the economy of the island. I understand that people must live in their property for six months of the year, but that is very hard to police, and many people get around that qualification. One wonders whether the 390-bed accommodation limit is realistic: many islanders believe it is not. It helps to protect the environment, but it also protects existing lodge owners who are able to maintain extremely high prices for what is often inferior accommodation. Meals on the island cost double what they do on the mainland.

One also wonders whether adding 200 beds would enable two ships to compete on the island run. The definition of "reside" in the Act is said to have the same meaning as it has in the Crown Lands Consolidation Act, which was repealed. I gather that the Government will produce another amendment to deal with that. It seems extraordinary to suggest that a definition has the same meaning as a definition in a repealed Act. One would have to search through the archives underneath the Chamber to locate a copy of that Act. The Government should have done the job properly and reviewed the entire Act. If I am the Minister in five years when the Act is up for review, as provided for in schedule 1 [25], I intend to do a more thorough job than this Government and, naturally, in consultation with the islander community.

Mrs KARYN PALUZZANO (Penrith) [11.01 a.m.]: I am pleased to speak in support of the Lord Howe Island Amendment Bill. As a university lecturer I often reminded my students to be clear and concise. As a teacher I said that they had to be on task. As a councillor I was aware of relevance. As a member of Parliament I am concerned with facts. I hope that the Lord Howe Island Amendment Bill will proceed and be debated. Lord Howe Island is a special place, not only because it has its own Act of Parliament but because it is a place of outstanding biodiversity and great beauty, internationally recognised through its World Heritage listing in 1982. Its natural beauty and the capping of tourist numbers at 400 at any one time provide a unique visitor experience for tourists from around the world. The Lord Howe Island Board operates on a budget of around $6.5 million and carries out a wide range of functions covering local government, environmental protection, public health and hospital services, electricity supply, airport operations, kentia palm nursery and liquor distribution. It acts on behalf of the New South Wales Registrar of Births Deaths and Marriages and processes applications for Australian passports.

The bill seeks to modernise the board by introducing provisions to align its operations with contemporary local government, and environmental and natural resources legislation. As a soon-to-retire local government councillor I have had first-hand experience with the Local Government Act and the framework the bill seeks to introduce to the governance and operations of the Lord Howe Island Board. It is often stated that

local government is about roads, rates and rubbish, but I can assure honourable members that it is also about policy, process and procedure. I am pleased that the bill introduces a board charter similar to that in the Local Government Act, which includes provisions to protect the island's environment in a manner that is consistent with, and promotes, the principles of ecologically sustainable development and that vacant Crown land and park reserve be conserved and enhanced in a manner that recognises their World Heritage value.

I am pleased also that the bill responds to the concerns of the Independent Commission Against Corruption in its 2001 report "Preserving Paradise", and introduces provisions such as those well known to local government to guide the conduct of board members, manage conflicts of interests and improve accountability. The bill proposes to adopt provisions in line with those of local government for the conduct of board members. The Minister administering the Lord Howe Island Act will be able to remove an elected islander board member for corrupt conduct where there is a report under the Independent Commission Against Corruption Act 1998. Appointed non-islander members can be removed already. Other amendments provide a power to make regulations for meeting procedures, including disclosing and recording of board members' pecuniary interests and procedures for dealing with board members' conflicts of interest.

The Minister is given the power to make a determination in cases where board members cannot participate in decision making due to conflict of interest and lack of a quorum. The Minister, on the recommendation of the board, currently has the power to withdraw special leases for public purposes without compensation. The bill will introduce provisions requiring the board to make monetary payments where special leases are withdrawn or not reissued because the land is required for home sites or other public purposes. Special leases are Crown land leased for up to 10 years for agricultural purposes. Generally, they are cleared pasture or similarly modified. A review of the current Lord Howe Island regional environmental plan is under way and due to be completed in 2004. As part of the review the most suitable sites for future development on the island will be identified, taking into account the need to protect the environment. This is likely to affect some special lease land within the settlement zone on the island. The amount of compensation will be determined by the Valuer-General subject to any regulations under the Act, and will be appealable to the Land and Environment Court.

Currently, there is no equivalent to local government rating or charges on the island, and no freehold land as all land is vested in the Crown. Perpetual leases provide the main tenure type of residential and commercial development. Although the board carries out many of the functions of local council there are also significant differences from the mainland. To maintain an adequate revenue base for the island management and services and for equity reasons the bill proposes to change the current process for determining annual rentals for perpetual leases. The present Lord Howe Island Act sets the maximum perpetual lease rental as $200 per hectare. This rental can be redetermined every 10 years only and even then it cannot be increased by more than $100 per hectare. The bill will remove the rent-setting provisions from the Act and enable the board to make regulations to set annual rentals. A regulatory impact statement, which will include the rental formula and component monetary amounts, will be prepared and exhibited for public comment later this year.

Discounted rentals will continue to be available to eligible pensioners. The new time frame for redetermined annual rentals will be reduced to a minimum of three years. The setting of lower rentals will take into account advice from the Valuer-General as well as the budgetary circumstances of the board and the island community. The provision for a five-year Act review will be included in the bill. The impact of the changes in rental, including any impact on island tourism, will be considered at that time. The national competition policy, which we have debated recently in this House, has impacted on the island. As a result of the National Competition Policy Review on the Lord Howe Island Act the bill proposes to remove the anticompetitive provisions relating to Crown ownership of kentia palm seed on perpetual leasehold land and board control of its harvesting and sale. Leaseholders will be able to sell their seed as they see fit.

A range of other proposals in the bill aim to improve the operational efficiency of the board. An infringement notice system for minor breaches of the Act or regulations will be introduced. Currently, breaches are referred to the court on the mainland: the court has not sat on Lord Howe Island since 1997. The bill will allow penalty infringement notices for minor offences such as littering, unlawful removal of native flora and unlawful importation to be issued without resort to court proceedings. The bill increases maximum penalties under the Act to make them consistent with those under the National Parks and Wildlife Act 1974. Employment of board staff will be governed by the Public Sector Management Act 2002. It is proposed to increase the board from five to seven members to broaden its range of expertise. A non-islander with tourism/business experience will be appointed. The current board majority of elected islanders will be maintained by increasing the number from three to four. The option to appoint a non-government conservation member will also be introduced. The

requirement to appoint at least one member from the Department of Environment and Conservation, formerly the National Parks and Wildlife Service, will be retained.

All these measures are aimed at improving the public accountability, transparency and effectiveness of the board. The Minister for the Environment has indicated to me and to the Opposition that he will be proposing further amendments at the Committee stage that have arisen from discussions with islanders. As the Minister stated in his second reading speech, this is a timely and responsible bill that addresses a number of recommendations from independent reviews and ensures that the operation of the board is viable, accountable and in line with accepted best practice. The bill will ensure that Lord Howe Island continues to be managed in an ecologically sustainable manner and that its outstanding natural values are managed to retain their World Heritage status while supporting tourism on the island. I commend bill to the House.

Mr ROBERT OAKESHOTT (Port Macquarie) [11.10 a.m.]: I do not oppose the Lord Howe Island Amendment Bill. However, I will mention concerns that have been expressed by some of the islanders and deal with issues that have met with broad support. Some members do not know that Lord Howe Island is part of the Port Macquarie electorate. It lies 400 kilometres due east of the town of Port Macquarie and many of the island's services come from service providers in Port Macquarie, such as policing, distance education and limited air services. There is a very close connection between Port Macquarie, the mid North Coast and the island. There is certainly no question that Lord Howe Island is a unique place. It is the only place in New South Wales, Australia and potentially the world where people do not lock their doors. Buildings are left open because if anything is stolen a thief might run but certainly would not be able to hide because the island is so small.

The island's roads have a maximum speed limit of 25 kilometres an hour. It is the only place in New South Wales that does not have poker machines. The island has a unique voting system and a unique style of the provision of services, such as waste management, electricity and everything else involved in the running and servicing of a community. All of the characteristics of living on the island are unique and therefore require unique management. Most people know Lord Howe Island as a place that is registered on the World Heritage List because of its unique environment and environmental management issues. The island has the most southerly coral reef, and new species that are unique to the island, such as fish and grasshoppers, are still being discovered. All honourable members should bear in mind when discussing legislation affecting the island that the island is a unique frontier environment with practical living and survival issues.

The island has 385 residents and a maximum of 400 tourists are permitted on the island at any one time. The residents need to live and survive in this World Heritage List environment, which creates unique issues that require unique solutions. People who live on the island feel a great sense of frustration when they hear mainland people discussing the issues that affect their lives. One example was a speech made this morning, and hopefully there will not be other examples during this debate. All the islanders feel frustrated that theorists on World Heritage values forget that people live on the island and in a very practical sense have a strong community identity. During the debate a member expressed the view that no oil should be transported across the lagoon, but how on earth would the island community otherwise receive supplies of oil? It cannot be piped in, flown in or transported across a rail bridge from the mainland. The reality of life on the island is that oil has to be transported across the lagoon, which increases the need to ensure that transportation schemes are ecologically sustainable.

My primary concern relating to this bill is the decrease in support from Treasury for the island. The Department of Environment and Conservation has been fighting a losing battle with Treasury in trying to negotiate funding and subsidisation for the island community. I am greatly concerned that the provisions of the bill will have to be funded by the sale of land and the development of housing. It is against the spirit or principle of everything that people on the island and members of Parliament have sought to achieve in creating and preserving a unique environment on Lord Howe Island that an additional 25 houses will be built. That is an issue of great concern. I understand that it has become necessary to fund the proposals contained in the regional environmental plan. This is just one more example of Eganomics is affecting environmental outcomes on an island that is registered on the World Heritage List.

I urge the Premier to show his green credentials and override the Eganomics of no subsidies, the user-pays principle, flat earth policies and competition that are inherent in this legislation and that the Premier is imposing on this very small Lord Howe Island community. After all, the islanders are trying to protect the uniqueness of the island's environment for the benefit of Australia and the rest of the world. However, it seems that the Eganomics of the day will dictate that 385 people on the island will have to pay to make the place run and function effectively. That is unfair on the people who live on the island. The government of the day should accept its obligation of offering support in shaping an ecologically sustainable and improved future for the island.

Before I began speaking in this debate, I was focusing on making the point about Eganomics driving the future development of the island when I was distracted by what seemed to be an announcement of Coalition policy on a range of issues. I not only ask the Premier to examine the Eganomics inherent in the legislation but also ask the Leader of the Opposition to examine the policy that was virtually announced by the shadow Minister for the Environment during this debate. I paid close attention to what was being said by the honourable member for The Hills and noted with concern that he made approximately five new policy announcements. He flirted with the idea that the Coalition would review maximum tourism numbers, review land tenure on the island—which would be an issue of great concern to residents—and the ongoing issue of shipping policy. It seems to be Coalition policy to intervene and politicise the issuing of contracts through the State Contracts Review Board.

The shadow Minister implied, by continually asking questions of the Minister and by saying that the Minister is to blame for current problems with shipping services to the island, that if the Coalition won government and he became the Minister for the Environment he would be buying into the contracting process. That flies in the face of issues discussed in numerous reports by the Independent Commission Against Corruption and would exacerbate ongoing disputes between neighbours on the island—the very reasons why the process has been conducted at arm's length by the current Minister, his predecessor and the previous Coalition Minister, Mr Hartcher. The process is independent and conducted at arm's length for very good reasons, yet it appears that the Coalition intends to revert to a political process and intervene in the process of issuing contracts.

The Opposition spokesman also commented on the voting system on the island and seemed to want to change the residency qualifications applying to appointment to the board. There is a good reason for the existence of those restrictions. Candidates must be a resident on the island for at least 10 years before they are eligible for election to the board. That voting restriction is in place because Lord Howe Island is unique, and each elected member of the board should have a knowledge of the history of the place. It is not desirable for a resident of only one year's standing to run for election to the board; that would defy the principles of the uniqueness of Lord Howe Island.

Yet through the shadow Minister for the Environment we hear that the Coalition wants to change that restriction and have everyone on the electoral roll eligible to run for the island board. I have grave concerns about that, and I hope most thinking people would have concerns as well. I hope that the Leader of the Opposition will address that concern by ruling out that change. The first point raised by the shadow Minister was that the Coalition had passed judgment on the ICAC report on the island. He implied that the report was not thorough enough in finding corrupt outcomes and implied further that people who had more than one job were flirting with corrupt practice.

I have already made the point that Lord Howe Island is unique. It has only 385 residents and there is more work available than there are people to fill the positions. That difficult situation is a reality of life on the island. I do not support the suggestion that someone having more than one job is flirting with corruption. I hope the shadow Minister does not support that suggestion either, although that is what he implied. I hope the shadow Minister respects the independence of the ICAC in its thorough investigation of the island community. The ICAC produced that report following receipt of a lot of correspondence from islanders and because Lord Howe Island is a good example of island living. The triggers for the ICAC investigation were to find out how small communities function and what are the structural implications in minimising a corruption-free community. To my knowledge, no significant direct allegations were made to the ICAC; it was more about the structural issues of having one person working two, three or four jobs and minimising the potential for corruption.

That the ICAC did not find any individuals directly connected with corruption was not a surprise—that was not really the point of the exercise. The point of the exercise was to lay on the table a plan for smaller communities to have good governance and to minimise corruption. I hope the shadow Minister is considering that and that the Leader of the Opposition looks at the Coalition's policy, as announced this morning, on Lord Howe Island. That policy will send tremors through not only the island community but also through the extended network of the Friends of Lord Howe Island, which extends to the mainland. I cannot highlight enough the need for the Minister to win that argument with Treasury and for the Premier, where possible, to exercise his green credentials.

We hear often enough that the Premier wants to be the greenest Premier ever, and wants to do all he can to protect the New South Wales environment. This bill gives the Premier a great opportunity to do that. I would hope that the Premier would not allow Eganomics to flat-earth that unique, World Heritage Listed island,

one of the jewels in the crown of the New South Wales environment. The Premier needs to win that argument with Treasury and needs to give his Minister for the Environment all the support he can in Cabinet to raise further funding, subsidies and support to the island. This issue is import not only to all of us in this place but also to the island's 385 residents.

Mrs JUDY HOPWOOD (Hornsby) [11.24 a.m.]: I address specifically one object of the Lord Howe Island Amendment Bill: to remove the board's current monopoly on the gathering, collection and sale of kentia palms, seeds and seedlings. I had the pleasure of visiting Norfolk Island, another unique island, which is close to Lord Howe Island—one almost flies over Lord Howe Island to reach Norfolk Island. On Norfolk Island I undertook a farm and industry tour, during which I spoke to residents and people who are knowledgeable about the kentia palm industry. The islanders expressed great concern about the ability of people on Norfolk Island to send palm seeds to other places, for example, Sicily. I call on the Minister for the Environment to address the consequences of removing that monopoly and other changes that would allow seeds to be sent off the island. I ask the Minister to advise what those changes would mean to the Lord Howe Island income.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [11.26 a.m.], in reply: I thank honourable members who have contributed to this debate. In particular, I acknowledge the contribution of the honourable member for Port Macquarie and advise that I share his concerns about the apparently new Opposition policy regarding voting, ownership of land and present limits on the number of tourists. Those issues cannot be dealt with off-the-cuff in Lord Howe Island, of all places. It is no accident that the Government has not moved to make dramatic changes to any of those conditions on the island, which all honourable members who have contributed to this debate have agreed is unique and uniquely valuable to the citizens of Australia and, indeed, the world. It is quite extraordinarily important that the almost casually suggested change to fundamental aspects of the way that that unique place is governed should be put aside again at the earliest opportunity. I shall work with the honourable member for Port Macquarie to that end.

It response to another matter he raised—the financing of the island—it is fair to point out that New South Wales Treasury presently provides about $1.2 million each year in recurrent spending to the island board. Treasury shares in the major capital works on the island on a 50:50 basis. There is no reduction at all in the Government's commitment; indeed, Treasury recently forgave the board a capital debt of about $1.2 million, which means the board is saving $60,000 a year in interest charges. However, the significant cut is a consequence of the change in the way that the Commonwealth Government funds World Heritage areas. The board's annual report states:

> As at 30 June 2003, no Commonwealth funding for World Heritage projects have been received by the Board, apart from the indication that $70,000 has been made available for management support for a World Heritage Environment Officer position. The Board has been informed that it is unlikely that any other funding will be forthcoming for 2003-04.

Several years ago the Commonwealth was putting in over $200,000 a year. So the board and, I suppose, the New South Wales Government, will have to cope with that problem.

I refer to the regional environmental plan that is now in preparation through the Department of Planning, Infrastructure and Natural Resources. The plan will be on display in draft form either next month or the month after. As it is in draft form, I will follow my own advice and be careful about my discussion of these things. The plan suggests that up to 25 additional housing sites should be made available over the next 20 years. That figure could increase or decrease slightly. If there were to be any change the figure would be more likely to decrease, and it would apply over the next 20 to 25 years. The purpose of the proposal is to deal with the acknowledged problem that an increasing number of people, who are properly defined as islanders, cannot at present acquire a residence for themselves and, given the length of time involved, it cannot be regarded as a significant revenue-raising initiative.

I respond to the observations made by the honourable member for The Hills about several aspects of the voting arrangements. As I understand it, the Opposition intends to oppose the creation of an extra position on the Lord Howe Island Board. It is important to remind honourable members that at the election in February last year six islanders nominated for election.

Mr Robert Oakeshott: All talented.

Mr BOB DEBUS: As the honourable member for Port Macquarie said, they are all talented. Three of them were elected. Two hundred islanders were eligible to vote. Under the changes proposed by the Government, four people would be elected. All six islanders who nominated for election are talented, and now

four of them will be on the board instead of three. It follows—I think it may be said, inevitably—that the various interests on the island, such as tourism and conservation, will be better represented by having a larger number of board members. As I recall, it was also suggested by the honourable member for The Hills that I could appoint an additional person to the board. That is not so.

Under the present structure the board has three islanders; a representative of the Department of Environment and Conservation, under which the National Parks and Wildlife Service is administered; and the person who administers the National Parks and Wildlife Act, that is, the present chairperson. That structure does not leave any room for the Minister for the Environment to appoint another person. For the reasons that I have already given, the Government believes that would be appropriate. There is a perfectly good reason for expanding the board, allowing another islander to be elected and enabling the Minister to appoint another person to represent business and tourism.

I turn briefly to some of the other issues that were raised, particularly those that concern the pecuniary interests of board members. It is important to emphasise that in consequence of the Independent Commission Against Corruption [ICAC] report "Preserving Paradise—Good Governance Guidance for Small Communities—Lord Howe Island", which was accurately characterised by the honourable member for Port Macquarie, the Lord Howe Island Board is drafting a new regulation. That regulation will be proclaimed before 1 September, as it has to be under the existing Act. It will include a code of conduct for the pecuniary and non-pecuniary interests of board members, a code for the conduct of governance within the Lord Howe Island Board, and a register of the interests of board members.

I will read onto the record a few sentences from a letter from the ICAC which was sent to the Chairman of the Lord Howe Island Board last October, as it responds to a number of observations and criticisms made by the honourable member for The Hills. I mention that recommendation 14 in the ICAC report concerns managing conflicts of interest, recommendation 38 deals with the joint task force on shipping, and recommendation 40 concerns the need to report, in the annual report of the board, on the management of corruption risk, In relation to those three issues the ICAC said to the chairman of the board, Mr O'Gorman:

> We have also received an update about the implementation of the recommendations from the Minister for the Environment.
>
> Mr Debus has suggested to us that further discussions be held with the Board in relation to recommendations 14, 38 and 40.

Reference was made to particular aspects: the conflicts of interest, the shipping contract and the management of corruption. The letter continued:

> We have reviewed those recommendations and are satisfied that the intent of the recommendations can be achieved without adopting the specific format required in these recommendations. Consequently we do not require you to provide us with further updates about the implementation of recommendations 14, 38 and 40.

That is a decisive answer to questions that I will concede were legitimately raised by the honourable member for The Hills. It is fair to say that the honourable member rambled on for a long time about shipping contracts. Anybody who enters into a study of the politics of Lord Howe Island is heavily tempted to do so. The honourable member has been singularly unable to resist that temptation, so I will say a few things about it, even though I grow tired at the thought of it. Since the commencement of two competing shipping services to Lord Howe Island from the New South Wales North Coast, the Lord Howe Island Board has been the subject of numerous allegations to the ICAC of corrupt conduct.

Those allegations have almost exclusively been levelled by shipping operators who have not been successful in tendering for board business or by on-island supporters of those operators. Those allegations have, in part, resulted in a visit by anticorruption officers from the ICAC to the island in the mid-1990s and, more recently, in the publication of the ICAC report to which I have already referred, "Preserving Paradise—Good Governance Guidance for Small Communities—Lord Howe Island", which deals with governance issues on the island. All allegations have been fully investigated by the ICAC. I can assure the House that no findings of corrupt conduct have been made. Not a single finding of corrupt conduct has been made in this blizzard of accusation and investigation. There are no matters relating to the board currently before the ICAC

The vast majority of the allegations related to the administration of the shipping contract and were not relevant to the board's operations, let alone to anything I decided. Shipping services to Lord Howe Island are subject to all the necessary environmental and safety controls and the required survey and insurance requirements. The Lord Howe Island Board is presently the sole client for a contract for the supply and delivery

of fuel to meet the board's requirements. The contract is administered at arm's length by the New South Wales Department of Commerce—not by me and not by the board. The present contract expires in March 2004 and the board has formally recommended that the optional two-year extension period within the contract be implemented by the Department of Commerce. I understand that that renewal is imminent.

The decision by the board has been aggressively challenged by the current contractor's commercial competitors on a number of grounds, including concerns about the method and safety of fuel carriage to the island. The present methods of bulk fuel transport and transfer employed by Lord Howe Island Sea Freight, which operates MV *Island Trader*, are consistent with those proposed through the tendering and contracting process. The contract requires that all appropriate licences and permits are in place, and I have been assured repeatedly that this remains the case. The New South Wales Waterways Authority has advised that the contracted vessel is properly surveyed for bulk fuel transportation and holds a current Certificate of Survey.

Contrary to media reports—or, indeed, claims by the honourable member for The Hills— MV *Island Trader* holds all necessary and appropriate insurance cover. The chairman of the Lord Howe Island Board has advised me that, since the current fuel contract commenced, the number of individual fuel drums that have to be handled and stored on the island has been significantly reduced. Generally, that is a good thing. It has resulted in lower costs to the island community, because higher fuel costs are translated directly into higher electricity costs as a result of diesel generation, reduced environmental risk and enhanced visual amenity because there are not as many empty drums lying around the island.

Nevertheless, the Commonwealth subsidy provided to Lord Howe Island through the Petroleum Products Freight Subsidy Scheme, which is administered by Federal agency AusIndustry, is applicable in areas that cannot receive direct bulk fuel transfer and must utilise drums of any size at some point in the transport operations. Therefore, I am again advised that this is the case with Lord Howe Island and the current transport methods have been deemed eligible for the scheme by AusIndustry representatives. So when they use oil drums they will receive a subsidy. It is a Federal subsidy. It is nothing to do with me, with the board or with the honourable member for Port Macquarie; it is to do with the Federal Government, which gives a subsidy of that sort whenever the apparently appropriate criteria are met.

Contrary to recent allegations in the media, the Waterways Authority has confirmed that the MV *Island Trader* is currently within full survey and is legally entitled to continue transferring petroleum products to Lord Howe Island in its bulk tanks. The authority confirmed that the vessel was originally designated and built to Lloyds International standards and is well suited to operate in the shallow lagoon of Lord Howe Island—no matter what a stray alleged expert in naval what-have-yous happened to tell somebody who told somebody else who told a newspaper. In addition, the authority requires the vessel to pass annual survey inspections for design, construction, safety equipment and crewing. The MV *Island Trader* is permitted to carry mixed cargo, including fuel oil in the now well-known described double-bottomed tanks. The MV *Island Trader* was recently subjected to a comprehensive inspection as part of the process of transferring the vessel's survey to the American Bureau of Shipping. That survey revealed that the hull had endured normal wear and tear within the acceptable tolerance required to remain in full survey. I have plenty more information on this subject, but I am sure that honourable members get the picture.

The previous contract for the provision of shipping services to Lord Howe Island was, as we have heard, held by Lord Howe Island Shipping Services Pty Ltd, which operated the MV *Sitka*. That contract expired in February 2000 but contained an option for a two-year extension. The Lord Howe Island board recommended to NSW Supply, a body in the then Department of Public Works and Services that administered the contract, that an extension be implemented. The board informed NSW Supply that the then contractor would complete an Australian workplace agreement covering the ship's crew if the contract were extended. That was because earlier in the life of the shipping contract the Federal Government deregulated intrastate shipping services so that no Federal award was applicable to such services.

Following unsuccessful negotiations between the contractor, Lord Howe Island Shipping Services and the Maritime Union of Australia for an enterprise agreement on wages and working conditions, NSW Supply advised the board that the contract would not be extended. The contract expired on 29 February 2000. Until the new contract was negotiated by NSW Supply on behalf of the board, freight to the island was shared between the two shipping companies, with quotes obtained on a load-by-load basis. It is scarcely possible for Parliament to debate this peculiar issue any longer. I simply assert what I have already said and hope that all members can move on.

I turn now to the amendments that the Government proposes to move in Committee. As has been indicated, they are the consequence of my consultation with residents of Lord Howe Island, particularly current island board members, about the bill that lay on the table over the Christmas period. The changes are of a modest nature but they are, nevertheless, significant and are introduced as a gesture of goodwill towards the island board members with whom I spoke. We will include a definition of the word "reside" in the amended Act to define what it means to reside on the island. At present the term "reside" in the Lord Howe Island Act is defined in terms of the definition of that word in the Crown Land Consolidation Act 1913, which was repealed sometime ago. That Act defined "reside and residence" as meaning:

> … a residing by the person referred to in the context continuously and bona fide on the land or in the place indicated by the context as his usual home, without any other habitual residence.

We will introduce that definition into the Lord Howe Island Act for the sake of clarity. We will also make an amendment concerning compensation for special leases. Item 11 of schedule 1 to the amending bill proposes that a lessee whose lease is not renewed on the basis that the land is required for home sites or public purposes is entitled to compensation for the loss of expectation that the lease would be renewed. The bill also provides that the compensation payable under those circumstances is to be calculated on the basis that the period for which the lease would have been renewed would have been 18 months.

After further consideration and discussion with islanders, I propose to extend this compensatory period to five years, which would be half the maximum period available for renewal of a special lease. For reasons of equity and efficiency, I also propose to amend the bill to set a minimum period for the calculation of compensation when a special lease is withdrawn for home sites or public purposes. Only when an unexpired lease has more than five years to run would a longer period be used in the calculation. The calculation of the amount of compensation would still be determined by the Valuer-General.

The Government will also propose an amendment concerning corrupt conduct and the removal of elected islander members from the board. The bill makes provision for the Minister to remove an elected member in respect of whom a report under section 74C of the Independent Commission Against Corruption Act 1988 recommends that consideration be given to the member's suspension from office with a view to his or her dismissal for serious corrupt conduct. That provision appears in clause 6 (2) of new schedule 1A. I propose to add a power to suspend while retaining the proposal for dismissal powers. That is consistent with the provisions applying to councillors under the Local Government Act.

Finally, we will amend the bill with respect to the mechanism for making decisions when no board quorum exists. Island board members expressed a particular and justifiable concern about this matter. Clause 8 of new schedule 1A provides for a decision or determination to be made by the Minister when the board lacks a quorum because of members' conflicts of interest. However, at present there is no provision for the Minister to be advised of the matter or to seek advice from the community or from interested parties. I propose to introduce an amendment to require the chairman to make a report to the Minister. The Minister may, of course, consult anyone before making a decision on the matter referred under this amendment. However, I propose to make it explicit that the Minister may consult with any islanders, including board members, as members of the community without having regard to their role as board members in this context. Having thus indicated the manner in which we propose to amend the bill further, I commend it to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [11.51 a.m.], by leave: I move the following Government amendments in globo:

No. 1 Page 3, schedule 1. Insert after line 2:

[1] Section 3 Definitions

Omit the definition of ***Reside*** from section 3 (1). Insert instead:

Reside and ***residence*** mean a residing by the person referred to in the context continuously and in good faith on the land indicated by the context as his or her usual home, without any other habitual residence.

No. 2 Page 7, schedule 1. Insert after line 9:

(10) The compensation payable under subsection (9), in so far as it relates to the loss of land, is to be calculated having regard to the unexpired period of the lease or, if the unexpired portion of the lease is less than 5 years, as if the unexpired portion of the lease were 5 years.

No. 3 Page 7, schedule 1, line 26. Omit "18 months". Insert instead "5 years".

No. 4 Page 14, schedule 1, line 1. Insert "or suspend" after "remove".

No. 5 Page 14, schedule 1. Insert after line 9:

(4) While an elected member is suspended under subsection (2), the member does not have, and may not exercise, any of the functions of a member.

No. 6 Page 16, schedule 1, line 5. Insert "after consultation with such Islanders as he or she considers appropriate" after "Minister".

No. 7 Page 16, schedule 1, line 11. Insert ", after consultation with such Islanders as he or she considers appropriate," after "determination".

No. 8 Page 16, schedule 1. Insert after line 12:

(10) Immediately after it becomes apparent to the Chairperson that a meeting of the Board cannot be held as referred to in subclause (8) or (9), the Chairperson must cause notice of that fact to be given to the Minister.

I have moved the amendments for the reasons previously given.

Mr MICHAEL RICHARDSON (The Hills) [11.51 a.m.]: The Opposition does not oppose these amendments, which I have canvassed previously. I am grateful to the Minister's staff, who have kept me informed about what the Government intended to do to amend the legislation as a result of the Minister's visit to the island. Those matters are consistent with the concerns raised by board members and islanders to me when I visited the island in February. The Opposition will not oppose the amendments. However, the Opposition is concerned about the expansion of the board from five to seven members and will move an amendment in the Legislative Council to maintain the status quo.

Amendments agreed to.

Schedule 1 as amended agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

CRIMES LEGISLATION AMENDMENT BILL

Second Reading

Debated resumed from 27 February.

Mr ANDREW TINK (Epping) [11.54 a.m.]: The Crimes Legislation Amendment Bill amends a number of Acts with respect to criminal offences and proceedings for criminal offences. The Children (Criminal Proceedings) Act 1987 will be amended to clarify that the protections provided by section 11 applies to deceased child victims and extends the protection to the child siblings of child victims. As I understand it, that is in relation to publication. That seems to me to be a sensible and necessary amendment. The bill amends the Costs in Criminal Cases Act 1967 to ensure that a certificate for the payment of a defendant's costs can be given in relation to the defendant in a special hearing, as is the case in regard to criminal proceedings generally. Special hearings are trials held for defendants who have been found unfit to be tried in the normal way, and the extension of the costs provisions to this category of special hearing seems to be reasonable.

The Crimes Act 1900 is amended in two ways. First, the range of circumstances that can give rise to an offence of either dangerous driving or dangerous navigation occasioning death or grievous bodily harm will be extended For example, the Act will now cover a situation where a person is thrown or ejected from a vehicle. Second, the bill creates separate offences of sexual assault in certain circumstances of aggravation as defined in relation to other sexual assaults. The penalty of 20 years that currently applies if a victim is under 10 years of age will in future apply if the victim is under 16 years of age.

These are important amendments, but it is also important that the Crimes Act be reviewed from to time. I am not sure how these amendments arose, but I suspect they probably resulted from instances in which the definition in the Act did not fit the particular circumstances of the case before the court, for example, a case relating to a person being thrown from a vehicle and the injury caused thereby not fitting the offence of dangerous driving. It seems to me that these provisions need to be under constant proactive review, obviously

because of decided cases, but even more so to ensure that the law reasonably covers what people expect to be part of the criminal consequences of the main offence.

I do not imagine that an ordinary member of the public believes that someone who is injured or killed as a result of being thrown from a vehicle should be discounted, so to speak, for the purposes of a criminal act by the other party who occasioned it. It seems a matter of commonsense that that should properly be involved in dangerous driving or navigation causing death. When loopholes are used to secure an acquittal, the ordinary person in the street would say that person should not have been acquitted. As members of Parliament, we know that when such cases are picked up by the media great tension and stress is caused to the whole system. There is a real need to be proactive and to regularly review these provisions to make sure that they cover what the public expects be covered and that they not be limited to decided cases.

The bill amends the Criminal Appeal Act 1912 to allow the Court of Criminal Appeal to make the same order in relation to a person's detention or release after a finding of not guilty by reason of mental illness as a court can now make under section 39 of the Mental Health (Criminal Procedure) Act 1990. That is sensible as it extends rather than limits the power of the court in those circumstances. Similarly, the Mental Health Act 1990 is amended to clarify that the Mental Health Review Tribunal and authorised officers have the same powers in relation to persons who are released conditionally as they do for other forensic patients detained under section 39. That also seems to be a sensible extension of the powers.

I want to talk briefly about two other issues that have been in the public domain recently. One is the amendment of the Crimes (Sentencing Procedure) Act regarding guideline judgments to allow the Sentencing Council to advise and consult the Attorney General not only in relation to offences suitable for guideline judgments but also in relation to particular courts or classes of courts, particular offences or classes of offences, particular penalties or classes of penalties, or particular classes of offenders. No doubt this will remind honourable members of the recent debate and public concern about some of the sentences being handed down for those who are convicted of drink-driving but who do not lose their licences.

The New South Wales Bureau of Crime Statistics and Research has done some important work in this area. I have said publicly that I am concerned by what the bureau has discovered and that I agree with its recommendation, which basically is to have a guideline judgment to better define what courts should do where people are convicted of drink-driving, especially in relation to the loss of their licences. I would like to say a number of things about this matter, which is relevant to the bill because the guideline judgments proposed by the amendment are central to the bill. Firstly, I place on record that, whilst this matter came up recently and the Attorney General said—and I support him in this—that there should be a guideline judgment clarifying the drink-driving penalties, this was first promised by the Attorney General on 2 August 2001. I have a press release on the Attorney General's letterhead entitled "Government pursuing Guideline Judgment on drink driving". It says:

> The State Government is well advanced in its pursuit of a Guideline Judgment from the Court of Criminal Appeal on appropriate sentences for high-range drink driving …

The press release relates generally to guideline judgments on drink-driving, as its heading makes clear. It is therefore regrettable that we are still to approach the courts for guideline judgments on drink-driving. I would have thought that this issue generally should have been addressed at that time by the Government and the Attorney. Much has been made of the latest proposal for a guideline judgment as a new initiative. As is clear from the press release dated 2 August 2001, a guideline judgment for drink-driving was promised then. It is of concern to me that the matter is still not clarified. In fact, as late as 27 February this year the Attorney General issued another press release about guideline judgments on drink-driving penalties.

As I have said, I support this initiative. I just think the Government and the Attorney General have to do a little bit better than cover substantially the same ground for the second time some 2½ years later. It is clear that the community is gravely concerned about this issue, and rightly so. I trust that this time the matter will be sorted out and dealt with properly, and that a comprehensive application for a guideline judgment will be made. In relation to a matter highlighted by the Bureau of Crime Statistics and Research, it may well be that a particular guideline judgment for Local Courts is the way to go and that the bill would make that sort of fine-tuning possible. However, I do not regard that as any excuse for a comprehensive guideline judgment not having been sought before now under the existing legislation.

The other matter I would highlight relates to media references, particularly talk on 2GB, about the approach of a magistrate at Manly Local Court to drink-driving matters, especially the question of whether or

not a convicted person loses his or her licence. Pages 4, 5 and 6 of a report of the Bureau of Crime Statistics and Research have graphs regarding drink-driving charges that have been dismissed or where offenders have been discharged. This is excellent work by the bureau. Interestingly, Manly is right up there in figure 5, which relates to low-range prescribed concentration of alcohol [PCA] matters; in figure 6, which relates to middle-range PCA matters, Manly is well above average; and in figure 7, high-range PCA matters, again it is well above average.

I compared those statistics to figures referred to in an article by Sean Berry in the *Sun-Herald* of 8 February 2004, in regard to the number of drink-driving cases in particular areas. It struck me that, under the heading "Worst in Sydney", on the northern beaches there were 779 cases of people driving with more than the prescribed limit of alcohol; second on the list was Miranda, with 483 cases; third was Liverpool, with 460 cases; fourth was St George, with 454 cases; and fifth was Hurstville, with 423 cases. There would appear to be a correlation between the leniency of the Manly magistrate and the large number of drink-driving offences on the northern beaches. I am concerned that there appears to be a very real likelihood of a linkage between repeated leniency by that court and people in that area continuing to drink-drive because there appears to be little deterrent. In other words, the strong likelihood is that people who appear before Manly Local Court will not lose their licence for drink-driving, thereby significantly reducing the deterrence to people committing this offence.

The figures for the northern beaches are in stark contrast to the figures for other areas. It could be said, for example, that Miranda, Liverpool, St George and Hurstville are relatively closely bunched in the number of cases of drink-driving offences, but the northern beaches stands out by a country mile ahead of those four categories; indeed, it has almost double the number of offences recorded in Miranda, Liverpool, St George and Hurstville. The northern beaches has a somewhat unique profile. I cannot help but think there is a link between that high number of cases and the leniency of Manly Local Court in not disqualifying offenders from holding a licence. The Manly magistrate should be much tougher on drink-driving offenders to bring the penalties into line with the other courts. Manly Local Court should not wait for a guideline judgment but do that immediately because of the extent of the drink-driving problem in that area. Indeed, the first paragraph of that newspaper article states:

> The northern beaches are Sydney's drink-driving capital.

There is a very strong link between that statistic and the fact that in the Manly area a large number of people are discharged under section 10 and therefore do not lose their licences. The other thing I want to speak about are the so-called privacy provisions. These are the amendments to the Summary Offences Act to create two new offences: filming for indecent purposes—defined as filming for one's own or someone else's gratification—some other person who is undressed or is using private premises in circumstances in which there would be a reasonable expectation that that other person would be afforded privacy; and installing a device to facilitate filming for those indecent purposes. The maximum penalty is 100 penalty units and/or two years imprisonment. Obviously, I support that amendment.

However, I must place on the record again that this matter has been around for a long time. The Law Reform Commission's report entitled "Surveillance: an interim report" was tabled in Parliament on 6 December 2001. The offence of peeping or prying under section 457C of the Crimes Act was plainly totally inadequate to meet the situation. The Law Reform Commission made a very comprehensive report in December 2001. It is a shame that it has taken this long to get something done about the matter. Indeed, I suspect what is now before the Parliament has, in part, something to do with *A Current Affair* running the issue very strongly in September last year, pointing out the legal loophole that had been reported on back in 2001 and saying it was high time something was done about it. I think I am within my rights to put these matters on the record. That is not to say the Opposition has any problems with the legislation. On the contrary, we do not. The bill is not opposed.

Mr BARRY COLLIER (Miranda) [12.09 p.m.]: I am pleased to speak to the Crimes Legislation Amendment Bill, which makes a number of miscellaneous amendments to the criminal law and procedures that are designed to improve the administration of the criminal justice system. The bill clarifies a number of procedural matters, and I am sure it will be welcomed by many of the criminal law practitioners. I wish to refer to two matters. The first is the amendments to section 52A of the Crimes Act relating to the offence of dangerous driving occasioning death or grievous bodily harm. The second is the new offence of filming for indecent purposes, the amendment to the Summary Offences Act.

The bill amends section 52A of the Crimes Act to extend the range of circumstances that can give rise to an offence of dangerous driving occasioning death or grievous bodily harm. Under current law a person is guilty of the offence of dangerous driving occasioning death if the vehicle driven by the person is involved in an impact occasioning the death of another person and the driver was, at the time of the impact, driving the vehicle

under the influence of intoxicating liquor or a drug, at a speed dangerous to another person or persons, or in a manner dangerous to another person or persons. A person convicted of that offence is liable to imprisonment for up to 10 years. The amendment relates to the term "impact".

Currently, under section 52A (5) "impact" includes the vehicle overturning or leaving a road while the person is being conveyed in or on the vehicle; an impact between any object and the vehicle while the person is being conveyed in or on the vehicle; an impact between the person and the vehicle; the impact of the vehicle with another vehicle or an object in, on or near which the person is at the time of the impact; an impact with anything on, or attached to, the vehicle; or an impact with anything that is in motion through falling from the vehicle. Unfortunately, however, the offence is not made out if the vehicle spins out of control causing a passenger to be ejected and killed, but the vehicle does not leave the roadway or collide with any object; the driver negotiates a corner at high speed causing a passenger to be ejected or killed; or part of a person protruding from the vehicle strikes any object. The legislation seeks to remedy those anomalous outcomes.

Section 52A (5) includes in the definition of "impact" the person falling from the vehicle, or being thrown or ejected from the vehicle, while being conveyed in or on the vehicle whether as a passenger or otherwise; and an impact between any object, including the ground, and the person, as a consequence of the person or any part of the person being or protruding outside the vehicle if a person is being conveyed in or on the vehicle, whether as a passenger or otherwise. The bill amends section 52B in similar terms to extend the range of circumstances that can give rise to an offence of dangerous navigation occasioning death or grievous bodily harm. I note it is still a defence to a charge under section 52A or section 52B when the death or serious injury is in no way attributable to the manner of driving or navigating.

The bill inserts into the Summary Offences Act a new part 3B, which provides for two offences: filming for indecent purposes, and installing a device to facilitate filming for indecent purposes. The maximum penalty for both offences is 100 penalty units—currently $11,000—or two years imprisonment, or both. Filming for indecent purposes involves filming for one's own or someone else's sexual arousal or sexual gratification some other person who is undressed or is using the toilet or is engaged in a private sexual act, in circumstances in which a reasonable person would reasonably expect to be afforded privacy, and does not consent to being so filmed. The amendment to the Summary Offences Act is in response to the case of *Police v Palmer*. The facts of the case are worth elucidating for the benefit of the House.

Richard Palmer was successfully prosecuted in the Local Court on 21 August 2002 for the offence of act of indecency under section 61N of the Crimes Act. With a secret camera Mr Palmer secretly videoed his female flatmates in the shower in his home bathroom. One of his female flatmates discovered this when she inadvertently came across a videotape of herself in the shower. She reported this to the police. Mr Palmer admitted the facts alleged by the police prosecutor. However, the magistrate found that no law in New South Wales prohibits such behaviour. Mr Palmer initially was charged with being in a building without reasonable cause with the intent to peep and pry upon another person under section 547C of the Crimes Act 1900, a provision that had been in the Crimes Act for some considerable time. Mr Palmer entered a plea of guilty to the charge of peeping and prying.

However, all of Mr Palmer's actions were done in his own home so it could not be said that he had no reasonable excuse to be there. He was permitted to withdraw his plea. Police then charged him with an offence under section 61N, act of indecency. The magistrate found that Mr Palmer's actions in videoing his female flatmates did not constitute an act of indecency for two reasons. First, Mr Palmer's actions were not done "with or towards" his flatmates because he was not physically present with them at the time. Also, they did not become aware of the videotape until much later when the tapes were discovered by his female flatmate. Second, there was no evidence that Mr Palmer obtained any sexual gratification at the time of making the recording, although he may have later when he watched the tapes.

The new offence is welcome and is similar to an offence of voyeurism under the Sexual Offences Act 2003 of the United Kingdom. The elements of the offence are: for the purpose of sexual gratification the person observes another person doing a private act, and they know that the other person does not consent to being observed for that person's sexual gratification. There are numerous cases of similar offences in the United States. In one case of which I am aware a family who went away on holidays left the key with their next-door neighbour so that person could look after the house, feed the dog and so on. While they were away the neighbour went into the home and installed video cameras in the ceiling of the bedroom, the toilet and the shower and filmed the couple engaged in private sexual acts, going to the toilet and having a shower. Eventually the person was caught and brought to justice. Laws in the United States were changed as a result. I congratulate

the Attorney on the bill as a whole, which will add to and improve the administration of justice in New South Wales. I commend it to the House.

Mrs KARYN PALUZZANO (Penrith) [12.18 p.m.]: I support the Criminal Legislation Amendment Bill, the purpose of which is to amend various Acts concerning the criminal law, and to improve the operation and administration of the criminal law and procedure. In particular, I note that it amends the Children (Criminal Proceedings) Act 1987. Section 11 currently allows a court to prohibit the publication of the names of children who are victims, witnesses or defendants in criminal proceedings. The amendment clarifies that the protection includes a deceased child victim, and extends to the siblings of child victims. It arose out of a case in which a media organisation applied to the court to publish the name of a deceased child victim, which could have led to the identification of the victim's living child siblings.

Section 11 was introduced to prevent the association of a child with a criminal offence. Accordingly, it has been drafted to ensure that the prohibition on media, et cetera, is not so unreasonable as to prevent publication of a child's name for any reason at all, but just if the child has been associated with the hearing of a criminal charge. It is a fundamental principle of the rule of law that the administration of justice takes place in open court. Nevertheless, there are statutory exceptions to the principles of open justice when public policy demands it. That includes the powers under section 11 of the Children (Criminal Proceedings) Act 1987 to prohibit the publication of names, or orders for a closed court, when proceedings relate to children. There is a clear public interest in not stigmatising young people to ensure that they have the best possible opportunity for rehabilitation.

In preparation for participation in this debate, I spoke to the Wesley Dalmar (Reconnect) Service in Penrith, which is an outreach service with a client base of adolescents in the Penrith-Nepean-Hawkesbury catchment area. The service operates a program called Reaching Out—Reconnect, which is conducted in conjunction with the Department of Community Services. The program attempts to reconnect with adolescents in the Hawkesbury, Penrith and lower Blue Mountains area who are suffering from stress. This morning the manager referred to a client who had been involved in the juvenile justice system for a criminal offence and who was reluctant to undertake rehabilitation for fear that his association with his friends and the area in which he lives might be reported by the media.

The client's concern was that at such a young age he would be stigmatised in his community if his criminal activities received public media exposure. Anything that this bill is able to do to ensure that the identity of children involved in criminal proceedings is not publicly disclosed will benefit any child involved in criminal proceedings, particularly clients of the Wesley Dalmar (Reconnect) Service, by ensuring that they are given every opportunity to participate in rehabilitation. Section 11 (4B) of the Children (Criminal Proceedings) Act 1987 allows a court to authorise the publication or broadcasting of the name of a juvenile, with or without their consent, when sentencing them upon conviction for a serious children's indictable offence, including murder.

Under section 11 (4C) the court may make such an order when satisfied that doing so is in the interests of justice and that the prejudice to the person arising from the publication or broadcasting of the person's name in accordance with such an order does not outweigh those interests. It is important to realise that in such situations the court makes an assessment based on the individual facts of the case. There are similar provisions in relation to sexual assault complainants. Section 578A of the Crimes Act 1900 provides for the prohibition of publication which identifies complainants in prescribed sexual assault proceedings. In those cases there is a clear public interest in complainants in sexual assault proceedings not being discouraged from coming forward to give evidence because the trauma associated with doing so may be compounded by publication of the complainant's name in the media. For the reasons I have outlined, I commend the Criminal Legislation Amendment Bill to the House.

Ms ANGELA D'AMORE (Drummoyne) [12.23 p.m.]: I support the Criminal Legislation Amendment Bill. The purpose of the bill is to amend various Acts in the criminal law to improve the operation and administration of criminal law and procedure. One of the amendments that interests me deals with new offences of secretly filming a person in private. It is a basic assumption in modern society that the privacy of our own homes is sacrosanct. It is offensive that some people seek to impinge on that fundamental principle of privacy. These offences have been enshrined in legislation in response to a case in which the owner of a house hid a camera to secretly film his flatmate while she was in the shower. The existing laws did not cover the offence because the circumstances did not fall within the definition of indecent assault.

The first new offence in the bill outlaws the secret filming of a person by means of an electronic device, such as a camera or WebCam, for the purposes of sexual gratification, where that person does not

consent and has a reasonable expectation of privacy. This is an important amendment when we consider the speed at which new technology is entering the market and the ability of persons who misuse technology to impinge on an individual's privacy without his or her knowledge. A second related offence of installing a device to facilitate filming for indecent purposes will also cover the situation in which a person installs a surveillance device with the intention of committing the offence I have just mentioned. In relation to prosecutions for this offence, there have been some suggestions that the offence will be difficult to prove because of the requirement to prove the mental element of sexual arousal or sexual gratification.

Mental elements are proved every day in courts. The determination will depend entirely on the evidence that is presented to the court in each particular case. The term "sexual arousal" or "sexual gratification" is a concept known to the criminal law of New South Wales and is used in other parts of the Crimes Act 1900, including the definition of "sexual servitude" in section 80B and the definition of "act of child prostitution" in section 91C. Examples of the type of evidence that might prove the requisite mental element is the publishing of images in a particular context, for example, in a pornographic magazine or on a pornographic Internet site. The courts might also look to the way in which and the places at which the cameras have been set up. For example, the camera may be set up to capture certain places, such as over a shower or a bed. Honourable members should also remember that generally the court will have before it actual images and recordings on which to base its determination.

The case of *Police v Palmer* triggered the drafting of this amending bill. It has been previously mentioned in this Chamber that in 2002 Mr Palmer was unsuccessfully prosecuted for the offence of an act of indecency under section 61N of the Crimes Act. He secretly filmed his female flatmates in the shower with a camera hidden in the bathroom of his home. Fortunately one of his female flatmates discovered that she had been videotaped in the shower and she took appropriate action by reporting it to the police. As a woman, I sympathise with her. Women expect that when they are enjoying the privacy of their own homes, no-one will be prying on them. They like to feel safe within the boundaries of their homes.

Mr Palmer admitted the facts alleged by the police prosecutor. The magistrate found that the law in New South Wales restricting such behaviour was insufficient. Initially, Mr Palmer was charged with being in a building without reasonable cause with the intention of peeping and prying upon another person—an offence enshrined in section 547C of the Crimes Act. He had entered a plea of guilty to that charge, but because his actions had taken place in his own home it could not be said that he had no reasonable excuse to be there. Consequently, he was permitted to withdraw his plea. The police then charged Mr Palmer with an offence under section 61N relating to an act of indecency.

The magistrate found that Mr Palmer's actions in videoing his flatmates did not constitute an act of indecency because his actions were not done "with or towards" his flatmates as he was not physically present with them at the time, and they did not become aware of the videotapes until much later, when the tapes were discovered. Furthermore, there seemed to be no evidence that Mr Palmer obtained any sexual gratification at the time of making the recording as opposed to when he watched them later. This amending bill will go a long way not only to facilitate establishment of the bases needed by the judiciary for these offences, but also to ensure that the law keeps pace with perverse forms of human behaviour and their manifestation through the use of hidden surveillance devices.

The Government has demonstrated a strong commitment to reforming the law relating to the use of surveillance in this State. For example, in 1998 the Government introduced the Workplace Video Surveillance Act, which sets strict parameters on the use of video surveillance equipment in workplaces, including a ban on the use of cameras in toilets, showers and bathrooms. As an industrial relations practitioner I welcome a bill that protects both workers and employers. Under the bill employers need to notify their employees if video surveillance is used and to notify clients or customers entering their primary place of business. I commend the bill to the House.

Ms NOREEN HAY (Wollongong) [12.30 p.m.]: I support the Crimes Legislation Amendment Bill, which seeks to bring in line with other sexual offences the offence of forced self-manipulation. That provision will help to create uniform considerations for a court in determining aggravating factors and penalties. The Government seeks to send a clear message to the community that any interference with the rights of another person and the sanctity of their body will not be tolerated. To some that amendment may seem to correct a minor anomaly in law. However, to those who are parents or guardians of victims it is a very serious situation. As a mother and a grandmother, I find it abhorrent to imagine a young person under threat by a perpetrator having to commit an act of self-manipulation and it is ludicrous to imagine a young person being expected to resist such threats.

Section 80A of the Crimes Act currently sets out the offence of sexual assault by forced self-manipulation, and this amending bill reforms that section so that the categories of aggravation and related penalties that apply to other sexual offences apply also to the offence of forced self-manipulation: for example, under 16, under authority, disabled victim, et cetera. Currently, only one circumstance of aggravation of sexual assault by forced self-manipulation exists in section 80A of the Crimes Act—that is, if the victim is under 10 years of age. The basic offence carries a maximum penalty of 14 years and the aggravated form of the offence carries a maximum penalty of 20 years. The offence of sexual assault carries a maximum penalty of 14 years. The aggravated form of this offence, which includes when the offence is accompanied by actual bodily harm, committed in company or committed on a vulnerable victim, attracts a maximum penalty of 20 years.

It is unacceptable that a perpetrator escape maximum criminal liability by forcing another person to interfere with himself or herself for the perpetrator's own sexual gratification when the law already recognises criminal responsibility for an act in which the perpetrator either interferes with the victim directly or causes the victim to manipulate the genitalia of the perpetrator. This amendment quite rightly brings the sexual assault by forced manipulation provision into line with other sexual assault offences, ensuring maximum criminal liability. I commend the Carr Labor Government and the Attorney General for their ongoing commitment to tightening up the law, particularly in relation to child and youth protection.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [12.33 p.m.], in reply: I thank honourable members who have contributed to this debate and for their support for the bill. The honourable member for Epping spoke of the preparation that has been made for a guideline judgment with respect to driving under the influence of alcohol. He suggested that there had been some delay in submissions to the court for that proposal. It has to be acknowledged that once we had begun to make submissions for this admittedly very important guideline judgment, we realised that we needed even more research than has been accumulated in order to make an appropriate analysis of the circumstances that surround the whole problem of drink-driving. That was why I commissioned the Bureau of Crime Statistics and Research to conduct the report referred to by the honourable member for Epping.

By the way, the honourable member for Epping acknowledged that report to be of an exceptionally high standard. Although it has taken the Government longer than it wished to achieve a guideline judgment, formal submissions will be made in a few weeks time and they will be made on the basis of some really first-rate, world-class research that will, in turn, allow the court to make the kind of guideline judgment that will give a serious new basis for the administration of that important law. Recommendations contained in the report of the Law Reform Commission on surveillance, released at the end of 2001, relate to very broad issues of privacy. The recommendations raise very important issues and in a number of respects are difficult and tendentious. It is appropriate, indeed inevitable, that my department, in collaboration with the NSW Police, the Department of Industrial Relations and other key stakeholders should take some time to sort out the implications of the report on the possible implementation of its recommendations.

Today we are dealing with the offence involving unwanted videotaping of people in their private homes. That is a precise and particular innovation of privacy, serious enough to be criminalised. Once it was drawn to the attention of the Government that that loophole existed in the law, it was appropriate that the Government should move quickly to close it. But that is not the same thing as giving appropriate levels of consideration to the massive and difficult report of the Law Reform Commission into surveillance generally. I thank honourable members for their support for the bill, and I commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PUBLIC LOTTERIES LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from 18 February.

Mr GEORGE SOURIS (Upper Hunter) [12.38 p.m.]: I am pleased to lead for the Opposition on the Public Lotteries Legislation Amendment Bill. I indicate at the outset that the Opposition will not oppose the bill. Generally speaking, the bill arises following the statutory five-year review of the Act. In many respects, the Opposition agrees that the amendments clarify and tidy up a number of administrative matters. One item that

stands out relates to unclaimed prizes and the intention of this amending bill to introduce a time limit within which prizes can be claimed. The Opposition is in favour of that concept, although I ask the Minister, when he replies to this debate, to indicate what type of time limit is being contemplated by the Government. I imagine that a number of years—but not an unduly large number of years—would be appropriate.

I note from the Minister's earlier comments that some publicity has gone into encouraging people to come forward and to claim unclaimed prizes, although I cannot imagine why anybody would knowingly not claim a prize. A decade later somebody might believe that he or she had a win and somewhere in a tin he or she had a little piece of paper that bore the fruits of a significant lottery win. The Government must make every effort to establish whether there are any such cases. What is the Government's intention in relation to that issue? The Opposition supports the bill, which I commend to the House.

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [12.41 p.m.]: I am pleased to report to the House that the Public Lotteries Legislation Amendment Bill has been subject to extensive consultation within the industry, and all major stakeholders have had a say in it. The bill stems from a review of the New South Wales Lotteries Corporatisation Act 1996 and the Public Lotteries Act 1996. The consultation and review process was undertaken during 2002-03. This bill seeks to address the recommendations that flowed from that review. The culmination of the review process was the need to address three main areas of concern: first, to clarify current provisions to provide for a greater degree of legal certainty; second, to introduce provisions to discourage nuisance and false claims relating to unclaimed prize money; and, third, to introduce a new offence for unauthorised participants in the sale of public lottery products.

It is of concern that certain entities are seeking to profit from the good reputation of lottery licensees and the good business reputation of New South Wales. Those charlatans, without any appropriate authorisation from lottery licensees, are manipulating any opportunity to gain profit for themselves using the good reputation of the New South Wales lotteries system. These types of operations target citizens from foreign countries by direct mail or over the Internet. The people who are vulnerable to that sort of operation are people from a non-English speaking background. These charlatans offer to purchase lottery products on their behalf. The claims that are made in these offers can be vague and are often misleading, especially if the recipient does not have a good grasp of the English language. These organisations charge customers with whom they are dealing inflated entry fees.

There is no way to guarantee that any prize winnings are returned to the people who have ordered and paid for lottery products. Such operations not only damage the commercial reputation of public lottery licence holders, such as New South Wales Lotteries; as I have already indicated they have the potential to damage the perception of the general business environment in New South Wales. The structure of such gambling-type operations means that they are not subject to effective redress within the existing lottery regulatory framework. Accordingly, an amendment to the Public Lotteries Act is warranted specifically to prohibit such operations. Complaints are received about these unauthorised operators but the current Act is limited in the way in which those complaints can be dealt with or with respect to the action that might be taken against those operators.

The bill introduces a new offence to ensure that appropriate action can be taken against operators involved in these types of practices. That will serve to protect the public from falling victim to crooked operators and charlatans, and it will protect the business interests of licensed lottery agents in New South Wales. This offence has no impact on the practice of purchasing lotteries products as gifts for family members or friends. That practice can still continue and those people will not be affected by this legislation. It will apply only to those unauthorised organisations engaged in this activity as part of a commercial enterprise. It is aimed at stopping those activities that will cause detriment to certain individuals. This bill is designed to enhance public lotteries and to provide benefits to members of the community who enjoy participating in New South Wales lotteries. I commend the bill to the House.

Mr ALAN ASHTON (East Hills) [12.45 p.m.]: I support the Public Lotteries Legislation Amendment Bill. I thank Opposition members for their support for the bill. I acknowledge the presence in the gallery of Ms Elina Lindberg, who has travelled all the way from Finland.

Mr Paul Gibson: Just to hear your speech!

Mr ALAN ASHTON: I thank the honourable member for Blacktown for suggesting that she travelled all the way from Finland just to hear my speech. I also welcome Ms Kate Ashton, my niece, who travelled all the way from the house adjacent to my house in Picnic Point. There are three main aspects of concern in the bill.

First, it must clarify current provisions to provide for a greater degree of legal certainty; second, it must introduce provisions to discourage nuisance and false claims relating to unclaimed prize money; and, third, it must introduce a new offence for unauthorised participants in the sale of public lottery products.

This bill is the result of extensive consultation in 2002-03—consultation that has continued under the present Minister, for which I congratulate him—as part of the legislative review of the New South Wales Lotteries Corporatisation Act 1996 and the Public Lotteries Act 1996. The Government is seeking to avoid circumstances such as those recently reported in the United States of America where a woman made a false claim for a lottery prize of $162 million. The woman, Elicia Battle, went to the extent of filing a police report for a lottery ticket that she claimed she lost in the car park of a convenience store. The real winner eventually presented for the prize and Ms Battle was found guilty of lying to the police.

The Department of Gaming and Racing has had people attempting to claim unclaimed prize money in the past using the same sort of trick. The upshot of these false claims is that they waste a lot of time, money and resources. It must also result in a lot of heartache for genuine prize winners when other people in the community say that they have won a lottery prize and the rightful owners have the winning tickets in their pockets. It is anticipated that making this practice an offence under the Act will seek to discourage nuisance and false claim making. In addition to the creation of this new offence, the bill will define an "unclaimed prize" as a prize that remains unclaimed for a period of one year after the lottery in question is drawn. Public lottery subscribers have the right to make a claim for an unclaimed prize to which they believe they are entitled. There is no intention to remove that right.

The existing total liability for unclaimed public lottery prizes in New South Wales is a considerable sum of money. The Government is quite happy to make that money available if people can prove that it is their money. The introduction of a limit on the period in which a claim may be lodged for an unclaimed prize will significantly alleviate that problem. As the limits will be gradually reduced from the current open-ended system to a five-year limit, public lottery subscribers will still have up to 15 years to make a claim for an existing unclaimed prize before the new limits are fully in place. As the shadow Minister, the honourable member for Upper Hunter, said earlier, I do not know why anyone would wait 15 years before he or she claimed an unclaimed prize. It is possible that people who bought lottery tickets and scratchies for relatives and who did not check the digits carefully might not have realised the worth of those tickets.

In some cases people quite genuinely do not realise that they have the right to claim a prize. However, there should be a cut-off point. Eventually that cut-off point will be established, and that will be good. That will give all parties involved in lotteries and members of the community who partake in lotteries a substantial period of time to adjust to these new requirements. The introduction of limits on unclaimed prizes will implement an effective means for discharging accrued long-term liability, whilst not unduly limiting the rights of public lottery subscribers. This legislation will help to bring some degree of certainty to people who are often caught up in this area.

I am responsible for ensuring that my father-in-law's lotto ticket is submitted every week as he is presently in a nursing home. As a result, a bit of pressure is placed on me. I have to go to the newsagent to put in his numbers, knowing that if I do not use the same numbers that he has been using ever since lotto was introduced in the 1970s, that is the day his numbers will come up, my life will not be worth living and I will lose an important preselection vote. Any step we can take to refine the lotteries legislation is worthwhile. I congratulate the Government on introducing this bill and the Opposition on supporting it.

Mr PAUL GIBSON (Blacktown) [12.49 p.m.]: The Public Lotteries Legislation Amendment Bill is an important bill. I congratulate both the Minister for Gaming and Racing on having the foresight to bring it before Parliament and the Opposition on supporting it. The object of the bill is to make a number of miscellaneous amendments to the Public Lotteries Act 1996 with respect to the conduct of public lotteries and offences in relation to public lotteries. The bill also makes a number of ancillary and consequential amendments to the Act and repeals certain redundant provisions of the New South Wales Lotteries Corporatisation Act 1996.

The bill tidies up some administration issues. People have spoken to me about the section of the Act that refers to unclaimed prizes, and the bill will introduce a time limit on the claiming of such prizes. I welcome schedule 1 [18] of the bill, which inserts new sections 43A to 43D in the principal Act. New section 43A introduces the offence of unauthorised selling of entries in, or subscriptions to, public lotteries. New section 43B prohibits the unauthorised promotion or marketing of public lotteries. New section 43C prohibits a person from entering or subscribing to a public lottery for, or on behalf of, another for a fee or a reward. New section 43D

introduces the offence of lodging a false claim for prizes in public lotteries. Those areas needed tightening as many people have come to me over the years complaining that they bought a lottery ticket through someone who acted for a fee and were then duped out of their winnings. I welcome the bill.

Mr GEOFF CORRIGAN (Camden) [12.51 p.m.]: I am pleased to support the Public Lotteries Legislation Amendment Bill, which will implement reforms to the State lotteries legislation following the recommendations of the review of that legislation conducted during 2001-02. Several rounds of consultation with key stakeholders were undertaken during the review. The first round of consultation occurred after the publication of an issues paper seeking to promote comment on legislation. Further opportunities for consultation were made available following the release of the review report. The issues raised during the consultation period were taken into account in finalising the proposals. Once in place, the amendments will enhance the regulatory framework of public lotteries. That is most important. Furthermore, the changes will provide greater consumer protection for lottery subscribers and greater certainty for lottery licensees.

The bill seeks to achieve these aims by introducing a time limit on claiming unclaimed prize money and banning involvement in the sale of lotteries products by unauthorised entities—as the honourable member for Blacktown explained so eloquently. The bill introduces new offences relating to unauthorised participants in the sale of public lottery products and the making of a false claim for unclaimed lottery prizes. It also introduces a time limit of five years for claims for unclaimed prize money. Unclaimed prize money is a substantial concern under the lotteries legislation. In New South Wales alone, this accrued liability exceeds $115 million. Available information on claims for unclaimed lottery prizes indicates clearly that only a minority date back more than three years. Therefore, the phasing in of a five-year limitation on unclaimed prize money will provide a substantial period for the public and lotteries agents to adjust to these new provisions. In so doing it is hoped that the legislation will discourage the lodging of false claims for unclaimed lottery prizes as the investigation of each false claim is very costly.

Enhanced consumer protection through the introduction of an offence against unauthorised commercial enterprises selling lottery products is another outcome encapsulated in the bill. The Department of Gaming and Racing has received complaints about such organisations offering to purchase New South Wales Lotteries products on behalf of customers outside New South Wales and the Australian Capital Territory. It is reported that these groups have offered their services in Britain and Japan. These dubious organisations operate outside the existing regulatory framework for public lotteries so that when complaints are received there are limitations on the action that may be taken against them. In some situations prize moneys are not forwarded to the consumer, who believes that he or she legitimately purchased a lottery ticket. The bill introduces three new offences to address this unauthorised involvement in the sale of lotteries products.

Mr WAYNE MERTON (Baulkham Hills) [12.54 p.m.]: I have read the Public Lotteries Legislation Amendment Bill and, although the Opposition does not oppose it, I am concerned about the introduction of statutory time limits on the claiming of lottery prizes. At present there is no such statutory time limit on claiming a lottery prize; the claim period is open-ended. Unclaimed lottery prizes currently total $115 million. That sum probably comprises small amounts as few people entitled to $100,000, for example, would fail to claim their prize. I have grave doubts as to what benefits, if any, the community will derive from the imposition of a period of statutory limitation on the claiming of lottery prizes. It is not inconceivable that a person could put his lottery ticket in the pocket of a suit that he wears once to Auntie Flo's wedding and then to Uncle Jack's funeral 10 years later, whereupon he discovers the ticket and wonders, "I wonder how that ticket went." Under the law as it presently stands that person could have the ticket checked and then claim the prize that he won 10 years ago. However, that right is at risk from this bill.

The Government is entitled, by delegation and regulation, to introduce a statute of limitations and impose a period in which a person must lodge a claim for a lottery prize. If people discover that they have won a lottery prize after the expiry of that period—deemed by regulation to be five years, two years or whatever—they will be barred by statute from receiving their winnings. While the bill may have other beneficial effects, I wonder whether it is in the public interest to introduce legislation that could deny rightful prize winners the chance to collect their winnings. It is hard enough to win the lottery these days without finding out too late that one has had a win and being denied by a statute of limitations the right to collect one's prize.

Mr TONY McGRANE (Dubbo) [12.58 p.m.]: I support the Public Lotteries Legislation Amendment Bill. Its introduction is most timely. The Australian population is ageing and the baby boomers, who are nearing retirement age—about 400,000 people live in some 700 retirement villages—are particularly keen on small-time gambling in the form of lottery tickets. Therefore, it is important to introduce greater safeguards in this area. I

do not agree with the honourable member for Baulkham Hills, who described the scenario of finding a lottery ticket 10 years after its purchase and being prevented by government regulation from claiming the prize. I remind honourable members of the old saying "You can't take it with you." If someone finds, 10 years after its purchase, a lottery ticket in the clothing of a person who has passed on, so be it. The honourable member for Baulkham Hills is not thinking straight when he urges protection for such claims. The bill tightens up the system and that is good for all concerned. I support the bill.

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing) [1.00 p.m.], in reply: I acknowledge the contribution of the shadow Minister, the honourable member for Upper Hunter, and I will shortly address the issues he raised. I also acknowledge the contributions of honourable members representing the electorates of Bankstown, Blacktown, Camden and East Hills. We can always rely on an interesting and entertaining contribution from the honourable member for The Hills, which the honourable member for Dubbo answered in an equally entertaining and amusing manner. It is acknowledged that a change to the limits for unclaimed prizes has to be phased in to provide as good a regime as possible for those who have legitimate claims. As the limits will be gradually reduced from the current open-ended system to a five-year limit system, public lottery subscribers will still have up to 15 years to make a claim for an existing unclaimed prize before the new limits are fully in place. In conclusion, I remind members that the rationale and background of the review was canvassed in my second reading speech.

The bill will implement the recommendations of the review of lotteries legislation that was carried out during 2001-02. Several rounds of consultation with key stakeholders were undertaken, the first of which occurred following the publishing of an issues paper seeking to promote comment on the legislation consultation. Further opportunities for consultation were made available following the release of the review report. Concerns raised during the consultation period were taken into account during the finalisation of the proposals. Clearly there has been full consultation in regard to this issue. Once in place the amendments will enhance the regulatory framework for public lotteries, provide greater consumer protection for lottery subscribers and provide greater certainty for lottery licensees. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[*Mr Acting-Speaker (Mr John Mills) left the chair at 1.02 p.m. The House resumed at 2.15 p.m.*]

BAMBOO SHOOT EXPORTS

Ministerial Statement

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [2.16 p.m.]: New South Wales is sending bamboo shoots to Japan. Sydney company Bamboo Plantations of Australia, which has plantations on the North Coast, is enjoying increasing demand from Japan for its product. Bamboo shoots are prominent in many Asian dishes, and this company is making the most of Japan's insatiable appetite for the fresh product by exporting during that country's off-season. The Japanese consume 80,000 tonnes of fresh bamboo shoots each year. At full production, Bamboo Plantations of Australia expects to produce 5,000 tonnes annually.

This successful small business, which was founded in 1999, is one of nine from New South Wales to join a State Government organised trade mission in Tokyo this week. It is showing its products at Foodex, the leading industry showcase of food and beverages in the Asia Pacific, and the third largest in the world. Last year's event attracted nearly 99,000 food industry professionals from across the region. It was at last year's Foodex that Bamboo Plantations launched its Koala Princess bamboo shoots—and they have been a huge hit. Japan is demanding more and more of our quality food and beverages. In 2001-02 New South Wales exported $645 million worth of food and beverages to Japan, a rise of 3.2 per cent over the previous year.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [2.18 p.m.]: The Opposition welcomes the impending trade mission to Japan and notes that New South Wales farmers and producers are among the world's best, if not the best in the world, and there is no reason that we cannot grow the best bamboo in the world. So the Coalition wholeheartedly supports Bamboo Plantations and the trade mission to Tokyo. At the same time I note the fine work done by trade Minister Mark Vaile in accessing some of the world's markets. Mark and his team have delivered a sensational result for our exporters through free trade agreements with the United States of America, Singapore and Thailand.

[*Interruption*]

I am sure the honourable member for Murray-Darling would welcome the opportunities that have been opened up to producers right around this State—opportunities that will earn export income for New South Wales.

Mr SPEAKER: Order! I call the honourable member for Murray-Darling to order.

DISTINGUISHED VISITORS

Mr SPEAKER: I welcome to the public gallery His Excellency Mr Hertomo Reksodiputro, Consul General of the Republic of Indonesia, and Mrs Reksodiputro. I welcome also the Hon. Michael Polley, Speaker of the House of Assembly of Tasmania, and Mr Peter Alcock, the Clerk of the Assembly.

PETITIONS

Nowra Public School Specialist Literacy Tuition

Petition requesting suitable accommodation for specialist literacy tuition at Nowra Public School, received from **Mrs Shelley Hancock**.

Frederickton Public School

Petition praying that priority be given to the construction of buildings at Frederickton Public School, received from **Mr Andrew Stoner**.

Stamp Duty Reduction Legislation

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

Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **Mr Greg Aplin**, **Mr Andrew Fraser**, **Mrs Shelley Hancock**, **Mr Chris Hartcher**, **Mr Malcolm Kerr**, **Mr Wayne Merton**, **Mr Steven Pringle**, **Mr Michael Richardson**, **Mr Andrew Tink** and **Mr John Turner**.

Kosciuszko National Park Management Plan

Petitions opposing the formulation of the Kosciuszko National Park Management Plan without community consultation, received from **Ms Katrina Hodgkinson**, **Mr Adrian Piccoli**, and **Mr John Turner**.

Brothels Closure Legislation

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

Coffs Harbour Pacific Highway Bypass

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

Windsor Road Traffic Arrangements

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

Old Northern Road Upgrade

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

Windsor Traffic Conditions

Petition requesting funding for construction of a bridge across the Hawkesbury River, from Wilberforce Road and Freemans Reach Road, connecting to the bridge into Windsor, and the rescheduling of the current road works program, received from **Mr Steven Pringle**.

Coffs Harbour Aeromedical Rescue Helicopter Service

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

Belmont Community Midwifery Program

Petitions requesting the implementation of a community midwifery program at Belmont, received from **Mr Matthew Morris** and **Mr Milton Orkopoulos**.

CountryLink Rail Services

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

Casino to Murwillumbah Branch Rail Line

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

Isolated Patients Travel and Accommodation Assistance Scheme

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

Local Government Amendment Bill 2003

Petition opposing the Local Government Amendment Bill 2003, received from **Mr Andrew Fraser**.

Social Program Policy Subsidy

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

BUSINESS OF THE HOUSE

Reordering of General Business

Mr BRAD HAZZARD (Wakehurst) [2.27 p.m.]: I move:

> That General Business Notice of Motion (General Notice) No. 261 [Sydney Water Internal Audit Report] have precedence on Thursday 11 March 2004.

The motion of which I have given notice deals with a number of issues concerning Sydney Water, specifically an urgent issue. Sydney Water is the sole supplier of water to Sydney and the Illawarra. A culture of cover-up has developed, particularly in the past 12 months, under the Carr Government. Just on 12 months ago Mr Greg Robinson was appointed as the managing director of Sydney Water. He is a Labor mate of the Government and a Labor mate of Minister Sartor, who sat on the board of the Sydney Harbour Foreshore Authority [SHFA] when Greg Robinson was managing director. Deals done at SHFA need to be investigated, but the motion refers to the last 12 months of Mr Robinson's tenure as Managing Director of Sydney Water.

We must get to the bottom of why Sydney Water is failing to deliver the level of water required to supply Sydney. A leaked document from Sydney Water reveals that it exceeded its safe yield by 30,000 megalitres. Sydney Water was told that it should not provide more than 600,000 megalitres for the Sydney area

but 630,000 megalitres were used, so the additional 30,000 megalitres were taken out of the system beyond the safe yield. Why is that a difficulty? It is a difficulty because the Minister for Energy and Utilities has been covering up the failure of Sydney Water to supply the required level of water, but, more importantly, he had been covering up what the managing director had been doing.

The Opposition and the people of New South Wales need to know what role the Premier had in what was happening at Sydney Water. As I understand it, the Internal Audit Bureau report is being hidden by Gabrielle Kibble and the Premier. The report makes reference to the role of the Premier in ensuring that Greg Robinson, as managing director of Sydney Water, knew exactly what he had to achieve. He had to cut corners and make sure his Labor mates got all the contractors' and consultants' jobs offered by Sydney Water. While Labor mates have been dropped into Sydney Water by the Premier and the Minister for Energy and Utilities, Sydney Water has not been providing the level of service that Sydneysiders need. There have been water restrictions and cover-ups. Meanwhile, the Premier and the Minister have failed miserably to ensure that the managing director does a proper job for Sydney Water. It is time both the Premier and the Minister released the report so that the Opposition and Sydneysiders know what sort of cover-ups the Government has been involved in. [*Time expired.*]

Mr CARL SCULLY (Smithfield—Minister for Roads, and Minister for Housing) [2.30 p.m.]: A hysterical outburst such as that from the honourable member for Wakehurst does not add weight or cogency to the case that the Opposition must make to establish precedence. I have an open mind when considering proposals put by the Opposition.

Mr SPEAKER: Order! The Minister will be heard in silence.

Mr CARL SCULLY: As everyone knows, on more occasions than not the Government has supported motions to reorder business. The honourable member for Wakehurst gave a hysterical performance and his case lacked cogency. No!

Question—That the motion be agreed to—put.

The House divided.

Ayes, 36

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

Noes, 51

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

Pairs

Mr Constance	Mr Bartlett
Mr O'Farrell	Ms Saliba

Question resolved in the negative.

Motion negatived.

QUESTIONS WITHOUT NOTICE

DEPUTY-SPEAKER SALARY INCREASE

Mr JOHN BROGDEN: My question without notice is addressed to the Premier. How can the Premier justify his decision to give the Deputy-Speaker, John Price, a $16,362 pay rise—

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

Mr JOHN BROGDEN: How can the Premier justify his decision to give John Price a $16,362 pay rise, boosting his salary to over $153,000 and giving him a significant superannuation increase for no additional work?

Mr BOB CARR: What does the Leader of the Opposition do to justify his pay? We have not heard anything about a policy from him. When he was getting a perfectly adequate pay as a backbencher, he went off to PricewaterhouseCoopers to get a secret second job, and to this day he has not explained what he did for it. He said he gave them public policy advice. That is what we all do.

Mr Barry O'Farrell: Point of order**:** My point of order is relevance. When nurses have to justify work increases for pay increases—

Mr SPEAKER: Order! The Deputy Leader of the Opposition will resume his seat. Recently I have taken the time to look through the rulings of a number of my predecessors in relation to relevance. Those rulings were consistent: Matters relating to relevance will not be used to disrupt an answer of the Premier or a Minister. The Deputy Leader of the Opposition knows only too well that his point has no substance; he was merely trying to break the flow of the Premier's response. I will ensure—

[*Interruption*]

Mr SPEAKER: Order! The Leader of the Opposition will not interject when the Chair is speaking. I will ensure that any member raising a frivolous point of order will be called to order. I place the Deputy Leader of the Opposition on three calls to order.

Mr BOB CARR: It is appropriate that Parliament recognise the position of Deputy-Speaker. The Leader of the Opposition should be the last one to raise remuneration issues. He did not declare his directorship of Northmist until it became an issue—until the *Sydney Morning Herald* declared it an issue.

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

Mr BOB CARR: He crept out and finally did what the law compelled him to do, to say he was getting $110,000 as a consultant.

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

Mr BOB CARR: Why did a backbencher, a shadow Minister, go off to work for a firm handling some of the major developments in this State?

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

Mr BOB CARR: Why has the Leader of the Opposition refused, to this day, to say what he did for that money?

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

Mr BOB CARR: I will reveal to the House a secret submission from the Opposition.

Mr John Brogden: Point of order: My point of order relates to relevance. Why does the Premier pay him $16,000 extra, every year?

Mr SPEAKER: Order! The Leader of the Opposition will address the Chair. I call him to order for the second time.

Mr BOB CARR: Let me reveal to the House what the Opposition did, secretly, to get itself, its front bench, an increased level of remuneration. The House would be very interested in this. There is no public statement about this, no public comment.

Mr Barry O'Farrell: Point of order—

Mr SPEAKER: Order! I remind the Deputy Leader of the Opposition that he is on three calls to order.

Mr Barry O'Farrell: I am very well aware of that. Mr Speaker, because you have been studying the standing orders, my point of order relates to Standing Order 139. We asked a question, we would like an answer. The standing orders say that the issue cannot be debated. The Premier is clearly debating it. He will not answer the question: What justifies the $16,000 a year pay increase?

Mr SPEAKER: Order! The Deputy Leader of the Opposition knows only too well that the Chair has no authority to direct the Premier or any Minister how to answer a question.

Mr Barry O'Farrell: What about Standing Order 139?

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

Mr Barry O'Farrell: Mr Speaker, with due respect—

Mr SPEAKER: Order! The Deputy Leader of the Opposition is clearly canvassing my ruling.

Mr Barry O'Farrell: No, I think you have misunderstood.

Mr SPEAKER: I have not misunderstood anything.

Mr Barry O'Farrell: I am not raising relevance, I am not raising direction; I am raising Standing Order 139.

Mr SPEAKER: Order! I will give the Deputy Leader of the Opposition one more opportunity to resume his seat. If he does not do so I will ask the Deputy Serjeant-at-Arms to remove him from the Chamber. I have given my ruling. The Speaker does not have the authority to direct the Premier or any Minister on how to respond to a question.

Mr BOB CARR: I reveal to the House that a secret submission was made to the Remuneration Tribunal by the shadow Cabinet.

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

Mr BOB CARR: What it sought was a 40 per cent increase on its so-called communication allowance.

Mr John Brogden: That is not a pay rise.

Mr BOB CARR: The Leader of the Opposition said that that is not pay rise. I suppose that the $110,000 a year that the honourable member got from his consultancy was not pay either. I suppose it was not money that he was seeking, it was not Australian currency—it was monopoly money.

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

Mr BOB CARR: The shadow Cabinet also sought the equivalent of an extra 32 one-way trips within New South Wales. The Remuneration Tribunal said that the "tone and tenor" of the Opposition's submission warranted not only disclosure but also some amount of criticising.

Mr John Brogden: You are low.

Mr BOB CARR: I am low for telling the truth about a secret submission that the shadow Cabinet tried to slip into the Remuneration Tribunal!

Mr Andrew Tink: Point of order: I refer you to page 108 of *Decisions from the Chair* and to the rulings of two Speakers—Meagher on one occasion and Kelly on three occasions. They said:

> It is not proper for a Minister to develop his answer to a question in such a way as to debate the matter raised.

The question that was asked of the Premier about the honourable member for Maitland related to the honourable member's workload. The Premier is raising all these other matters in an attempt to debate the issue. In addition to the standing order, two Speakers—one Labor Speaker on three occasions—have ruled that it is not proper for the person answering a question to enter into a debate. With great respect, Speakers have ruled that, under that standing order, they can do something about relevance. Other Speakers have acted in this regard. Mr Speaker, I am asking you to act, to enforce the standing orders of the Parliament and to uphold the rulings of Kelly on three occasions and Meagher on one occasion. I ask you to look at least at page 108 of *Decisions from the* Chair, or is the Parliament wasting even more money by printing this sort of publication?

Mr SPEAKER: Order! There is no point of order. I have given my ruling in relation to this matter.

Mr BOB CARR: The total increase in remuneration that the shadow Cabinet sought for its Ministers was $1.5 million a year. Its justification for that was so weak and pathetic that the Remuneration Tribunal criticised the quality of its submission, implying that it was contemptuous. The Opposition wants increased remuneration for its frontbench. The total cost of that increase would be $1.5 million. It told the Remuneration Tribunal that it wanted this matter kept secret; it did not want it publicised.

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

Mr BOB CARR: Why would Opposition members be worth another chunk of money? The Remuneration Tribunal criticised the quality of the Opposition's submission. No wonder Opposition members wanted their submission kept secret—every bit as secret as the secret payments that the Leader of the Opposition got and that he refuses to explain to this House or to the public.

Mr SPEAKER: Order! Before I call the honourable member for Lake Macquarie, I draw the attention of the House to a number of rulings by previous Speakers relating to the matter of relevance. For example, Speakers Levy, Kelly and Rozzoli ruled:

> It is optional with Ministers how they answer questions addressed to them.

Speaker Ellis ruled:

> A Minister is not confined in answering a question, however explicit.

Speaker Ellis also ruled:

> The Speaker has no power to restrict a Minister.

[*Interruption*]

Mr SPEAKER: Order! I call the Leader of the Opposition to order for the third time. Clearly, the precedent is consistent, and the Chair has ruled in accordance with that precedent.

HEALTH CARE REFORM

Mr JEFF HUNTER: My question without notice is directed to the Premier. What is the Government's response to a Commonwealth proposal to assume responsibility for the public health system?

Mr BOB CARR: Only last year, when the health care agreement was up for renewal, the Commonwealth showed no interest in negotiating structural reform in the delivery of health care in Australia. Honourable members might recall the national clinicians task force that was appointed by the Commonwealth to look at reform of the Australian health system. One hundred doctors, researchers, administrators, economists and academics met in Canberra and produced some sound recommendations on reforming the overlap and the mismatch between State and Federal responsibilities in health. Key recommendations included: a single national system for subsidising pharmaceuticals; more flexible funding arrangements for emergency departments; more aged care places; combined State and Commonwealth funding in rural areas to meet local priorities; and a national training system for health professionals.

The impressive work of the task force was entirely ignored by the Commonwealth. The then Commonwealth Minister for Health did not even attend the Health Summit that was held in old Parliament House in Canberra. None of the fine work of that task force was reflected in the health care agreement that was inflicted on the States. As the Minister for Health reminded the House yesterday, if the States had not signed up to that wholly inadequate agreement, we would have been fined millions of dollars. Millions of dollars would have been taken from our health funding.

Mr Morris Iemma: One million dollars a day.

Mr BOB CARR: The Minister for Health said that we would have been fined $1 million a day. This State was forced to sign with a bayonet jabbed into its ribs. There is nothing in that agreement to move older Australians into the nursing home care that they deserve and there is nothing to train the extra nurses that we need. People are being turned away from universities in Australia. They want to be nurses, they are attracted by the career—especially in this State where we pay nurses more than in any other State—but they are being turned away because the Commonwealth simply will not fund those university places. Worse still, as a result of that agreement, the Commonwealth took nearly $1 billion out of State and Territory hospitals to fund its general practitioner package—a cut worth $300 billion over five years in this State.

Add to that the $105 million cut that was confirmed last week due to Commonwealth fiddling with wage cost indexation. The Commonwealth's good faith on health care looks very slender indeed. Seven thousand nursing home places are licensed but not operational. Bulk-billing is at its lowest rate ever—at 66 per cent. According to the Australian Medical Association, there is a national shortage of 3,000 general practitioners due to a lack of university places. So I am a bit surprised by this backbench proposal from the Federal Coalition and the occasional return to the theme of the Federal health Minister. Nevertheless, the health Minister and I are prepared to sit down and talk about structural reform with the Commonwealth Government any time that it wants to do so, but it must first accept these principles. We will not see over time the remuneration levels of our nurses pegged back to what they get in, say, Tasmania or South Australia. Our nurses, the highest paid nurses in Australia, deserve every cent.

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

Mr BOB CARR: We do not accept the Commonwealth Government's approach, which is based on cherry-picking responsibility, to large teaching hospitals, leaving behind them unattended the smaller hospitals, including base hospitals. The Commonwealth Government must make it very clear that real growth funding will be provided to the public system. Its approach is to tick it off when the health insurance companies want it but deny it when the States seek a comparable increase for the public hospital system. We will talk about any structural reforms with the Commonwealth, but it must first accept those three principles. Structural reform is important; it is part of the health care reform agenda, but so are the following: more places for nurses and doctors in our universities, more places for older people in nursing homes so that they do not have to linger in acute care beds, and more GP services in or near emergency departments to take the pressure off genuine emergency cases.

Section 51 of the Commonwealth constitution outlines Commonwealth powers. It gives the Commonwealth the power to take direct control of health care—that constitutional responsibility exists. However, we are determined to ensure that, if there were to be a Commonwealth takeover, the hospitals and the

fine people who work in them would be better off than they are at present. In the meantime, the Commonwealth has all these opportunities on all these separate agenda items of reform to demonstrate good faith.

NORTH COAST INSTITUTE OF TAFE BUDGET

Mr ANDREW STONER: My question is directed to the Minister for Education. How can the Minister justify drastically cutting the North Coast Institute of TAFE budget, resulting in increased TAFE fees—the cost of certificate 3 and 4 courses and graduate diplomas has doubled since last year and the cost of a welding course at Kempsey TAFE has risen from $260 to $3,500—when last year his Government wasted $17 million on displaced bureaucrats, more than $3 million on media monitoring and $99 million on consultants?

Dr ANDREW REFSHAUGE: New South Wales is the only State where TAFE students can study for free.

Mr SPEAKER: Order! The Leader of The Nationals will come to order and listen to the Minister's reply.

Dr ANDREW REFSHAUGE: In fact, last year 150,000 students studied at New South Wales TAFE colleges for free. They paid no money for their TAFE courses.

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

Dr ANDREW REFSHAUGE: New South Wales is the only State in the Commonwealth with free TAFE tuition. We have kept our apprenticeship fees to a maximum of $350.

Mr SPEAKER: Order! The Minister will be allowed to respond in silence.

Dr ANDREW REFSHAUGE: Those who want to undertake an apprenticeship in Western Australia will pay $450—more than $100 more.

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

Dr ANDREW REFSHAUGE: In New South Wales an apprenticeship costs $350. Of course, TAFE is moving where industry is going. If a TAFE college wants to set up a special course for an industry we are happy to provide that course. We must sometimes craft a new course for a particular business, which is prepared to pay all the associated costs. Thus commercial courses are being fully developed in TAFE. That is quite reasonable.

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

Dr ANDREW REFSHAUGE: If we compare current enrolments in each of the TAFE institutes across New South Wales with enrolments from this time last year, we will see that enrolments at the TAFE institute in New England have already increased by 2,000. If the Federal Government were prepared to make provision for the skills needs of the future, it would provide for the growth in TAFE that all States have been requesting. All States and the Commonwealth employed Access Economics to assess the growth needs of TAFE in vocational courses. Although its estimates varied, predicting growth in TAFE of between 3.5 per cent and 5 per cent, the Commonwealth Government refused to put in that funding—even though the assessment was conducted by Access Economics, which does regular work for the Liberal Party.

Mr SPEAKER: Order! The honourable member for North Shore will cease interjecting.

Dr ANDREW REFSHAUGE: Finally, when Brendan Nelson was about to secure consensus between the States about the ongoing Australian National Training Authority funding agreement, the Prime Minister pulled the rug from under him and forced him to cut another $30 million from TAFE funding. Without growth funding and the extra $30 million that would have been provided to TAFE—

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

Dr ANDREW REFSHAUGE: Without that funding it is not surprising that we are finding that we cannot provide all the places for all the students who want to attend TAFE.

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

Dr ANDREW REFSHAUGE: I remind the House that, despite the fact that the Canberra colleagues of those opposite want us to change, New South Wales is the only State where students can study at TAFE for free. I believe that is a good policy. I will stick with it and the Leader of The Nationals should support it.

CANNABIS TREATMENT CLINICS

Ms TANYA GADIEL: My question is addressed to the Premier. What is the latest information on cannabis treatment clinics in New South Wales?

Mr BOB CARR: The idea that cannabis is a benign drug has been steadily whittled away by an accumulation of medical evidence. A Victorian study published recently in the *British Medical Journal* found that frequent cannabis use in teenage girls predicts later depression and anxiety, with daily users facing the highest risk. The National Drug and Alcohol Research Centre reports an increased likelihood of long-term problems when cannabis is used heavily at a younger age. Another study in the *British Medical Journal* found that cannabis use in adolescence increases the likelihood of schizophrenia in adulthood. I think we have been aware of that evidence for some time. A Dutch study showed that the longer one uses cannabis, the worse the psychosis becomes. Perhaps most disturbing is the finding that, according to the 1997 National Survey of Mental Health and Wellbeing, more than 2 per cent of Australian adults are cannabis dependent.

This is a formidable problem. We have heard about the 36-year-old small business owner and father of a four-year-old daughter who smoked cannabis from the age of 21 and was not able to break his habit in 15 years. He was never able to go more than 10 days without cannabis. Every time he tried to give it up he would succumb to intense anxiety and craving for the drug. Worse still, he was spending $300 a week on the drug, imperilling his family's finances. There is nothing pretty or benign about that. Thankfully, at the Cannabis Treatment Clinic that we set up in Parramatta as part of our $230 million four-year plan of action on drugs he received medication and intensive support. He broke the habit and has not used cannabis for three months.

A woman also received treatment at the centre. She has a young daughter and works full time. She was addicted to cannabis for 15 years and every attempt to break the habit failed, ending in anxiety, depression and relapse. The drug was costing her family budget $200 a week. Again, the clinic was there to help. In this case the woman was hospitalised for a week, followed by intensive medication and counselling. She is now drug free and back at work, supporting her little girl. They are two examples of the results of the Cannabis Treatment Clinic that we set up in Parramatta in December. It is a great partnership between the Western Sydney Area Health Service and the Salvation Army's Youth Link Program. Some 76 patients have already been referred to the clinic, the majority of whom, like the two cases to which I referred, had tried unsuccessfully to quit before and suffered serious withdrawal symptoms during detoxification. While it is early days in the operation of the clinic, the results so far are encouraging. Some 85 per cent of participants have achieved abstinence and the remainder have significantly reduced their cannabis intake.

The House might recall that the Government said last year that we would open four cannabis treatment clinics. Honourable members will be happy to know that clinic No. 2 is on the way and is due to open in September on the Central Coast. The clinic will run outpatient services and community health centres at Gosford, Woy Woy, Erina, Lakehaven, Wyong and Long Jetty, and inpatient services at Gosford and Wyong hospitals. The Central Coast Area Health Service will start recruiting staff next month, with staff training to take place during July. The clinic will have a special focus on mental illnesses because we know from the international research I mentioned earlier that mental illness can be made worse by cannabis use. The clinic will also help the parents of young cannabis users. That is important because at present many Central Coast parents are forced to travel to Sydney and Newcastle, making it hard for them to maintain their interest and commitment.

I want to add that in the spirit of our evidence-based approach, the clinic will be evaluated by the Department of Psychology of the University of Newcastle. We look forward to the great results we have already seen at Parramatta being replicated on the Central Coast and at the two other clinics that will be opened in southern Sydney and the Central West. I look forward to updating the House when those clinics are ready to be launched. Meanwhile, I wish all patients at our cannabis treatment clinics the best of health. We admire their resolve in fronting up to beat this pernicious habit. I thank the dedicated staff who help these unlucky Australians in their tough battle against their addiction.

MEMBERS OF PARLIAMENT JAPAN VISIT

Mr ANDREW TINK: My question is directed to the Premier. Will the Premier order Mr Speaker to cancel a last minute sister-State Easter junket for seven members of this Parliament to Japan, costing the taxpayers of New South Wales $120,000 in air fares and accommodation?

Mr BOB CARR: No.

NORTHERN CO-OPERATIVE MEAT COMPANY

Mr NEVILLE NEWELL: My question is directed to the Minister for Regional Development. What is the latest information on job creation in Casino?

Mr DAVID CAMPBELL: I thank the honourable member for Tweed for his question and as always, for being a Country Labor member on the job pursuing information about economic growth in regional centres. Our State's meat industry is vitally important to regional jobs. That is why the Carr Government has a $12 million plan to help ensure our State's meat industry is strong and viable. This Government's Meat Processing Industry Restructuring Plan is helping a Casino company grow and thrive. The Northern Co-operative Meat Company is a major employer in the Casino area. It has 700 workers and injects $30 million a year into the Casino community in wages alone. Now, with Government support, the company plans to expand. Over the next three years, 52 new jobs will be created: 35 new full-time jobs and 17 part-time positions.

Our financial support is helping the company add value to its products. By installing further specialised equipment the company plans to further target supermarket sales. The company's plan will also benefit its workers by providing wider training in butchery skills, and its expansion plans will also benefit worker safety. The Northern Co-operative Meat Company has a long association with the Casino area. The company was established in 1933 as a beef and pork abattoir. In 1997, after entering a joint venture with R. S. Morrow and Son, the company's Casino operation concentrated solely on beef slaughter and boning. The Government has supported the company on two previous occasions. In 2000 the company completed a business analysis that qualified for assistance under our Meat Processing Industry Restructuring Plan, and in 2002 it received government funding for a value-adding project.

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

Mr DAVID CAMPBELL: The Northern Co-operative Meat Company is a great example of how the Government is helping regional companies improve their operations, broaden their markets and maintain a competitive edge.

BENDEMEER WATER QUALITY

Mr PETER DRAPER: My question without notice is directed to the Minister for Energy and Utilities. Will the Minister advise when the residents of Bendemeer near Tamworth can expect to have a safe, healthy, drinkable water supply?

Mr FRANK SARTOR: The honourable member for Tamworth has raised a very important matter for the people of Bendemeer and Parry shire. He has quite properly raised this matter with me on several occasions. Bendemeer has been particularly badly affected by the drought cycle in terms of its water supply because it relies on water from the Macdonald River. When the river ceases to flow, town water is pumped from pools gathered along the river. This leads to very poor quality water in terms of sedimentation and turbidity. Even with the breaking of the drought and the recent flooding, residents still have poor quality water. Recently Parry Shire Council had to issue residents with bore water notices.

A number of critical issues have been involved. In 2003 the Government provided $7,300 to the council to assist in excavation of pumping pools in the river bed for emergency drought works. The shire has asked for funding for a new filtration plant, and for improved water quality by the installation of a roof over the existing reservoir to reduce the risk of contamination and algal outbreaks. Even though the program is currently the subject of a moratorium there are exceptions made for drought emergency works and in exceptional circumstances. Because of the very poor quality of the water and the public health problems faced by residents of Bendemeer an exception can be made in this case.

I am pleased to advise that yesterday I approved funding of up to $185,000 towards the works—that is, 50 per cent of the total cost of $370,000. I expect that the council will be in a position to commence work on the augmentation shortly. If it is expeditious in progressing the necessary works, the new treatment plant could be operational as early as nine months time. It may take longer, but it is now a matter for the council. I commend the honourable member for Tamworth for raising this matter and look forward to the issue being resolved for the people of Bendemeer.

MINERALS AND PETROLEUM EXPLORATION

Mr PETER BLACK: My question without notice is directed to the Minister for Mineral Resources. What is the latest information on the promotion of New South Wales minerals and petroleum industries?

Mr KERRY HICKEY: I thank the honourable member for his question and for his continuing support of the New South Wales minerals industry. The Carr Labor Government is committed to promoting New South Wales as the preferred destination for minerals and petroleum exploration and investment. We are delivering on this commitment through a number of initiatives, including the annual investment conference of the Department of Mineral Resources, and its $30 million seven-year Exploration NSW Program, which is working. Exploration NSW stimulates overseas and domestic interest in the State's potential for minerals and petroleum discovery through maps, data and information packages.

The program uses leading-edge technology to deliver this information, much of which is available online to potential investors wherever they are physically located—Sydney, Perth or Vancouver. Canada remains the single largest source of investment capital for minerals exploration and development worldwide, and the international activities of North American companies continue to grow. To successfully market New South Wales on the world stage we must actively pursue these investors. It is vital that we lay the groundwork now. A key focus of our promotional activities is the annual Prospectors and Developers Association Convention, held in Toronto, Canada. This convention and trade show is the world's largest and most prestigious gathering of the minerals exploration and development industry.

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

Mr KERRY HICKEY: It attracts key representatives of the minerals exploration industry including senior and junior mining companies, leading banks and investment houses, contractors, and government mineral resource agencies. Last year's convention attracted 8,100 visitors from more than 30 countries, and included 450 exhibitors. More than 30 government jurisdictions had exhibition booths, including all Canadian provinces and several American States. New South Wales is represented at this year's meeting, which is under way as we speak.

As part of our strategy to develop and maintain global awareness of New South Wales, we have joined the Commonwealth and other State governments at the convention since the mid 1990s. It is clear that the first step in international marketing is to get overseas companies to include Australia in their investment patch. The Team Australia approach to global marketing of Australian mineral exploration investment has proved cost effective. Our presence at the Prospectors and Developers Association Convention has undoubtedly contributed to the growing recognition of the State as an attractive and globally competitive site for exploration investment.

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

Mr KERRY HICKEY: It is clear that the Leader of The Nationals considers that investment in the minerals industry is a joke. He quite clearly does not understand its rural and regional benefits.

Mr Andrew Stoner: Point of order: The Minister is misleading the House with that statement. The Nationals support the minerals industry in New South Wales.

Mr KERRY HICKEY: If that were clear the Leader of The Nationals would not be interjecting.

Mr SPEAKER: Order! The Minister will resume his reply.

Mr KERRY HICKEY: The evidence is clear. North American companies, such as Barrick Gold, Silver Standard and Wheaton River Minerals are taking up exploration opportunities. All those companies have developed genuine business interests in New South Wales following our promotions at this important

exploration convention. Our focus this year is on promoting exploration opportunities for gold and base metals, including copper, in the Broken Hill region; highlighting new gold and base metal opportunities in the Cobar, Bourke and Central West regions; and exploration opportunities for commodities such as gold, antimony, tin, tungsten, base metals and gems such as diamonds and sapphires. In fact, I released a data package on diamond exploration opportunities in Armidale last week—as the Opposition spokesman on mineral resources would be quite aware.

The convention also will provide an opportunity to gain knowledge about market and commodity trends and forecasts. This will assist the Department of Mineral Resources in focusing its efforts on the commodities and regions that offer the highest potential for attracting national and international exploration investment. Senior staff of the department will also make direct promotional visits to selected exploration company offices in Canada, as part of an Australian delegation supported by Austrade. I look forward to updating the House on the outcomes of this important Canadian convention. It may well be the springboard for minerals exploration and development for decades to come. That is something that the honourable member for Wakehurst really does not understand.

PACIFIC HIGHWAY POLICE PATROLS

Mr DONALD PAGE: My question without notice is to the Minister for Police. How can the Minister justify a reduction in highway patrols of more than 500,000 kilometres over the past five years in the northern region, as identified in this leaked document, when the fatality rate on the Pacific Highway remains so unacceptably high?

Mr JOHN WATKINS: The highway patrol part of NSW Police is doing an outstanding job, city and country, in providing safe touring on roads in country New South Wales. I will not accept or tolerate criticism of NSW Police from the New South Wales Opposition.. It seems to be that whenever the Opposition in this House mentions police it is to criticise.

Mr Donald Page: I take a point of order under Standing Order 138: The Minister is not answering the question. He is seeking to place a slur on members on this side of the House. We support the highway patrol. We want to know why the Minister is cutting those patrols.

Mr SPEAKER: Order! I will not give further rulings on this matter. I call the honourable member for Ballina to order. He will resume his seat.

Mr JOHN WATKINS: By way of example of the constant and enduring criticism by the Opposition of NSW Police—and most honourable members would not have heard this—the shadow Minister spoke in this place about the Commissioner of Police, Ken Moroney. Ken Moroney is without doubt the most well respected police officer in New South Wales. He has been the Commissioner of Police at a time when the crime rate has dropped considerably and continues to go down. He is the police commissioner at a time when morale in the Police Force is the highest it has ever been.

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

Mr JOHN WATKINS: He is the police commissioner at a time when police numbers are higher than they ever have been. He is police commissioner at a time when the Police budget is higher than it ever has been. But in this place, just a fortnight ago, the shadow Minister for Police said these offensive things about our commissioner:

> Uncle Ken, for the people of New South Wales, has now become—

Mr Andrew Humpherson: Point of order: I draw to your attention rulings of former Speakers of this House, Ellis, Cameron, Kelly and Rozzoli, who said that the Speaker has no control over the way a Minister answers a question other than to ensure that the answer is relevant. Further, if I can refer you to a ruling of Speaker Murray that the Minister—

Mr SPEAKER: Order! I have already given my rulings on this matter. The honourable member for Davidson will resume his seat.

Mr Andrew Humpherson: Mr Speaker, I have not finished. In relation to Speaker Murray—

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

Mr Andrew Humpherson: Mr Speaker, I have not finished. Speaker Murray ruled—

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

Mr Andrew Humpherson: Mr Speaker, I would like you to listen to the point of order. The Minister was directed to resume his seat after his answer strayed from the subject of the question.

Mr SPEAKER: Order! I call the honourable member for Davidson to order for the second time. He will resume his seat.

Mr Andrew Humpherson: If Speaker Murray upheld that sort of ruling, why can't you?

Mr SPEAKER: Order! I have already given my rulings on this matter. I have already substantiated those rulings by reference to rulings of former Speakers. The honourable member for Davidson will resume his seat.

Mr Andrew Humpherson: Mr Speaker, former—

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

Mr Andrew Humpherson: Rulings of former Speakers form precedent. Are you discarding all of those?

Mr SPEAKER: Order! I call the honourable member for Davidson to order for the third time. The Minister has the call.

Mr JOHN WATKINS: It is important to put on the record what the Opposition thinks about the police in New South Wales. Here it is.

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

Mr JOHN WATKINS: I quote the honourable member for Vaucluse:

> Uncle Ken, for the people of New South Wales, has now become a distant relative. He really is not pursuing their interests at the moment. He hasn't been since he took over the job.

That is what the shadow spokesman, with the support of the Leader of the Opposition, thinks about New South Wales police. Most honourable members would recall that the last time a highway patrol question was asked in this House, I think by the Leader of The Nationals, it was made up. The accusation made at that time also reflected badly on the highway patrol. These are more of their grubby tactics. I will seek a report from the commissioner.

LOTTO DRAW CHANGES

Mr PAUL McLEAY: My question without notice is directed to the Minister for Gaming and Racing. What is the latest information on Lotto in New South Wales?

Mr SPEAKER: Order! The Minister will ignore interjections and proceed with his response.

Mr GRANT McBRIDE: The Lotto draw on Channel 9 is arguably the most regularly watched few minutes of television in New South Wales, with an average of more than 700,000 viewers.

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

Mr GRANT McBRIDE: Today I can announce some changes to Monday and Wednesday Lotto draws.

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

Mr GRANT McBRIDE: From 15 April the number of balls used in midweek Lotto draws will increase from 44 to 45. For the first time, all three Lotto draws will use 45 balls, allowing Lotto players to complete one entry form for Monday, Wednesday and Saturday Lotto. The new Monday and Wednesday Lotto format will simplify playing the game and include a new feature unique to lottery games in Australia. This new feature will see prizes increase in the lower divisions for the benefit of regular players. These new changes are expected to significantly increase prizes for division 4 and division 5 winners. In addition, if the division 1 prize does not go off, all other division winners will see their winning dividend increase.

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

Mr GRANT McBRIDE: Each week, 1.6 million adults play a lottery game in New South Wales, while 3.3 million New South Wales adults play at least once a year. The ongoing success of lottery games in New South Wales results from regular innovations, which provide lottery players a range of game options. The two most significant recent changes have been the launch of Saturday Lotto in New South Wales in December 2000 and the restructure of the $2 Jackpot Lottery in March 2002. This year Lotto celebrates its twenty-fifth anniversary in New South Wales, and the game has flourished since its early beginnings, to the point where it is well known, highly regarded and popular with players.

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

Mr GRANT McBRIDE: In that time Lotto has forever changed the lives of its 632 millionaires as well as millions of other prize winners. The three equal biggest winners in Lotto were all created on 4 November 1996 when three Lotto entries shared in the $15 million first division prize pool for Lotto's anniversary draw. Each entry collected $5 million, the winners instantly becoming multimillionaires. In Lotto's 25 years a few interesting statistics have emerged, and this is worth listening to. The numbers most infrequently drawn are 37, 3, 30, 11, 22 and 1. The most common winning entry, the standard 18-game auto pick, costs $8.80. Each year hundreds of Lotto wins continue to be unclaimed. I urge lottery players to check old tickets and present them to be checked for prizes.

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

Mr GRANT McBRIDE: I have quite a comprehensive document I will refer to if members opposite continue to interject. New South Wales Lotteries is still waiting to pay a $3 million win.

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber. The Chair is having difficulty hearing the Minister.

Mr GRANT McBRIDE: I remind players that the best way to ensure they never miss out on collecting on a Lotto win is to fill in a registration form with their local Lotteries agent. These changes will come into effect from 15 April, with the first draw taking place on Monday 19 April. New South Wales Lotteries will provide comprehensive details of the changes to players and to its 1,400 Lotto retailers well in advance of the first draw.

Questions without notice concluded.

CONSIDERATION OF URGENT MOTIONS

Easter in Sydney Festival

Ms ANGELA D'AMORE (Drummoyne) [3.31 p.m.]: This motion is urgent because we are on the verge of celebrating a major new tourism initiative for Sydney known as Easter in Sydney. The motion is urgent because the very same week that the State Government is launching a massive advertising campaign for a new initiative that highlights Easter festivities in Sydney, which is expected to attract more than 27,000 interstate and overseas visitors, the Opposition has begun a campaign to oppose the festival and the State Government's tourism initiative in Sydney. It has no regard for, or understanding of, the benefits that will flow to small businesses and sporting associations, and the 2,800 jobs it will create. The motion is urgent because the new tourism initiative for the people of New South Wales will include three weeks of sports, arts and entertainment festivities including the AJC Easter racing carnival, *The Lion King*, and AFL and rugby union matches, to name just a few. The motion is urgent because the State Government's Easter in Sydney tourism initiative will inject $47 million into the New South Wales economy.

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber. Members wishing to converse should do so outside the Chamber. That warning applies to the honourable member for Baulkham Hills as much as any other member.

Ms ANGELA D'AMORE: The motion is urgent because the Royal Easter show is essential to the Easter festivities.

Mr SPEAKER: Order! The Leader of the Nationals will resume his seat.

Ms ANGELA D'AMORE: The motion is urgent because it shows the mean-spirited nature of members of the Opposition, who fail to comprehend that their constituents, particularly residents in rural and regional areas, travel to Sydney every year to enjoy Easter festivities with family and friends.

Mr SPEAKER: Order! The Leader of The Nationals will remain silent.

Ms ANGELA D'AMORE: The motion is urgent because the State Government has an obligation to facilitate the Easter festivities for the people of New South Wales. They deserve it! I commend the motion to the House.

Pacific Highway Fatalities

Mr DONALD PAGE (Ballina—Deputy Leader of The Nationals) [3.3 p.m.]: This matter is urgent because the number of fatal accidents on the Pacific Highway is spiralling. It is urgent because the Pacific Highway took almost as many lives last year as all other major highways in New South Wales combined. It is urgent because the number of accidents and fatalities on the highway is on the rise. According to RTA figures published in the *Newcastle Herald* on 14 January, there were 59 fatal accidents on the Pacific Highway in 2003, leading to 73 deaths. The road toll on the Pacific Highway increased by almost 40 per cent in 12 months, from 53 in 2002 to 73 in 2003. The matter is urgent because the Pacific Highway is a major factor in the serious accidents and fatalities that occur on an almost daily basis.

The matter is urgent because, according to his figures, Labor Minister Carl Scully has presided over a blowout of almost $900 million on the estimated costs versus the completed costs of Pacific Highway upgrade projects since 1997. That is $900 million that had to be diverted from improving the quality of the Pacific Highway, $900 million in cost blowouts that should have been used by Labor to upgrade hazardous stretches of road and dangerous black spots. The matter is urgent because some of the $900 million in cost blowouts could have been used at locations such as the Keels Road intersection at Bulahdelah, where last Friday three people were tragically killed. It is urgent because these blowouts raise serious questions about the ability of the Carr Labor Government to manage major road infrastructure projects.

The matter is urgent because, under the stewardship of Sydney Labor, the Yelgun to Chinderah dual carriageway project suffered a cost blowout of $118 million, 51.3 per cent over original estimates. It is urgent because cost overruns have meant that Pacific Highway upgrade projects have been forced onto the backburner. The Ballina bypass, which Sydney Labor promised in 1997 would be completed in December this year, now has an estimated completion date of 2010. It is a disgrace! It is urgent because this is one of the worst parts of the highway for accidents. The time blowout of six years on one single project before the digging has even started is simply unacceptable.

The matter is urgent because, despite the rising number of fatalities on the highway, the Carr Labor Government has presided over cuts to highway patrols on the Pacific Highway. A leaked document in my possession reveals that the number of highway patrol kilometres covered in the northern region has been cut by more than 500,000 kilometres in the past five years. It shows that the total number of kilometres travelled by the northern region highway patrols has dropped from more than 4.7 million in 1998 to 4.2 million in 2003. Another disgrace! The Carr Labor Government has not provided adequate resources to enable highway patrol officers to pursue visible police strategies on the highway.

The matter is urgent because the Carr Government is over-reliant on funding fixed speed cameras at the expense of mobile speed cameras and a strong and visible police presence. Minister Scully has argued that speed cameras save lives. In some locations they make a difference, but in many cases they are little more than cash cows. What is certain is that they are no replacement for police on our roads. I call on Sydney Labor to provide adequate resources and backup to enable our highway patrol to do its valuable and life-saving job. The matter is

urgent because fatalities in New South Wales continue to climb, despite the Labor Government's promise to drastically reduce the number of fatalities through its "Framework for Saving 2,000 Lives by the Year 2010 in New South Wales". The Sydney Labor Government must immediately allocate increased resources to enable highway patrols to cover greater distances.

The matter is urgent because last year The Nationals convened the Pacific Highway Safety Summit, which was attended by the NRMA as well as Federal, State and local government representatives, and emergency services representatives. The summit attendees were unanimous in their concern at the state of the highway and the rising number of accidents and fatalities. The matter is urgent because Minister Scully has spent too much time washing his hands of responsibility for the parlous state of the highway and too much time flicking blame elsewhere, notably the Federal Government.

The Pacific Highway is a State responsibility. The Carr Government's inaction and never-ending buck passing must come to an end. At the current rate of funding it will take 17 years before the Pacific Highway will become a dual carriageway from Hexham to the Queensland border. Only 30 per cent of the road that was originally intended to be upgraded under the current 10-year agreement has been completed, compared to the estimate of 80 per cent. Today I call upon the Minister for Roads, Carl Scully, and the Premier to get on with the urgent job of ending the carnage on the Pacific Highway. I urge honourable members to support my motion.

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

The House divided.

Ayes, 50

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

Noes, 36

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

Pairs

Mr Bartlett	Mr Brogden
Ms Saliba	Ms Seaton

Question resolved in the affirmative.

EASTER IN SYDNEY FESTIVAL

Urgent Motion

Ms ANGELA D'AMORE (Drummoyne) [3.48 p.m.]: I move:

That this House:

(1) welcomes the State Government's Easter in Sydney initiative, which is expected to attract more than 27,000 interstate and overseas visitors, injecting $47 million into the New South Wales economy, creating more than 2,800 direct and flow-on jobs over the holiday period;

(2) notes that the Royal Easter Show is central to the festival, and

(3) condemns the Leader of The Nationals for criticising the State Government's support for the Easter in Sydney program.

In February the Premier launched an exciting new tourism initiative for our State. The festival is Easter in Sydney, which is a celebration of the best sports, arts and entertainment that Sydney has to offer. The festival will be held from 1 to 8 April. The New South Wales Department of State and Regional Development has estimated that the initiative will attract 27,000 interstate and overseas visitors, injecting $47 million into the New South Wales economy, and will create 2,800 direct and flow-on jobs. If ever a tourism initiative should have bipartisan support, it is this one—but not in the eyes of the Opposition. For some reason the Opposition is opposed to the Easter in Sydney proposal and wants to put an end to it.

Can honourable members believe that the Leader of The Nationals spent all of last week badmouthing it? In doing so, he is having a go at all the partners and organisations involved in Easter in Sydney, including the Australian Jockey Club [AJC], the Sydney Turf Club, Luna Park, the Australian Football League, the National Rugby League [NRL], the New South Wales Rugby Union, Sydney's museums and galleries, shows including *The Lion King* and the Royal Easter Show. These groups support the concept so much that they helped to launch it. None other than the NRL's chief executive officer, Mr David Gallop, the AJC chief executive officer, Mr Tony King, the leading Wests Tigers player, Darren Senter, the Swans star, Jude Bolton, the Sydney Swifts netball players, and the actors and performers from *The Lion King* and the Bell Shakespeare Company Ltd joined the Premier at the launch.

The Opposition would have us believe that all those groups are on the tourism road to nowhere—just what planet are they on, attacking our best events? For the first time the State Government has taken a co-ordinated approach to promote all the first-class events taking place over the Easter period. The Government has added a number of new ventures such as the National Netball Cup and the Museums Light Up Sydney event. Make no mistake: We want Sydney to be the place to be at Easter. With uncertainty in the international tourism market from North America and Asia we see Easter in Sydney as the perfect festival to attract that lucrative domestic tourist dollar. That is what this initiative is about: Attracting tourists from regional New South Wales, Melbourne, Brisbane and the Gold Coast, tourists who will put money into local hotels, restaurants, shops and small businesses—and that will deliver jobs.

The Government is also targeting those who come to Sydney at Easter for the show, the football or the races, to add another day or two to their trip. If we can encourage visitors from interstate or overseas to stay an extra night it would result in an extra $12 million flowing into the economy. We are leaving no stone unturned in our efforts to ensure the maximum amount of exposure for the festival. Last month 1.2 million copies of the 28-page "Easter in Sydney Ultimate Guide" were distributed in Sydney, Melbourne, Brisbane and on the Gold Coast. A national Easter in Sydney advertising campaign began screening this week. Special Easter in Sydney travel packages are now available through Qantas Holidays and Harvey World Travel. Interstate launches have been held in Melbourne and Brisbane. The second-to-none range of discount ticket packages is now on the market. For example, a $99 Easter passport ticket will allow entry to all four days of the AJC Easter Carnival, three NRL matches, a Sydney Swans match, and travel to and entry into the Royal Easter Show.

And that is not all! Later this month 300,000 Easter in Sydney pocket guides will be distributed throughout tourism agencies and TAB outlets in New South Wales. Street banners will be in place throughout the city in March and April. We want Sydney to be part of a celebration, but instead the Opposition wants to close down the city. The proposed Easter in Sydney calendar includes the Royal Easter Show, the new one-week AJC Easter Carnival, the Sydney Turf Club Golden Slipper, the NRL Easter week games, including an NRL double header, two Sydney Swans matches—of which I am a great fan—the New South Wales Waratahs versus Wellington Hurricanes Rugby Union match, a new Sydney Olympic Park Netball Cup, the Australian Swimming Championships, the new Museums Light Up Sydney event, the Easter in Sydney ball, the Australian Easter yearling sales, *The Lion King*, and a range of outstanding performances at the Sydney Opera House, including those by the Bell Shakespeare Company, the Australian Ballet and the Sydney Symphony Orchestra.

And that is just the start. Other great attractions include the bridge climb, visits to the Blue Mountains and Sydney Harbour cruises, to name but a few. There is one more part of the program—the unofficial start of the 18-day Easter in Sydney festival—that will be the icing on the party cake: the great Sydney icon Luna Park will reopen on Sunday 4 April. That venue will provide yet another entertainment option for families and another major drawcard for our city. Easter in Sydney is a massive job generator and a great time to be in the city. Members opposite want to put a stop to the 27,000 interstate and overseas visitors, the injection of $47 million into the New South Wales economy and more than 2,800 direct and flow-on jobs—all out the window. Opposition by name, opposition by nature. Opposition members are totally out of step with all concerned. This event has the full support of the tourism industry and has been supported by editorials in the *Daily Telegraph* and the *Land*. But the Opposition wants to stop it before it gets off the ground. Well, we will not have a bar of that. We will not stand for it.

Mr IAN ARMSTRONG (Lachlan) [3.56 p.m.]: In the interests of this debate, it is important for me to clear the deck as to what the Leader of The Nationals said. Let us take away the guesswork, the innuendo and the sly calls. A media release issued by the Leader of The Nationals stated:

> **Stoner Calls On Sydney Labor To Stage A Country Tourism Festival**
>
> NSW Leader of The Nationals, Andrew Stoner, today called on the Sydney Labor Government to focus more on regional tourism and stage a tourism festival in country New South Wales—

Nothing wrong with that. The media release continued:

> Mr Stoner said Mr Carr had recently launched a major new tourism initiative for Sydney entitled ***Easter In Sydney***—a two-week sporting, arts and entertainment festival including the AJC Easter Racing Carnival, The Archibald Prize, The Lion King and NRL, AFL and Rugby Union matches—

Nothing wrong with that. The media release further stated:

> "Where is Labor's same commitment to rural and regional tourism? A similar annual festival in a country location would be a good start", Mr Stoner said—

he asked for a similar festival—

> "Mr Carr announced that the ***Easter in Sydney*** festival would be backed by a national advertising campaign, street banners and special discount travel packages and passes.
>
> "I call on Mr Carr to show the same commitment to a country festival and inject State funds into promoting existing events in country areas such as picnic races and attracting new events such as high profile sporting games. Like ***Easter in Sydney*** these events could be coordinated and staged over a two-week period.
>
> "Such a festival would inject much needed dollars and jobs into a country location.
>
> Mr Stoner said rural and regional areas deserve to be part of any State Government tourism campaigns.
>
> "There is a vast tourism potential just waiting to be tapped in country and coastal NSW but Sydney Labor is failing to turn this potential into reality due to sheer laziness," Mr Stoner said.
>
> "Only two per cent of international visitors to Sydney travel west of the Blue Mountains.
>
> "Adding to the problem is that the NSW Labor Government cut the tourism budget by 10 per cent this financial year.
>
> "It's time Sydney Labor got serious about attracting more domestic and international tourists to regional areas."

I feel that the Government has misled the House by moving this motion today. In part, the motion states:

> (3) condemns the Leader of The Nationals for criticising the State Government's support for the Easter in Sydney program.

The Leader of The Nationals has not criticised the Government in relation to the Easter in Sydney festival. That complementary, commonsense and practical festival will fill a major gap that has been left by the Labor Party. I refer again to the Royal Easter Show. I am about to attend my forty-ninth Royal Easter Show.

Ms Angela D'Amore: I am not that old.

Mr IAN ARMSTRONG: The honourable member may not be that old, but I am not that old either. However, I am old enough to enjoy the Royal Easter Show and I am able to work at that show. I hope that Government members will be working this year at the Royal Easter Show. I will be stewarding in the ring for a five-day period and I will be showing a horse.

Mr Carl Scully: Point of order: The honourable member is a cranky old grump.

Mr IAN ARMSTRONG: And the Minister is old for his time. Today I want to refer to several issues. Visitors will come to Sydney for the Royal Easter Show and the Easter in Sydney festival. Is the Government able to guarantee that there will be no problems with policing and that emergency health services will be up to full strength? Tourists need confidence in the provision of government services. Can the Government guarantee that the trains will run? Will there be any public service strikes? If the Government is able to give us those guarantees, tourists will have confidence in those government services. This festival is predicated on the Royal Easter Show, which is a wonderful institution. It is expected that more than one million people will go through the gates, provided we have favourable weather.

Earlier Government members alluded to the fact that this festival will draw more than 27,000 interstate and overseas visitors. The fourteenth World Hereford Conference, which is to be held in Sydney, will draw about 11,000 visitors, so of course there will be 27,000 interstate and overseas visitors. If we do not get 100,000 visitors it could be said of the Government that it is not trying. Government members are not aware of the figures. They do not know how many volunteers and casual workers will be attending the Royal Easter Show. According to the chief executive officer of the Royal Agricultural Society, there will be 750 volunteers and casual workers at the show—people in white coats, gatekeepers and stewards.

How many hundreds of people from country New South Wales will be stewards at the Royal Easter Show? There will probably be 600 or 700 stewards—stewards for everything from fruit and vegetables, cats and dogs, sheep, beef and dairy cattle, and in the ring. Some of those stewards come to Sydney for three or four weeks, and they pay for their own expenses. They do not ask for a cent in funding, and they do not get a cent; they pay for their own tucker. The Wrights—women from Cowra—spend a couple of weeks cooking to feed stewards in the exhibition areas. People from the South Coast come to Sydney and cook for a couple of weeks to feed dairy cattle exhibitors. Government members, who are laughing at what I have to say, should visit the Royal Sydney Show and give those people a hand.

The Royal Easter Show is run through the good offices of volunteers, exhibitors and showmen. The Bell family still owns a lot of the rides at the Royal Easter Show, which is the peak of the country show season. The Royal Easter Show is predicated on the success of country shows. Most of the animals have to accrue sufficient points in country shows before they are eligible to participate in the Royal Easter Show. Horses and many of the dogs have to accrue points in other country and regional shows. The honourable member for Drummoyne referred earlier to yearling shows—an important money generator that draws to Sydney an entirely different group of people from across Australia, Asia, Hong Kong and the Middle East. That is a famous event.

The majority of those yearlings come from country areas—the Hunter Valley, the Cowra district and north-western areas. That is where the racehorses are bred. What is this Government doing to racing? Temora used to have 10 TAB meetings a year, but it now has two. Junee used to have eight TAB meetings a year, but it now has two. Those Government members who are laughing should go to Temora and Junee and laugh about it there. Recently 14 greyhound clubs were not closed because of the enormous lobbying that was done by the Greyhound Racing Authority. The Government backed off and gave those clubs another go for 12 months. People in country New South Wales are looking for equal opportunities.

We are looking for support for our regional opera at Orange, Bathurst, Cowra and Young. We are looking for support for our art shows—our regional and district galleries in towns such as Temora and Condobolin. We are looking for support for our wine shows, such as the regional wine shows at Mudgee and in the Hunter and this nation's second biggest wine show at Cowra. The Government should give us some support. Those things do not receive one cent in funding from this Government. We are looking for support for sports

such as football, cricket, netball, swimming and horse sports. There are not too many horse sports such as camp drafting throughout the country because of public liability insurance.

This Government has done nothing about public liability insurance. Three years ago we lost many of our regional airlines, which resulted in many problems for tourism. The Government rejected concessional payroll tax for new jobs for people under the age of 25, which put a major blight on young people getting jobs in this State. We are asking for a fair crack of the whip for the 30 per cent of people who live in country areas who generate 40 per cent of the gross domestic product in this State. We need some assistance in running the Easter in Sydney festival. Opposition members support the Easter in Sydney festival, but this Government should give people in the bush a go. They should not tell lies about what the Leader of The Nationals is saying. What the Leader of The Nationals had to say about the festival is available in black and white. People in the bush are doing their bit. Country Labor members—the honourable member for Murray-Darling, a fine, upstanding gentleman, is the convenor of Country Labor—should join The Nationals in sticking up for the bush. We need races at Menindee and art shows at Wilcannia. [*Time expired*.]

Mr PETER BLACK (Murray-Darling) [4.06 p.m.]: What a fine accolade from my good friend the honourable member for Lachlan. He knows what the Royal Easter Show is about. He referred to every aspect of the Royal Sydney Show, except one: the showgirls. I will refer to that issue later. The honourable member for Lachlan is the last great leader of the Country Party, the National Party, the "Notional Party" or whatever it is. He knows what the Royal Easter Show is about. But where is his leader? He should be in this Chamber defending himself. The Leader of The Nationals could not have made the speech that the honourable member for Lachlan just made because he does not know the difference between a Corriedale and a Peppin. He would not be aware of the fact that the honourable member for Lachlan has acted as a steward in the ring at the Royal Easter Show. The Leader of the Nationals is not capable of doing those things. When the honourable member for Lachlan acts as a steward at the next Royal Easter Show he should strap his leader to the Ferris wheel. As it is Easter he should put him in the Christian position. He can then go round in circles and inspect the Royal Easter Show.

Mr Ian Armstrong: Point of order: People at the Royal Easter Show usually make that sort of journey after visiting the bar.

Mr DEPUTY-SPEAKER: Order! That is not a point of order. The honourable member for Murray-Darling will resume his speech.

Mr Ian Armstrong: Are you supporting the Greens amendment in the upper House?

Mr PETER BLACK: The honourable member would be well aware that I do not associate with the Greens. I refer again to the showgirls. My good friend the honourable member for Lachlan, in his leadership days, used to bring showgirls into this House. He used to take them around Parliament House to give them that experience. The new, temporary Leader of the "Notional Party" wants to stop the trains from running so that the showgirls are not able to visit Parliament House. The former Leader of the National Party, who is leaving the Chamber and who should remain so that he can hear my speech, used to walk around Parliament House with the showgirls. I do not know what the current Leader of The Nationals has against them.

In the time remaining to me I refer to *The Saddle Club*—a major feature at this year's show. The honourable member for Lachlan did not mention either the showgirls or *The Saddle Club*—a great club. I refer honourable members to the magnificent article about *The Saddle Club* in last Sunday's *Sunday Telegraph*. The club, which is a joint Australian-Canadian production, is broadcast in 13 countries. I am told that sale of *The Saddle Club* merchandise is worth about $15 million a year. I am further informed that the actors from *The Saddle Club* will attract about a quarter of a million visitors to the Royal Easter Show. That is a tremendous attraction that the temporary leader of the "Notional Party" should not knock.

We should all support that show, which, among other things, is a great favourite with young girls. The stars of the show—Sophie Bennett, Keenan MacWilliam and Lara Marshall—are three magnificent ladies. They will be at the Royal Easter Show and visitors, particularly young girls from the bush, will want to meet and greet them. Many people think the Royal Easter Show is about blokes coming down from the bush to play around with rams and put cattle in a yard. But there is a role for women—not only showgirls—at the Royal Easter Show.

The Government is getting on with the job. The temporary leader of the "Notional Party" came out with some outrageous statements—he ignored the showgirls issue completely—but he failed to mention John

Anderson's little party in Queensland, when he stopped the water coming across the border into New South Wales. I note that Opposition members are not trying to take points of order; I am sure that they want me to keep talking about showgirls. The program for the Easter festival in Sydney includes the Australian Jockey Club Easter carnival, the Sydney Turf Club Golden Slipper and a rugby league double-header. I regret to report that there will also be two Sydney Swans matches; I think we get points for missing those games. The New South Wales Waratahs will play the Wellington Hurricanes rugby union team. The new Sydney Olympic Park Netball Cup will be held, as will the Australian Swimming Championships. The new Museums Light Up Sydney event will take place, the Australian Easter Yearling Sales will be held and *The Lion King* musical will be performed. If done properly this Easter festival will be as good for Sydney pro rata as the Olympic Games, and it is rubbish for the temporary leader of the "Notional Party" to knock it.

Mr ANDREW TINK (Epping) [4.11 p.m.]: As the honourable member for Lachlan ably pointed out, the Leader of The Nationals clearly supports the Easter in Sydney festival. However—and here's the rub—the Premier and those Labor members who are about to spend their Easter break in Japan obviously do not support it. The reality is—and the honourable member for Drummoyne needs to get her head around this—that members of the Labor party are about to board business-class flights to Japan over the Easter recess. Those members of the parliamentary Labor caucus do not want to spend Easter in Sydney; they would rather spend their time in Tokyo. Members of the Labor caucus would rather spend $120,000 of taxpayers' money in Tokyo. That money would be better spent in Sydney, supporting the Easter festival.

Coalition members will be in Sydney for Easter. The Leader of The Nationals and the Leader of the Opposition will go to the Easter show. Which members of the Labor caucus will be absent without leave for Easter in Sydney because they will be in Tokyo? Memorandum to members of the Labor Party: Easter in Sydney is held not in Tokyo but in Sydney. The Premier must understand that Easter in Sydney is held in Sydney. During question time the Premier said that some Labor caucus members would be not in Sydney but in Tokyo for Easter. If the Premier is fair dinkum about the Easter in Sydney festival, he should spend Easter in Sydney and make sure that Labor caucus members do the same.

I trust that some trains will be running to transport all the interstate and overseas visitors who will come to Sydney for Easter. We used to hope that some trains would run on time but now we hope that some trains will run at all. I hope that none of our interstate and overseas visitors get ill while they are in Sydney. If they do, they will have to run the gauntlet of the New South Wales hospital system, which, thanks to the administrators and the Minister for Health, who will not take responsibility for what occurs in the system, cannot guarantee treatment for some of the health problems that might afflict visitors. The Minister for Health has so mishandled the health system in this State that hospitals cannot give that guarantee, despite the best efforts of doctors and nurses. I also trust that none of our interstate and overseas visitors will go to Redfern, because if they do their safety cannot be guaranteed.

I shall seek to amend the motion because the Leader of The Nationals strongly supports Easter in Sydney and my amendment reflects the fact that those who do not support the Easter festival are Labor members, not National or Liberal members. I move:

> That the motion be amended by leaving out paragraph (3) with a view to inserting instead the following paragraph:
>
> (3) calls on the Government to cancel the proposed New South Wales parliamentary delegation visit to Japan over the Easter recess to support the Government's Easter initiative.

If Labor members are fair dinkum about supporting the Easter in Sydney festival they should support this amendment. Not one member of the Labor caucus should be absent overseas during the Easter in Sydney festival. This amendment will remind all members of caucus that Easter in Sydney happens in Sydney, not in Tokyo. They might have a lovely Easter festival in Tokyo but the one that matters will be held in Sydney. We will be here. I invite Labor members to support the amendment and the Easter in Sydney festival.

Ms TANYA GADIEL (Parramatta) [4.17 p.m.]: The honourable member for Epping is obviously fascinated by Tokyo, our nurses and our health care system. He is worried about visitors receiving treatment in our health care system. The people most likely to be injured during the Easter break are those who get in the path of the honourable member for Davidson as he rushes to board a plane to Tokyo.

We have all heard about the Easter in Sydney festival, which is a celebration of the best sports, arts and entertainment that Sydney has to offer. We have heard about the economic benefits: the potential to attract 27,000 interstate and overseas visitors; the injection of $47 million into the New South Wales economy; and the

creation of more than 2,800 direct and flow-on jobs. But the event has another key feature that will benefit many families and small businesses. The Easter in Sydney festival recognises the value and contribution of Western Sydney to major events in New South Wales. I refer honourable members to the festival program. The Parramatta rugby league team will play South Sydney at Parramatta Stadium on Easter Monday. I wish the Rabbitohs good luck—I think they will need it because I have heard that the Eels are more slippery than ever this year. There will be the Sydney Turf Club Golden Slipper Day at Rosehill, the National Rugby League doubleheader on Easter Sunday at Homebush, the new netball cup featuring Australia's best two teams—the Sydney Swifts and Melbourne Phoenix—at Sydney Olympic Park, Homebush, the V8 Supercar Series at Eastern Creek and, last but not least, the Royal Easter Show.

These events have been promoted interstate. Hotels in Parramatta, Homebush and the Greater West feature prominently in package deals so our events and our region are being seen on interstate television commercials and in more than 1.5 million promotion guides. For the first time, Western Sydney is at the front and centre of a major multimillion dollar tourism initiative. And—surprise, surprise—the Liberals and The National are doing all they can to spike it. Why would they not? They simply could not care less about Western Sydney; the fact is they never have. They do not even acknowledge that Western Sydney is a region, and that is why families have rejected them for three consecutive State elections.

On the other hand, the Government is actively encouraging tourists from Melbourne, Brisbane and the Gold Coast to see what Western Sydney has to offer. In the Parramatta region tourists can stay at international standard hotels, attend games at world-class sporting venues and go to one of Australia's greatest race days all on the same weekend. Then there is our range of entertainment venues where the money will flow, and the Parramatta hotels, restaurants, theatres, shops and small businesses. How can this event be talked down? If Parramatta can attract only a small part of the 27,000 interstate and overseas visitors, the $47 million into the New South Wales economy and the more than 2,800 direct and flow-on jobs, it will make a real difference.

I also remind the House that the Government has proudly invested in sporting and entertainment facilities in Western Sydney, facilities that now enabled the region to take part in such an exciting new event. There is also the huge redevelopment of the Parramatta central business district and the massive shift of State Government jobs to the region. That would not happen under a Coalition government. Make no mistake: Parramatta is alive and we want to be part of the great Easter celebration. Members of the Opposition should hang their heads for trying to stop the region playing a part in such a great initiative.

Ms ANGELA D'AMORE (Drummoyne) [4.21 p.m.], in reply: The Leader of The Nationals is still not in the Chamber. That is amazing. Where is he? Perhaps he is intimidated by female politicians. Where in his press release does the Leader of The Nationals state that he supports the initiatives of the State Government? Where does he state that the money that will be injected into New South Wales is good for the people of New South Wales? Where does he refer to the jobs this initiative will create and the regional sporting events that will be highlighted? The honourable member for Parramatta has referred to that. Where in his media release does the Leader of The Nationals support the festival?

I note the comment yesterday of the Minister for Tourism and Sport and Recreation that the State Government has gone a long way to promote country and regional festivals, one of which is the popular Tamworth country music festival. I note also that the honourable member for Murray-Darling referred to *The Saddle Club* and how regional and rural women will benefit from the events that will be staged in Sydney. As a woman I am supportive of our regional and rural women and look forward to them coming to Sydney. The Leader of The Nationals has not acknowledged that in his media release.

Mr Peter Black: Or the showgirls.

Ms ANGELA D'AMORE: And, of course, there is no reference to the showgirls. It is clear that the Government is committed to injecting tourism dollars into New South Wales and the Easter in Sydney festival is a wonderful way to do that. Instead of criticising the Government the Opposition should come on board. It should celebrate the initiatives that will be launched during the next couple of weeks. All I hear from the Opposition is criticism and negativity. It is not proactive; it is only reactive. We will see what happens in the next three weeks because we know the tourism industry is right behind us. We know that our sporting leaders are behind us on these initiatives and we will not be stopped.

We will not be criticised by the Opposition for providing these opportunities in New South Wales. We have an obligation to do so. I am at a loss to understand the comments of the honourable member for Epping, who did not add anything productive to the debate. All he did was allow us to highlight some of the trips that his colleagues in the Opposition have taken—heading off to Hawaii in their board shorts, et cetera. The honourable member for Epping should review some of the concerns he put on the record. I also note that the honourable member for Lachlan attacked our police. Every time we come into this Chamber it is either our nurses or our

police who are being attacked by the Opposition. The honourable member for Lachlan questioned the ability of our Police Force to manage these events in New South Wales.

The Government does not tell the police how to do their job: we support them in how they do their job. Those of us on this side of the Chamber are getting tired of constantly having to listen to the Opposition criticise our police officers, who do a marvellous job day in, day out in extreme circumstances. We support them. The Opposition criticises the nurses who work day in, day out in our public hospitals. They look after our loved ones and make hard decisions in relation to clinical practice and patient care. When I was with the Nurses Association I represented 50,000 nurses, and I continue to support them. The Easter in Sydney initiative should only be complimented. I congratulate the Government on being proactive and providing the initiatives and facilitating the massive injection of funds into the economy of New South Wales.

Question—That the words stand—put.

The House divided.

[*In division*]

Mr Andrew Tink: Point of order: Mr Speaker, when I finished speaking about my foreshadowed amendment the Deputy-Speaker, Mr Price, put the question as being, That the amendment be agreed to. Just before the division was called the Deputy-Speaker put the question as being, That the words proposed to be left out stand. We have two contradictory questions in that the Deputy-Speaker put the question, That the amendment be agreed to, and then, subsequently, That the words proposed to be left out stand. I would like to know, given those contradictory statements made by the Deputy-Speaker, what in fact is the question we are voting on.

Mr SPEAKER: Order! Clearly, the final determination by Mr Deputy-Speaker is what the House is voting on. I propose the division to be on the question, That the words proposed to be left out stand part of the question.

Ayes, 48

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

Noes, 35

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

Pairs

Mr Bartlett	Mr Brogden
Mr Carr	Mr Hazzard
Ms Saliba	Mr Seaton

Question resolved in the affirmative.

Amendment negatived.

Motion agreed to.

BUSINESS OF THE HOUSE

Matter of Public Importance: Suspension of Standing and Sessional Orders

Motion by Mr David Campbell agreed to:

That standing and sessional orders be suspended to allow two additional members to speak for up to five minutes each on the matter of public importance.

COMMUNITY ADVERSITY AND RESILIENCE STUDY

Matter of Public Importance

Mr ANDREW STONER (Oxley—Leader of The Nationals) [4.38 p.m.]: The matter of public importance that I ask the House to note concerns the study "Community Adversity and Resilience" by Professor Tony Vinson, which was released yesterday. It is a study that illustrates the dramatic social and economic disadvantage being felt by some citizens of this State, particularly those living in rural and regional New South Wales. According to the study, people living in the most disadvantaged postcode areas are under-represented in major urban areas and over-represented in smaller rural and regional towns and localities. In fact, 31 of the 40 most disadvantaged communities highlighted in the study are in regional and rural New South Wales.

In my electorate of Oxley, Bowraville, Kempsey, the Mid North Coast Mail Service Centre, Nambucca Heads and Urunga are all identified by Professor Vinson as being particularly disadvantaged, as are, in the west of the State, localities including Brewarrina, Koorawatha, Lightning Ridge, Tingha, Wellington, Capertee, Kandos, Broken Hill, Walgett, the Western Plains Mail Service Centre—I presume at Dubbo—Barmedman, Bogan Gate, Menindee and Werris Creek. That is a strong representation of rural communities, on both the coast and the western parts of the State.

According to Professor Vinson's report an exceptionally high percentage, almost 80 per cent, of the most disadvantaged communities in New South Wales are in regional areas. It seems that the Great Divide in this State is not just a mountain range but a huge gulf between the social and economic advantage experienced by people living in the city compared to the experience of those living in the country. Professor Vinson's report is a follow up to his 1999 "Unequal in Life" study, which I spoke to in this House at that time. Sadly, the 2003 study of the distribution of social disadvantage throughout New South Wales shows that not a great deal has changed in four years. The postcode areas that were previously assessed as being most disadvantaged remain so. This is a damning indictment of the Carr Labor Government's failed policies of regional development.

Professor Vinson's community adversity and resilience study concludes that regional communities in New South Wales are becoming increasingly disadvantaged, and that such areas are facing serious levels of social exclusion from the mainstream of social, cultural and economic life in this State. Although the report has a strong local focus, it acknowledges that the causes and potential remedies of social disadvantage are located at many levels, including the major influence of structural and macroeconomic factors. On the bright side we have seen macroeconomic policy, particularly the bilateral and multilateral trade negotiations undertaken by the Federal Government on behalf of regional and rural constituencies. I refer particularly to the recently introduced free trade agreements with the United States, Singapore and Thailand. Minister Mark Vaile is currently negotiating a free trade agreement with China. These macroeconomic policies have the potential to bring hundreds of millions of dollars into regional and rural communities that produce export products on which they rely.

Sadly, little is being done at the State level to facilitate regional development in New South Wales. Many rural communities face an unprecedented level of threat from Carr Labor Government policies, including forced local amalgamations, which will take away jobs in smaller country towns as they are merged into super councils. Ratepayers will have less access to council services. Local government jobs, machinery and equipment will disappear. The threat of withdrawal of CountryLink services will take away from many country residents their only form of public transport. Draconian native vegetation legislation affects both farm incomes and property values. The proposed expansion of the national park estate in the Brigalow belt south bioregion will cost hundreds of jobs in the timber industry in the north-west of this State. The imminent closure of grain rail lines, and the threatened closure of even more branch lines, will affect industry in country New South Wales and the jobs that go with that industry. Increased club taxes will remove an additional $250 million from country areas.

Mr Thomas George: It will go to the city.

Mr ANDREW STONER: It will come to the city, as the honourable member for Lismore said. The Treasurer will decide where it goes. On his track record, I know one thing: it will not go back to the areas from which it came. Currently, this money employs local people and goes to worthy local charities, but that will stop under increased club taxes. Rural communities often suffer from a lack of diversity in the local economy. Many towns rely heavily on one major employer or one source of income, for example agricultural and mining commodities, which poses a threat for many regional and rural communities. When the local Midco abattoir at Macksville closed in 1998 some 300 jobs were lost, which resulted in prolonged unemployment and poverty in the district, which persists. Recent abattoir closures and threats of closures have affected the townships of Forbes and Mudgee.

These communities are particularly susceptible to the impacts of economic restructuring, such as the widespread closure or rationalisation of both public and private sector organisations, and the associated reduction of employment opportunities. The long-term decline in commodity prices has also reduced dramatically the economic base of many rural communities. Many regional communities are faced with poor quality and expensive telephones and Internet access, limited banking and health care services, high petrol and other retail prices, and inadequate essential infrastructure such as roads, telecommunications and water supply schemes. Broken Hill residents are forced to put up with foul-tasting and foul-smelling town water because of Labor's neglect of essential infrastructure. These communities suffer from lower-than-average incomes, poor educational attainment, high unemployment, low activity rates, few high-quality jobs, above average welfare dependency, substantial out migration, high levels of personal bankruptcy, youth suicide and, often, poor quality housing coupled with low and barely rising property prices.

It is not a happy situation in these disadvantaged communities. The Liberal-National Coalition's recent "State of the State" report revealed alarming statistics about country residents, particularly life expectancy. The difference in life expectancy between the Central Northern Sydney statistical division and the Macquarie-Barwon statistical division was 6.8 years for males and 6.3 years for females. People in disadvantaged rural areas do not live as long as their city counterparts. Indigenous people, most of whom reside outside the city in communities like Walgett, Moree, Brewarrina, Kempsey, Nambucca Heads, Grafton and Taree, represent only 1.9 per cent of the population in New South Wales, but they are well and truly over-represented in the numbers of children in care, the prison population, infant mortality and non-completion of secondary schooling. This disadvantage is of great concern to all the residents of New South Wales.

On a positive note, the study by Professor Vinson reveals that, given the right support, disadvantaged communities can be strengthened through government assistance. I draw the attention of honourable members to the Aboriginal employment program at Moree, which has had amazing success in placing Aboriginal people on surrounding farms and in local businesses. It is community driven and enormously successful. The Barwon-Darling alliance is developing solutions to this social disadvantage, and seeking assistance from the Government. I urge the Government to get right behind the solutions. This State has a gulf between social advantage and disadvantage, which the Government must deal with far more effectively. [*Time expired.*]

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [4.48 p.m.]: Being in Opposition is about whingeing and whining, which is what we heard. Not one policy suggestion was put forward. A fortnight ago I launched Country Week with some business people from Armidale in an attempt to be a bit positive and supportive of country New South Wales. But the only thing we get from the Opposition in this place is continual whingeing and whining. It is no secret that some communities face special challenges from time to time, and this Government is committed to helping

find local solutions to local problems. A prime example is the $50 million Community Solutions and Crime Prevention scheme, which is operating in 27 locations around the State. The scheme aims to reduce crime and antisocial behaviour, increase community safety, improve health and community resilience, and improve educational and employment opportunities.

In the Illawarra, for example, the scheme operates successfully in Bellambi and in the Berkeley-Warrawong areas. Today's *Illawarra Mercury* highlights the success of the Warrawong Community Kitchen, to which the Government is contributing $123,000. This program feeds approximately 50 people each day—people who may otherwise go hungry. Last week I visited the Bellambi Neighbourhood Centre to meet high school students who are benefiting from the $6.9 million Links to Learning Program. These students are receiving one-on-one tutoring in school subjects as well as practical help with life skills such as cooking.

Under this important scheme, early school leavers are assisted to stay at school. Students who have left school too early are assisted to access further education, usually at TAFE institutions. I cannot overemphasise the importance of schemes such as this that are devised and delivered locally in response to local need. This is about giving local communities the ability to help themselves, to become more resilient and to be better able to deal with adversity. Honourable members no doubt read yesterday's *Sydney Morning Herald*, which featured on page 1 an inspiring story about the State Government's highly successful Hunter Community Renewal Scheme.

Mr Milton Orkopoulos: Hear! Hear!

Mr DAVID CAMPBELL: I acknowledge that the honourable member for Swansea supports the scheme. The article told of a 45-year-old grandmother who, thanks to the scheme, has finally achieved her lifelong dream to become a nurses aide. The article stated:

> You do not have to move far to find people whose lives have been turned around because of programs initiated under the State Government's Hunter Community Renewal Scheme.

That is high praise indeed, and proof that this Government's schemes are delivering to communities where help is needed.

Another example of a community receiving targeted State Government assistance is Port Kembla, where we have allocated $210,000 to address some specific local issues. The State Government's commitment to Port Kembla has helped lever $1.7 million from Wollongong City Council to upgrade Port Kembla's main street. The Government welcomes the valuable data contained in Professor Tony Vinson's "Community Adversity and Resilience" report, which was released yesterday. It can better inform not just State and Federal governments but community organisations generally about the challenges we face. The report provides information on areas—some urban and others regional—which face significant challenges in social disadvantage. Professor Vinson recognised that employment opportunities are an important part of the solution to social disadvantage.

There is no doubt that if we can provide people with job opportunities, we provide them with the ability to provide a better life for themselves and their families. That is why the New South Wales Government works hard to provide a strong economic environment for investment and employment in this State. But we do more than just get the basic economic conditions right. We have a range of programs and services aimed specifically at attracting investment and job opportunities to regional New South Wales because the Carr Government believes that all citizens should share in the economic growth that this State enjoys. We have recognised that major structural change in the economy of rural and regional areas can lead to economic and social disadvantage. That is why we, a Labor Government, introduced the Regional Economic Transition Scheme.

The scheme has assisted more than 20 regional communities to recover from major changes in their traditional industries, including, for example, Nambucca Heads. We are working with the Nambucca Shire Council to implement an economic revival plan and attract new light manufacturing businesses into the region. Another example is the mid North Coast, where the Federal Government's deregulation of the dairy industry has hit extremely hard. Under the State Government's Regional Transition Scheme, a series of forums were held across the mid North Coast to provide dairy communities with information on alternative agricultural activities. We have also provided assistance to Norco Co-operative Ltd to restructure its operations and to assist it to remain viable.

This Government's Regional Business Development Scheme is a major catalyst for employment opportunities. Its role is to encourage firms to establish themselves in regional New South Wales and help

regional companies to grow. The Government is also helping local communities with locally based and innovative projects to stimulate economic activity for their community. We have provided $4,000 for the Wellington community to create maps highlighting places of interest, historical sites and accommodation to encourage tourists to visit the area. Another project that is helping communities in the far western region investigate new business and job opportunities is a joint project with the State Government, Greening Australia, the University of New South Wales, Australian Inland Energy and Water and Aboriginal communities. The Government has provided $80,000 towards exploring the development of new industries in arid timber species and native foods.

The Government also has the Main Street Small Towns Program, which assists regional communities taking a proactive and strategic approach to their future. Our Developing Regional Resources Program provides seed project funding for local organisations looking at opportunities and innovative approaches to local development. Earlier today I told the House what the Government is doing in Casino to assist in the creation of jobs. Casino has been identified in the Vinson report as an area suffering from social disadvantage. We have provided the Northern Co-operative Meat Company with assistance to create 52 new jobs to add its current work force of 700. The growth of this Casino-based business comes from the Government's Meat Processing Industry Restructuring Plan. This is yet another Labor plan to help support innovation and value adding for an important regional employer.

The current 0.8 percentage point gap between Sydney and regional New South Wales unemployment rates is well below the long-term average of 2.7 percentage points. But there is no room for complacency. That is why we are working hard to create jobs in regional areas in projects such as the Building Regional Towns Tour. I travelled with some investors and builders to West Wyalong. I notice the presence in the Chamber of the honourable member for Lachlan, who attended the function at which I introduced the investors and builders to the town, and encouraged them to invest in West Wyalong and examine the opportunity and potential that exists in the town. Subsequently a very positive comment was made in a letter to the editor of the local newspaper by the honourable member for Lachlan, the mayor of the Bland Shire Council and others.

The tour travelled through Griffith and Tumbarumba because the economies and job opportunities in those parts of New South Wales are growing, hence the need to attract investment to ensure that there is adequate housing for workers. That is another example of the lengths to which this Government will go in attempting to encourage growth and the strengthening of economies in regional New South Wales. Father Peter Norden from the Jesuit Social Services, which commissioned the Vinson report that is being discussed, acknowledged these issues and the need for them to be addressed at a national level.

One area in particular in which the Federal Government has failed is the basic need to provide people with job opportunities. The previous Federal Labor Government's Job Start Program had a 59 per cent success rate compared to the Coalition's Work for the Dole Scheme, which has only a 23 per cent success rate. While the New South Wales Government is working hard to bring job opportunities to rural and regional New South Wales, the Federal Government needs to also make a more meaningful contribution. There is an inextricable link between jobs and social wellbeing. The New South Wales Government will continue to work with regional communities and businesses so that they too can share in the strong economic performance of the New South Wales economy.

The New South Wales State Government has a number of social and economic programs in place to target and provide support for local communities. Those programs are getting results in local communities. Last week Regional Express Airlines [REX] invested in Orange, demonstrating that there is a great capacity on the part of the State Government to facilitate investment. The State Government will continue with that type of endeavour. [*Time expired.*]

Mr IAN ARMSTRONG (Lachlan) [4.58 p.m.]: To set the scene, I wish to quote from "The Sydney Morning Herald Employment Forecast—Issue 1, 2004". That highly reputed and well-researched document states:

> Winners and Losers
>
> New South Wales has been steadily losing its insurer of jobs to Queensland over the past 15 years. Just to maintain today's share NSW would need an extra 9,500 jobs on top of the 31,000 forecast for the February and May quarters.

It goes on to state:

> Visitors arrivals for Australia rose by 5.2 per cent for the quarter. Tourism jobs in NSW did decline by 0.6 per cent—

So, despite an increase of visitors, jobs declined—

> but the forecast is for a slow but steady recovery as the domestic and inbound markets improve. ..
>
> The downside of growth will be the shortages of staff in key sectors. Recruiters will find it increasingly difficult to fill blue-collar positions in NSW for skilled tradespeople. The Australian Chamber of Commerce and Industry says the lack of suitably qualified employees will be a constraint on business this quarter.

That is a reflection on the Government's handling of the education system and apprenticeships over recent years. Employers recognise that there is a shortage, and that shortage was certainly recognised in the *Sydney Morning Herald* review of tradespeople, including painters, carpenters and engineers. I could find jobs for 40 engineers in country New South Wales this afternoon, if I could find them. The availability of skilled people is in decline.

I was not surprised when I read Professor Vinson's report, which was released a couple of days ago. It is true that we tend to look at the squeaky wheel, and I will refer now to disadvantaged towns in New South Wales. The smaller communities of Koorawatha, Lightning Ridge, Tingha, Galong, Capertee, Barmedman, Bogan Gate and Woodstock are the most disadvantaged. Larger towns with a critical mass in the disadvantaged category include Brewarrina, Wellington, Kempsey, Broken Hill, Port Kembla—just south of Sydney—Casino, those on the mid North Coast, Nambucca Heads, Cessnock, Eden, Taree and Werris Creek. The Government does not recognise the problems and evolutionary processes in country New South Wales, and it does not appreciate that many smaller towns, including those in the central west that I have mentioned, have lost their prominence as service communities.

With the introduction of technology the need for farm labour has decreased. Smaller towns offer cheap accommodation for disadvantaged people, yet the services to support those people are not available. The spending power of those communities has decreased to almost zero. They cannot support a service station that might operate also as a part-time store, perhaps with a banking agency. Those services are drying up in places such as Woodstock, Greenethorpe and Galong. I know those towns very well. They are wealthy districts but have poor communities that are inhabited by disaffected people from the higher income areas. What will the Government do about that? The Government needs to make some positive contributions in areas such as tourism.

In 2001 just 37 per cent of the State's tourism jobs were located outside Sydney, compared to 65 per cent in Queensland, 61 per cent in Tasmania and 55 per cent in the Northern Territory. Tourism can provide an opportunity to expand the economic base of a rural region and can bring to the community new skills and employment opportunities. The towns I have mentioned are marvellous tourist destinations. Greenethorpe with its Iandra Castle, Galong with its Redemptorist Monastery, and Barmedman with its wonderful sporting history, would attract tourists, if promoted.

The mineral springs at Barmedman are one of the great secrets. People who have health problems, including rheumatism, travel to the springs from all over Australia. But do they get any funding from the Tourism portfolio? No. The mineral springs are run entirely by volunteers, and on charity: they receive no support. Visitors to rural regions, through their expenditure, inject additional income directly to rural areas. That expenditure further stimulates economic activity. It is important that we recognise that there are opportunities in the country to arrest the decline of those very small communities. [*Time expired*.]

Ms KRISTINA KENEALLY (Heffron) [5.03 p.m.]: I am pleased to speak on this matter of public importance. The report by Professor Vinson entitled "Community Adversity and Resilience" is especially relevant to the Heffron electorate. Professor Vinson's report contains the encouraging news that two suburbs in Heffron, Botany and Rosebery, were identified as having moved up the advantage rankings, 91 and 90 points respectively. However, one suburb listed amongst the 40 neediest—Waterloo—is also in the seat of Heffron. There is no doubting the level of disadvantage in Waterloo, which consists of approximately 76 per cent public housing, and 95 per cent of the public housing residents receive income support from government.

In Waterloo 21 per cent of families are single-parent families compared to 10 per cent for the rest of Sydney. The unemployment rate in Waterloo is almost triple that in the rest of Sydney, and 51 per cent of households in Waterloo earn below $399 a week, compared to 20.7 per cent in the rest of Sydney. My basic political premise is that a society is healthy only when its most vulnerable are included and supported. Very few would dispute the fact that Waterloo needs to be brought back to health. The good news is that the Waterloo community is resilient. It is the Government's intention to support the community to build a better future for current and future generations. Professor Vinson's report notes that community renewal is possible, and the Minister for Regional Development spoke of the Hunter Community Renewal Scheme.

The good news is that the Government is building a similar scheme in Redfern and Waterloo, and that is well under way. In March 2002 the Premier announced the comprehensive package of initiatives that make up the Redfern-Waterloo partnership project. The plan is meant to begin to address the complex range of serious long-term and entrenched issues being faced by those communities. The Government affirmed its commitment to a whole-of-government, whole-of-community approach to resolving the problems in Waterloo and Redfern. State government agencies, the Federal Government, South Sydney City Council and Aboriginal organisations worked together to develop the partnership project.

The project acknowledges that long-term sustainable solutions can be achieved only by developing strategies that connect employment, human services, community safety, infrastructure, the built environment and enterprise development. The Redfern-Waterloo partnership project has several programs well under way, including the Redfern Waterloo Street Team, a new Family Intervention and Support Service run by Barnardos, and a sports development program operating at the Alexandria Park Community School. The project is also developing a crime prevention plan, a public domain plan, and a master plan covering Redfern, Eveleigh and Darlington, known as the RED strategy. Part of that master plan includes working with the Aboriginal Housing Company on redevelopment of the area known as the Block.

The project has also commissioned a comprehensive audit of all human services in the area as a way to better meet the needs of the local communities. The local communities are partners in the RED strategy, through the community forum, where members of the public can receive reports and ask questions of government representatives about progress with the initiatives of the Redfern-Waterloo partnership project. The local communities also participate through the Community Council, which consists of community and business members as well as elected representatives, by advising the Government and assisting the project to progress issues and projects arising from the community forums.

As the elected representative for the Waterloo area, I sit on the Community Council and attend all community forums. I augment this community consultation through mobile offices that I run regularly in Waterloo, community surveys and regular newsletters. The communities of Redfern and Waterloo have indicated that they want a more vibrant, healthy community. They want a better social mix. The Government, through a variety of initiatives in the Redfern-Waterloo partnership project, is committed to helping them achieve that goal. I welcome this report from Professor Vinson and his finding that the intensive partnership between government and the local community can produce a better advantaged community for children who grow up in the area. I look forward to his next report and to reading about the progress made in the Waterloo area.

Mr GREG APLIN (Albury) [5.08 p.m.]: This study, "Community Adversity and Resilience" by Professor Tony Vinson, presents us with challenges. It might in itself be an illustration of dramatic social and economic disadvantage felt by those living in rural and regional New South Wales, in that 31 of the 40 most disadvantaged communities highlighted in the study are in regional New South Wales. Almost 80 per cent of the most disadvantaged communities are in regional areas—an exceptionally high percentage. Of course, that presents a challenge: the opportunity to change it. That is the challenge that confronts the Government and all members of this House. As I represent a regional area I feel very strongly about the findings of the report and look to the opportunities presented to the Government and its agencies to reverse and address that trend.

There is no doubt that Australians still feel that this land is a "lucky country". Those words are found in the preface to Professor Vinson's report. There have been benefits resulting from continued economic growth. Australia has profited in many ways from some of the positive impacts of globalisation. As a consequence, most Australians are better off. In 1999, in his earlier study "Unequal in Life", Professor Vinson highlighted the growth of areas of entrenched social disadvantage in urban, rural and remote communities in what are identified as the more prosperous States of New South Wales and Victoria. That study, which had a significant impact on public policy debate, led to some innovative programs in both New South Wales and Victoria and a series of new community growth initiatives were undertaken by respective State government authorities.

The present study, "Community adversity and resilience", is primarily a research report, not a policy document. It measures the concentration of disadvantage according to postcode areas in New South Wales and Victoria, but it goes further in that it attempts to identify characteristics of local communities faced with severe social disadvantage that could be promoted to build greater social cohesion rather than social exclusion. It presents hard data that demands a substantial public policy response. It is our belief and conviction that some communities that are marked by social disadvantage are not necessarily communities lacking inner strengths and have the potential to progress, given reasonable opportunities. I have communities like that in my electorate.

I refer to the Henty machinery field days—one of the most successful machinery field days in Australia. In those few days over September such an enormous number of people visit the Henty machinery field days that the roads are literally blocked, which creates problems in relation to infrastructure and road access to that site. That is an opportunity, if ever there were one, to build up something in rural Australia, to create better access and to ensure that it grows and that the site is developed throughout the year for other activities. I refer to the opportunity to open a new rail line. The Government should not open only sections of the rail line; it should upgrade the existing line at Henty to service the Graincorp and Cargill storage areas.

Since 1999 people in those areas have been requesting government assistance to provide better access for grain that is moved and stored and brought in by farmers. From 1999 to the present day there has been no movement. One derailment on that line signifies how difficult that situation is. The Government has an opportunity to improve facilities in regional Australia that are suffering as a result of poor transportation. Recently I called for government assistance for the Wonga Wetlands Aquatic Environment Education Centre at Albury. The Victorian Government contributes $25,000 over three years to the educator at that site. In its first year of operation 90 New South Wales schools visited that centre, compared to 40 Victorian schools. The New South Wales Government refuses to contribute to the educator at that site. This is another opportunity for the Government to contribute to environmental education in an area along the Murray River. The Government could provide young people with an opportunity to pursue their interests in environmental studies at the local university once they finish school.

I refer to the closure of the State Valuation Office in Albury. Is that an indication of the Government's commitment to rural areas? I refer also to the juvenile justice clerical support that formerly existed, but that was withdrawn. I refer to higher petrol prices and to the fact that amalgamations in country areas are causing so much angst. More than likely they will result in some people losing their positions and in difficulties being confronted by country areas. I refer to CountryLink rail services and to the threatened withdrawal of those services. I refer to the impost of taxes on clubs, in particular in rural areas, where they promote the regions. There are abundant opportunities for this Government to take up following the release of this report.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [5.13 p.m.], in reply: I thank the Minister for Regional Development, the honourable member for Lachlan, the honourable member for Heffron and the honourable member for Albury for their contributions to the debate on this matter of public importance. The Minister for Regional Development suggested earlier that The Nationals had no policy ideas and that all they were doing was carping and criticising, which is far from the truth. I referred earlier to some of the positive initiatives in this State. I knew that if I offered too many policy suggestions to the Minister they would promptly be pinched, as are many of The Nationals' policies. Country Week, the one positive initiative in regional development policy, was The Nationals' policy prior to the last State election. Lo and behold, the Labor Government is now trying to take credit for it. It is ironic that that issue was driven by the private sector rather than by the Government. I do not think that the Government can take too much credit for that. If the Minister wants some ideas I suggest further decentralisation of government departments, which was initiated by The Nationals in Government; a regional investment fund; investment in infrastructure, for example, the Murrurundi tunnel; and an alternative road transport route over the Blue Mountains.

Mr Paul Gibson: A tunnel over the Blue Mountains?

Mr ANDREW STONER: I said that the Government should investigate an alternative route over the Blue Mountains. If the Minister for Regional Development wants some ideas I have The Nationals' policy booklet, which I would be glad to lend him. The Minister referred to Illawarra, Port Kembla and the Hunter. I do not begrudge the assistance that the Government is giving to those areas. If there is some social disadvantage in any area, that area ought to get targeted assistance. However, regional development should also include non-metropolitan areas. The Minister seems to think that regional development includes only Newcastle and Wollongong. An oft-stated proposition in country areas is that this Government regards NSW as meaning Newcastle, Sydney and Wollongong. The Minister has done nothing to disavow people of that notion. What about Walgett, Brewarrina, Kempsey, Broken Hill, Werris Creek, Barmedman or Menindee—all areas that were named by Professor Vinson in his report?

This report, along with the 1999 "Unequal in Life" study, shows that, after nine years in office, this Government has failed the poor and disadvantaged, in particular in regional and rural New South Wales. This Government has been in office for nine long years, but some residents in this State are still missing out on the benefits of the economic growth brought about by the Federal Government's economic management. The Minister talked about various programs that are administered by his department, which I welcome. However,

Professor Vinson's report shows that social disadvantage remains entrenched in this State, especially in regional, rural and coastal New South Wales. The Minister must do more. He must exercise more authority in Cabinet. It is not good enough for his colleague the Treasurer to plunder $250 million out of clubs in regional New South Wales, costing hundreds of jobs. It is not good enough for his colleague the Minister for Transport Services to close grain rail lines and to hack into CountryLink services.

It is not good enough for this Government to tolerate crippling workers compensation and payroll tax rates for country-based employers. The Labor Party voted down The Nationals country payroll tax rebate bill last year. It is not good enough for this Government to have no plans for water storage and supply in country towns. On the contrary, rather than investigating dams and improving irrigation technology, the Government intends drastically to cut back water allocations to farmers. The disadvantaged people in country and coastal New South Wales are depending on the Minister to stand up and fight for them. He has to take on the Treasurer, the Premier and other Ministers if he is fair dinkum about addressing the social and economic inequity that exists and that is worsening in this State. Country people should not be dying younger, they should not be poorer and they should not be more likely to experience family breakdown than their city cousins. They should not be second-class citizens in this State, but they are.

Eighty per cent of the disadvantaged communities that were identified by Professor Vinson in his most recent report are in regional and rural New South Wales. That is simply not good enough. It is a basic premise of government—an issue that was referred to by Government members—that country-based citizens of this State ought to enjoy access to the services, facilities and opportunities that are enjoyed by city people. Those citizens should have equal access to those fundamental rights, no matter where they live in this State. I urge the Government to take heed of this report and to do more to address this social disadvantage.

Discussion concluded.

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

PRIVATE MEMBERS' STATEMENTS

EPPING WEST PUBLIC SCHOOL

Mr TINK (Epping) [5.18 p.m.]: Epping West Public School has a population of just over 600 students. At this stage it does not have a school hall, even though it has been in existence since 1927. The school is strong in both sporting and cultural programs, and it has struggled over the years to deliver those excellent programs without the facility of a school hall. As many large events must be held out of doors, the school is at the mercy of the weather and it is restricted in the types of performances and assemblies that can be held. There is also no adequate substitute hall—a church or any other type of hall—anywhere in that locality.

Nevertheless, the excellence of the school program has been recognised by the Director-General's School Achievement Award in Performing Arts. This matter has been the basis of representations for some time. In 1995 the school undertook a broad inquiry into, and investigation of, its infrastructure needs. The specific hall project commenced in 1999 with community discussions and led to a program extending to the school's seventy-fifth birthday in 2002. Specific and detailed representations were made to the then Minister for Education and Training, now Mr Speaker, on 6 July 2001 and to the subsequent Minister for Education and Training, the current Minister for Police, on 28 August 2002. In his response the Minister noted:

> I understand that the school community has applied for joint funding for the provision of a new communal hall facility and a COLA and at the moment the school has raised $140,000 towards this project.

It is not a wealthy school community but it is very committed to public education. It understands that such projects must be delivered through partnership with government; it does not expect to be handed things on a platter. The school's contribution to this project reflects its commitment to that approach. The then Minister organised for the school to be assessed comprehensively, and that was done on 24 September 2002 by the principal and Mr Carey Allen from the properties office. Since then the school has made some heroic fundraising efforts. Meetings with local businesses raised $45,000 and there were requests regarding three-year $1,000 donations. A teacher, Mrs Barr, has submitted herself to bucketing in successive years in order to raise money. In 2003 that activity alone raised almost $2,000.

There have been many other donations, raffles and a host of other fundraising activities such that at present the total money available for the hall project stands at $225,972, which is an increase on the figure that I have cited that was notified to, and accepted by, the then Minister for Education and Training just a couple of years ago. The school community is extremely serious about this project and wants to make a significant contribution towards it. I ask the Government to be sympathetic to this proposal, which has been on foot for some time, in the upcoming budget. Three education Ministers have received extensive representations from the school, which has a history of long-term, committed intergenerational fundraising. That is to say, successive groups of parents have had the same long-term goal in mind, led by the school's fantastic principal, Therese Hinder, of whom I cannot speak highly enough.

The children ran a design competition for the hall, a model of which was presented to the then Minister for Education and Training, the present Minister for Police, by me a year or so ago. Subsequently, every student and parent in the school community wrote individually to the current Minister for Education and Training. The school captains came to Parliament last year and I took them to make a presentation to the Minister. In a letter to me of 22 October 2003, the Minister clearly indicated:

> … the Department of Education and Training has identified the need to provide a new hall, canteen and outdoor learning area … for the school. The Draft Facilities Review is scheduled for discussion with the principal and school community during the current school term.

This school, which is committed to doing its share of the heavy financial lifting, is now asking for a commitment from the Government to fund a piece of infrastructure that has been needed for 75 years and that is now provided as a matter of course when new large primary schools are built. I ask the Government to support the school by allocating the finances needed to build a hall.

ALDI EMPLOYEES AUSTRALIAN WORKPLACE AGREEMENTS

Mr PAUL GIBSON (Blacktown) [5.23 p.m.]: Aldi operates many stores and warehouses in Sydney, including one at Minchinbury. Many of my constituents work in the Aldi warehouse where they are currently employed under Australian workplace agreements [AWAs]. Some of these AWAs have now expired and as a result Aldi, at the instigation of the Federal Government and Prime Minister John Howard, is pursuing employees to sign new agreements. Some employees have decided that they do not want to sign the proposed AWAs but feel intimidated and pressured into signing as Aldi stated in a letter of 8 March 2004, which is signed by Matthew Russell, warehouse director, and Stefan Kopp, managing director, that a consequence of not signing new Australian workplace agreements is:

> 1. The employees could have their rate of pay and conditions dropped back to the parent award, or
>
> 2. ALDI may decide to lock those employees out as individuals i.e. they would receive no pay until a new AWA is signed.

Among other changes, the proposed AWAs do not guarantee a wage increase in the next three years. This year some employees have joined the New South Wales branch of the National Union of Workers, of which I have been a proud member for many years. At the beginning of March the union sought to enter Aldi's premises to hold discussions with the relevant employees in their non-working time. After a discussion with the union, the company subsequently denied right of entry to union members on that occasion. In spite of this, the union has met employees outside the workplace and many more of them have joined the union. Although Aldi maintains that it is neutral about union membership, employees have complained to the union that they feel intimidated by comments made by their supervisors and managers.

Their line managers and supervisors have told the employees that there is no point in joining the union, they are putting their jobs at risk by joining the union, they should watch their backs if they join the union, the company will continually fight the union in the courts and have any decisions made by the union quashed, and that there is nothing that the union can do for employees that the company cannot. Company representatives have also been talking individually to all employees, who have been taken into an office and asked what they know about the union and how they are involved with it. Employees are also asked about their colleagues and their union involvement. This harassment continues on a daily basis among a work force that is approximately 75 per cent female. Some 78 people work at the warehouse, and the majority are young working mothers.

Aldi has also suspended the site delegate for talking to people about joining the union. At the same time Aldi has stated that it does not recognise any delegate of the union as it deals with individual employees. Unions are a normal part of the Australian way of life and the Australian work force, and have been for many years. Many of the benefits that workers have today are the result of past initiatives undertaken by various unions. This

is the Australian way. I do not know what happens in Germany but if this company wants to have a long and successful business life in Australia it must abide by the Australian rules, which are based on fairness in the workplace. If a worker wants to join a union, he or she has the right to do so. Union membership is not compulsory. We cannot force people to join a union and we cannot force them not to join a union. If this company is to be successful in Australia it must be successful on Australian terms.

Worker harassment by Aldi is outrageous and must cease. The company has threatened to take the union to court. I welcome that move. I invite Aldi to take the union to court so that the whole country can see what the company is all about. It is illegal and wrong to tell workers to watch their backs and to say that their jobs are at risk if they speak to the union. It must stop. Paragraph d of the company's letter of 8 March states:

> If an employee decides not to sign a new AWA after the previous AWA has expired ALDI may decide to lock the employee out with the consequence of no pay from this point on until a new AWA is agreed.

That is not the Australian way and it is certainly not the way of the National Union of Workers. If that is what happens in Germany, I ask the company to indulge in such behaviour in Germany, not in Australia.

NORTHBRIDGE BUS SERVICE 208

Ms GLADYS BEREJIKLIAN (Willoughby) [5.28 p.m.]: Bus services, or lack thereof, are a major issue throughout the Willoughby electorate, which makes the important matter I am about to raise even more significant. The State Transit Authority [STA] has altered the route 208 bus service, which operates at night and on weekends in the Northbridge area. Route 208 now operates along Sailors Bay Road to Clive Park, then turns around and returns along Sailors Bay Road to Eastern Valley Way. The old route involved the bus travelling along Kameruka Road, Northbridge. The STA conducted a survey last July 2003 asking for comment on the proposed route change and subsequently the new route has been implemented. Since July residents in proximity to the new route have continually campaigned to have the old route reinstated.

Last July residents expressed concern that the sample size of the number of respondents was too small, that they were not given enough time to consult and that the following items should also have been considered: the congestion and potential hazards created by the increase in evening and weekend bus traffic on Sailors Bay Road, which is not a major through road but a local street leading to a peninsular, the noise and environmental pollution created by the increased frequency and number of buses using Sailors Bay Road, and the intrusion and inconvenience for Sailors Bay Road residents due to the operation of buses from 5.00 a.m. to well after midnight seven days a week. Residents also argue that the following should have occurred: an evaluation of passengers using the 208 bus service after hours and on weekends, particularly those going beyond Northbridge, and the installation of no parking signs to minimise congestion in Kameruka Road to facilitate the continuation of the existing route.

One resident wrote to me and said that the small number of favourable responses to the STA survey does not justify the adding of 370 bus movements per week in what is a very quiet and peaceful area. It will only add noise, air pollution and traffic congestion. Since last July residents along Sailors Bay Road, in particular, have highlighted their concerns regarding safety, the impact on their residential amenity and the fact that the new route is much less patronised than the old route. I forwarded the concerns of my constituents to the Minister for Transport Services and relevant authorities. I was particularly concerned to learn of a recent accident, which residents claim is a result of the new route. In fact, one constituent wrote to me and stated:

> We note previously concerns were raised relative to the frequency, lack of demand and safety concerns. Notwithstanding the concerns raised by residents, on Friday 5 March 2004 at approximately 6.00 p.m. a serious accident occurred when a bus collided with a pizza delivery boy. The accident was serious and it took almost 40 minutes to extract the injured person from under the bus. This accident happened in a residential street, heavily populated by families with young children. The accident occurred in fine weather and in clear day visibility. This accident occurred within five weeks of the new route which was implemented notwithstanding resident protests.

Residents also claim that along sections of the new route buses are empty or near empty, that no passengers alight from the bus or get on the bus, that buses travel at excessive speed continuously and especially at night when they are empty, that the street is not wide enough for the buses to travel up and down given there is only one part of the road that is useable, and that the buses travel at speed and wind in and out of parked cars. Residents argue that given the short duration of the service, the safety issues and the fact that the street is not capable of supporting the frequency of bus movements, the former route must be adopted again or, at the very least, speed reduction and traffic safety measures, such as a roundabout, must be installed at Bonds corner to avoid such incidents.

Residents say that what is most concerning to them is the increase in danger to pedestrians and children. Residents have also written to the State Transit Authority, the highway patrol and the Minister for Transport Services. In view of these concerns and the recent accident, I urge all the authorities to which the residents and I have written to reconsider the consequences of the new 208 bus route and to respond to the many concerns of residents, which have been continually raised since July 2003.

QUEANBEYAN DISTRICT HOSPITAL UPGRADE

Mr STEVE WHAN (Monaro) [5.33 p.m.]: I want to report on the progress that has been made in relation to public consultation towards the redevelopment and rebuilding of the Queanbeyan District Hospital and the provision of health services. Recently a relatively small but successful meeting was held in Queanbeyan to discuss plans for the new hospital and other health services on the site. The Premier promised this $30 million project prior to the last election, and I assured the people who attended the meeting that everything was right on track for the project. The funding of $30 million is set down for next year's budget and the planning process is on track, although it will be tight, to try to ensure it is delivered on time. The new hospital will include a new emergency department, new maternity wards and theatres, and the sorts of the services that make a local hospital function well for a growing community. People had the opportunity to suggest services that they thought should be provided in the hospital.

At the moment the health service is planning the sorts of services that will be delivered from the new hospital. Obviously, this public meeting was part of ongoing community consultation to make sure that the needs of people in Queanbeyan and districts are understood and are provided in the new facility. The meeting was attended by about 90 people which, I guess, was fairly small compared to previous meetings. However, it is an endorsement of our progress. I have been sending the community regular newsletters. I letterboxed Queanbeyan, Jerrabomberra and Bungendore to advise residents of the meeting. The community is generally satisfied with the way the project is heading. Doctors who attended the public meeting reported on their involvement in the consultations, as did members of the public. Obviously, requests made by some people will be tough, certainly in relation to the delivery of paediatric services, an issue raised by a doctor and some other people.

The Southern Area Health Service is currently getting an independent review of the kinds of paediatric services that may be delivered in the new hospital. It is not only a matter of what is built at the hospital; it is also what can be staffed. Queanbeyan hospital has had a paediatric observation unit in the emergency department for about two years. During that time it has been unable to obtain the necessary paediatric nurses, despite constant advertising, which reflects the severe nursing shortage and affects the hospital's ability to deliver services. That issue was addressed and will be considered as we go forward in the consultation process. At the meeting one Opposition duty member of the Legislative Council for Monaro—I am sure honourable members are impressed that I have two duty Opposition members of the Legislative Council looking after my electorate, which can only be a reflection of how tough I am to shadow—questioned whether $30 million was sufficient for the hospital. Coincidentally, The Nationals also promised $30 million at the last election. Apparently, they are now questioning whether it is sufficient for this project. I question the approach of The Nationals on this matter.

Obviously, it would be silly to tell people that there is a blank cheque before a project is put out to tender. I assure the residents of Queanbeyan that the figure of $30 million was developed prior to the election with all knowledge of the facts and is indicative of the sorts of costs for this project. I am confident that out of that $30 million we will be able to deliver to the people of Queanbeyan a fantastic new hospital, with new mental health and community health facilities. It will be a great asset for a rapidly growing community. Everyone will appreciate it when construction starts in a couple of years time. It will be completed after the next election. I welcome Mr Stuart Schneider, the new Chief Executive Officer of the Southern Area Health Service, who has come from the New England Health Service. I understand that he performed extremely well there. We are positive about the way in which he has started to tackle the problems that need to be addressed by the Southern Area Health Service.

REGIONAL EXPRESS

Mr RUSSELL TURNER (Orange) [5.38 p.m.]: I congratulate Regional Express—commonly known as Rex—on its on-time performance. Rex flies into Orange and other areas. Figures released by the Bureau of Transport and Regional Economics [BTRE] show that for planes leaving Sydney, Rex tops the major carriers in leaving on-time at a rate of 91.1 per cent, compared to Qantas at 88.5 per cent and Virgin Blue at 86.4 per cent. The figures from the BTRE also show that Australia's airlines are ahead of their overseas counterparts in getting

to and from their destinations on time. I congratulate not only Rex but all Australian airlines on a great job. Since the formation of Rex in August 2002—with the sad demise of Hazelton and Kendell and the merger of those two great regional airlines to form Rex—the airline has gone from strength to strength. That is reassuring for regional areas and regional customers. Whilst the new airline has made some adjustments in the ports that it flies into and out of, its services are now generally consolidated. The airline now has a high credibility rating with its customers and is on a reasonably sound financial base.

In late February Rex announced the creation of 17 new jobs at its call centre at Leewood, near Orange. The total personnel at the call centre now numbers just on 50. That followed the closure of the company's call centre at Burnie in Tasmania. I welcome the employment opportunities that Rex has created in Orange, partly compensating for the fact that when Hazelton was still operating it was based at Cudal and with the merger of that airline and Kendell employment was lost to Cudal. The announcement by the Bureau of Transport and Regional Economics confirms that customers are flying with a reliable and timely airline, and that can only bolster the already strong reputation that Rex has earned.

Customers now enjoy cheaper flights, for example, a $79 one-way flight to Sydney. That shows the determination of Rex to ensure flying is affordable, not only for people travelling on business but also for those coming to Orange for personal, domestic or tourism reasons. While on tourism, I should note it is great that Orange and Bathurst councils, following a request from the management of Rex, have lowered landing charges to encourage the tourism industry. It is good that the councils are working with the airline, because those councils, and others throughout New South Wales, realise that it is crucial that these regional cities have a reliable and affordable airline servicing them.

Rex has become Australia's largest independent regional airline, connecting to more than 29 centres in New South Wales, Victoria, South Australia and Tasmania. It now has a total of around 570 employees, and in New South Wales flies into ports such as Lismore, Broken Hill, Ballina, Orange, Bathurst, Griffith, Dubbo, Wagga Wagga, Narrandera, Moruya, Merimbula, Parkes and Sydney. I take this opportunity, though Hazeltons ceased operations, to acknowledge that the local crews still flying with Rex today include Captain Peter Hazelton, a nephew of the founder, Max Hazelton; Andy Armytage, who is now with Rex after his long service as a pilot with Hazelton; and the local flight attendants Kelly and Elizabeth, who provide that personal and local service to which we all became accustomed when flying with Hazelton. It is good that Rex is consolidating and increasing its passenger numbers each week. It got off to a shaky start; it is difficult for those operating regional airlines to make them profitable and ongoing businesses. Rex got over that first-twelve-months hurdle and is now starting to look at upgrading some of its planes and buy new planes. The Saabs are a good aircraft. I wish Rex all the best for the future.

CENTRO BANKSTOWN SHOPPING COMPLEX

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [5.43 p.m.]: It with great jubilance that I inform the House today about a fantastic opportunity and great news for the Bankstown and surrounding region. Centro Bankstown, previously know as Bankstown Square, is set to double in size—that is right, double—as Centro Properties invest in this centre, making it one of the best shopping complexes in Australia. The complex is to be developed at a cost of about $60 million. That $60 million investment in the Bankstown region and the Bankstown central business district will give a huge boost to the morale of the people of Bankstown. They will know that, notwithstanding the fact that some would stereotype Bankstown residents, there are those who want to invest in this great region and great city area. It says that this is a place that people want to come to, where families want to live, and where people want to shop.

It is heartening that a great Australian company, Centro Properties, has determined to make this considerable investment in the Bankstown region. Centro Properties only acquired Bankstown Square, as it was then known, in November 2002. Soon after it renamed the square Centro Bankstown, in line with its neighbouring sister complex, Centro Roselands. I am pleased to report that Centro Bankstown has wasted no time in pursuing its great development vision for the Centro Bankstown centre itself. Centro Properties has lodged a development application with Bankstown City Council for development works to the value of $60 million. Subject to development consent and Centro board approvals, the proposed development potentially will create some 2,400 employment opportunities and/or jobs in Bankstown during the construction phase and some 1,700 permanent jobs on completion.

This massive new shopping centre will cover approximately 18,500 square metres, making it one of the biggest regional shopping complexes in Australia—and certainly the best as far as we in Bankstown are

concerned. I am advised that, once started, the new Centro development will take about 12 months to complete. It is anticipated that work on the project will begin probably early next year. But, all going well, it may begin as early as August this year. I point out to the House that this Government has been instrumental in supporting this development by undertaking roadworks. I compliment the Minister for Roads, Carl Scully, who has supported my representations to have a right-turn vantage point into Bankstown, to bring the passing traffic into Bankstown. The locals do not understand the need for this, but it is aimed at others who might bypass Bankstown because they do know how to get into the CBD.

The roadworks will involve a right-turn road network at the intersection of Rickard Road and Stacey Street, a major Bankstown intersection. There has been no such turn for 30 years, but we are now building it, and it should be finished later this year. It is a partnership though; it is not only the State Government that will cover the cost of the project. About $2 million is to be spent to build the infrastructure for a right turn into Rickard Road and Stacey Street, but Centro Bankstown, being the good neighbour that it is, has said it will put $200,000 towards this venture; Bankstown City Council will also put in $200,000. That is a great example of the Carr Government working with local government and business to provide infrastructure to achieve a desired end. In this case it is a $60 million development to enhance the Bankstown CBD, restructure the old Bankstown Square, now known as Centro Bankstown, and to revitalise the Bankstown shopping complex.

We are at the crossroads of development in Bankstown. The new council, to be elected on 27 March, needs to take this matter in hand. I know that Centro Bankstown will work hard to enhance the Bankstown CBD, recognising that a complex of other shops around the CBD specialises in food products and a whole array of goods. The Centro Bankstown project will complement those shops. This is not a shopping complex that will detract from the plaza area of the Bankstown CBD. It is designed to enhance the whole of the area. The complex will be the best of its kind in Australia. I repeat that, although this is a $60 million development and enhancement project, the plaza will retain its speciality, and its enhancements will remain in place. Bankstown council needs to note that, and work with the Centro management team towards that end. I look forward with great enthusiasm to working with Centro Bankstown, Bankstown City Council and the business enterprises that surround this joint venture project to make it the success that I know it will be for our great region of Bankstown.

WATER RESTRICTIONS

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [5.48 p.m.]: When I have the time and the inclination I love to garden. Despite my passion, I suspect that like many colleagues in this place my garden is hardly a showcase as time—and sometimes the inclination—is often hard to find. Nevertheless, my pastime is one shared by many of my constituents. Ku-ring-gai, as the assistant Minister for planning knows following her historic visit to the electorate last week, is a part of Sydney known as the leafy North Shore. My electorate is characterised by single, detached dwellings on medium-to-large blocks. For the Minister's benefit, we would like to keep it that way. Its gardens are a wonder to behold. Ku-ring-gai's garden suburb character is valued, which is why the community is concerned about the State Government's development plans for the area.

I raise serious concerns facing the nursery and garden industries as a result of the handling of the city's water crisis not by the assistant Minister for planning, but by the autocratic Minister for Energy and Utilities, a portfolio that encompasses water supplies. I have been contacted by representatives of two great North Shore enterprises: Peter Whitehead, the owner of Historic Rast Bros Nursery at Kissing Point Road, Turramurra, and Helen Knight, the managing director of Parker's Nursery at Tennyson Avenue, Turramurra. They are longstanding, well-respected businesses in the local community. Both make contributions to the local community that go above and beyond normal commercial practice. These businesses are doing it tough as a result of the current mandatory water restrictions. One estimate puts business down by as much as 30 to 40 per cent. As Peter Rast indicated to me in a letter:

> As a result of mandatory water restrictions business across "green industry" is down around 30-40%, and the Government expects that I, along with other green industry businesses must accept this significant loss. Would they accept a huge percentage reduction in their salaries?

The answer to Peter Whitehead's question is a resounding no. There has not been one jot of recognition by the State Government of the impact of water restrictions upon these industries. Like others in New South Wales—the nursery and garden industry, the New South Wales Branch of the Institute of Horticulture, the Irrigation Association, the Landscape Contractors Association and the Turf Growers—these industries accept the need for restrictions, as, of course, do local Ku-ring-gai residents. But those whose livelihoods depend on the nursery and garden industries—those who provide income for those they employ and who pay more than their fair share of State taxes and charges—are concerned by the approach of the Carr Government and its utilities Minister.

There has been a complete lack of consultation. There was no attempt last year, as our water supplies failed to improve during winter and before the current water restrictions were imposed, to consult with the nursery and garden industries. It should have been possible for a more competent and consultative Minister to work with such industries to develop a plan that could have lessened the impact of restrictions upon businesses like Rast Bros and Parkers. A more proactive government may well have supported these industries through a media campaign to encourage people to better mulch and better invest in an irrigation system. Before the restrictions came in, industries could have been proactively assisted to go through what was always going to be a difficult period. But, regrettably, that is not the style of the Minister. He refuses to actively consult these industries, despite signalling stage two water restrictions that will worsen the current situation faced by local nurseries and other garden industries. As Helen Knight wrote to me:

> Stage 2 water restrictions, the proposed banning of watering gardens and lawns by hose, will further undermine my business. It will also place stress on my staff because if sales continue to decline, I cannot guarantee their job security. My customers will not purchase green life if they cannot water it.
>
> … I consider our company to be environmentally aware and respectful of the resources that we have available. Had the Carr Government consulted the Greens Industries before introducing Stage 1, we could have provided them with our expertise and experience on how the public can manage their garden and water use. Instead it plans to enforce Stage 2 without as much as a second thought to what these restrictions will do to small businesses.

The Minister pursues the lowest-common-denominator approach to water restrictions: not for him an evidence-based approach. Despite the fact that green industries can demonstrate that garden irrigation systems can deliver vital water supplies to gardens in a more efficient and water-saving manner than the currently permissible hand watering, the Minister claims to know better. At times it seems obvious that the Minister is more interested in being seen to be doing something about the water crisis rather than implementing more effective measures to help conserve our water supplies.

Despite the Minister's rhetoric, he is all about making pronouncements from above rather than genuinely consulting the community or, in this instance, the very industries where livelihoods and jobs are on the line. I know from contacts in Sydney Water that the Minister plans, as part of stage two water restrictions, to announce that the watering of residential gardens during daylight hours will be banned. I urge the Minister to meet with representatives of these industries. It is critical that he starts to show some co-operation and consultation before they go to the wall.

KOREAN LOCAL GOVERNMENT CENTRE

Ms VIRGINIA JUDGE (Strathfield) [5.53 p.m.]: I bring to the attention of the House the opening of the Korean Local Government Centre, which I had the great honour and privilege of attending on behalf of the Premier, the Hon. Bob Carr, on 20 February. Almost 3,500 people in my electorate were born in Korea, which makes it the third most common birthplace of my constituents after Australia and China. The Korean Local Government Centre is one of a number of overseas branches of the Korean Local Authorities Foundation for International Relations [KLAFIR]. That organisation aims to provide support to Korean local authorities—including 16 metropolitan cities and provinces, and 232 districts and counties—for the development of advanced administrative policies. KLAFIR has opened overseas offices in Tokyo, New York, Paris and Beijing to support cross-border local government activities, gather information, promote international co-operation and provide overseas training.

I was pleased to meet a number of prominent Koreans and members of the Australian Korean community at the event, including Mr Sun K Huh, Minister of Government Administration and Home Affairs; His Excellency, Mr Cho Hang Soon, Ambassador; Mr Changsoo Kim, Consul-General of Korea in Sydney; Mr Young Cho, President, Korean Local Authorities Foundation for International Relations; Mr Jae Kyoon, Director of the Korean Local Government Centre and many other distinguished guests. The opening of an office in Sydney is an indication of the importance Korea places on Sydney when one remembers the other famous international cities in which it has offices. The opening of the Sydney branch is yet another example of the ever-burgeoning ties between Australia and Korea. Australia and the Republic of Korea have a strong and productive relationship, which reflects a broad range of common interests.

The Republic of Korea is Australia's third-largest trading partner and its third-largest market for merchandising exports. Bilateral trade between New South Wales and Korea is worth $3.6 billion. Korea is New South Wales fourth-largest trading partner. Bilateral trade has increased by more than 40 per cent over the past five years. The year 2003 marked the fiftieth anniversary of the establishment of consular relations between

Korea and Australia. Five decades after consular relations were established the bonds between Korea and Australia are stronger than ever. People are united by ties of goodwill, trade, innovation, learning and cultural exchange. Those ties are even more precious to those of us who live in the great State of New South Wales, because we are privileged to share a sister-State relationship with the great metropolis of Seoul and because we are immensely proud of the large and respected Korean community that has made its home here.

New South Wales is home to more than 27,000 Koreans, who form a strong and vibrant community, particularly in Sydney and, of course, in Strathfield. More than 100 Korean businesses operate in Strathfield. It is becoming a mini Korea, which is fantastic for our Korean community. In addition to permanent residents from Korea, many overseas Korean students, estimated at around 10,000, enrol in Australian universities each year. Furthermore, some 3,000 Korean tourists visit our country each week. The Korean community is known for its entrepreneurial spirit and its inclination to engage in business, trade and investment wherever its members settle. Sydney, as a major centre for international commerce, has greatly benefited from the business skills of the Korean community.

There is no doubt that Korean immigrants are an important asset for Australia's commercial relationship with Korea. The Korean community has been quick to create community infrastructure and networks, which benefit all Australians. On behalf of the New South Wales Government I look forward to continuing strong relations with the Korean community and the Republic of Korea. The Local Government Centre will be a great source of information for Australians and Australian Koreans. It is a wonderful initiative and something that Sydney can boast about. I commend the Korean community.

NORTH COAST INSTITUTE OF TAFE BUDGET

Mr DONALD PAGE (Ballina—Deputy Leader of The Nationals) [5.58 p.m.]: I draw to the attention of this House the failure of the Carr Government to adequately fund and support the North Coast Institute of TAFE. A 10 per cent funding cut in this year's allocation for the North Coast Institute of TAFE has led to a decline in the opportunities for students to study in their local area. That $6 million funding cut simply has meant that fewer courses are available. Those courses that are still available will have much higher fees than last year. For many people, the fee increases have put the cost of training entirely out of reach. In 2003 manufacturing and engineering at the Wollongbar-Lismore campus had in excess of 85 people attending courses at night, with each student paying $260 in fees. In 2004 the course has only five students and they have indicated that they will pay the $4,000 to undertake the course, which leads to the awarding of a statement of attainment. The remainder of the students are unable to pay.

A 12-week pressure welding course that last year cost $300 now costs $1,500—five times as much as before. Furthermore, the already overstretched building industry will be hit by a fee of $4,600 for a Building Certificate 4, which is a course required by those who wish to obtain a builder's licence. In addition, 130 horticulture students at Wollongbar are unable to enrol in courses because the courses are not being offered owing to the funding cuts. As a result of the Government's senseless cuts, fashion course staff have insufficient funding for classes and have been required to seek commercial opportunities to provide training and to maintain their existing classes. Funding cuts also mean increases in class sizes. In automotive courses, classes are being increased from 14 to 19 students, and teachers are teaching four or five different models at one time. Carpentry and joinery class sizes have increased from 14 to 19 students. Equity sections such as disabilities programs, Aboriginal education programs and outreach programs have been hit by reduced funding.

All head teachers are being told to work with budgets that do not come close to meeting fixed costs or the educational needs of the courses and the students. In an attempt to compensate for the Carr Government's TAFE failures, materials charges are being introduced in addition to increases in the administration fee, and staff are being instructed to imply that fees collected are compulsory. Currently, many teachers throughout the North Coast Institute of TAFE are being paid full-time salaries but are not teaching full-time programs because funding is not available for the relevant courses. Given that the greatest cost in TAFE is the salaries of teachers, that is inconceivable. The consequential savings on materials are relatively insignificant.

The Carr Government's slash-and-burn approach to TAFE is having an immediate effect on staff morale and the ability of local residents to access further training. Sadly, the costs to the community will be far greater in the long term. The Government's approach means that our skills base will be lost. So much for Australia being the clever country! Both the honourable member for Lismore, Thomas George, and I recently met representatives of local businesses and potential students from our electorates who are experiencing the consequences of cuts to the budget allocation of the North Coast Institute of TAFE. We are both concerned

about what we were told. A representative of a local sugar mill expressed concern that apprentices will not gain their pressure welding certificates owing to the high cost of the course—$1,500, an increase from $300 last year, as I mentioned earlier.

The Government's approach will result in lost opportunities for individuals and a loss of expertise in welding and related industries. An unemployed tradesmen who wants to upgrade his skills to re-enter the trade following a car accident will not get the opportunity to improve himself and gain employment owing to the high costs of courses. A representative of another local business shared his concern about a business founded by his father which would not exist today had his father not been able to train at night in welding at TAFE. That TAFE-trained welder now employs six people in his business, which means that there would be six fewer jobs in one business alone in Ballina if it had not been for TAFE. The examples I have cited are only the tip of the iceberg. Manufacturing is essential to the North Coast economy. Regional developments in coffee, tea-tree oil and macadamia nut production all depend on support from manufacturing, which in turn is dependent upon training. Similarly, horticulture is booming and the demand for skilled employees is high.

It is beyond belief that 530 students who want to study horticulture are not able to do so, thanks to the short-sighted policies of the State Government. The Carr Government has little, if any, understanding of the impact of its TAFE cuts on local regions. I ask honourable members to note that traditionally, for country people, TAFE has been the most accessible and affordable type of education. It has been their real chance to improve themselves and their employment opportunities. But under the Carr Government, TAFE is no longer accessible or affordable. With record State Government revenue from stamp duty and the GST, it is incomprehensible that these funding cuts and the fee hikes are being imposed. Not only will these funding cuts and fee hikes impact on individuals, but they will be collectively disastrous for communities in the regions. I call on the Carr Government to reverse its senseless decision to cut $6 million from the North Coast Institute of TAFE and the other cuts that apply throughout country areas. Where is Country Labor in all this? It is silent. These cuts and fee hikes in TAFE are just another example of the sham that is Country Labor.

WORKERS COMPENSATION CLAIMS

Mr PAUL LYNCH (Liverpool) [6.03 p.m.]: In September last year I drew to the attention of this House the plight of a constituent of mine, Wayne West, who is a victim of the current workers compensation system, which was most recently substantially modified in 2001 by changes that were erroneously referred to as reform. Approximately a month after my private member's statement was made, a formal reply followed. These are matters of great interest to many of my constituents. I have received further representations on these issues, particularly concerning the impact of the 2001 changes upon injured workers. These representations are contained in a letter to me from a solicitor, Mr John Isaksen, dated 13 February 2004, which reads in part as follows:

> One of our clients, Anne-Marie Yates, has given us permission to write to you regarding what has been for her a most unfortunate experience of the current Workers Compensation Legislation.
>
> Anne-Marie Yates is currently 57 years of age. She sustained an injury to the left shoulder on 14 February 2002 whilst employed as a cleaner at the Muswellbrook Hospital. As a consequence of that injury Mrs Yates underwent surgery to the left shoulder, performed by Dr Posel at Maitland Private Hospital on 8 May 2002.
>
> Mrs Yates returned to light duties at the hospital in July 2002 but she was unable to return to full duties as a cleaner given that that work does require strenuous use of both arms, including the left arm. The Hunter Area Health Service have now informed her that they cannot continue to provide her with light work and she is currently in receipt of weekly payments of compensation.
>
> A claim was made for whole person impairment and Dr Deveridge assessed 9% whole person impairment. No assessment of whole person impairment was made by any doctor qualified by the GIO and Mrs Yates attended an Approved Medical Specialist. As you may be aware, the findings of an Approved Medical Specialists on the issue of whole person impairment are binding …
>
> Dr Scougall, the Approved Medical Specialist, has made a finding of 2% whole person impairment. That entitles Mrs Yates to $2,500.00.
>
> We know that in a letter Mr Della Bosca wrote to you in October 2003, it was stated that: "*I am confident that overall injured workers are better off under the new arrangements*". We would like the government to consider the following:-
>
> 1. Under the previous Workers Compensation Legislation, it is likely that this lady would have been assessed as having somewhere in the vicinity of 20% permanent loss of use of the left arm which, along with a payment for pain and suffering, would have realised a lump sum payment to her of somewhere between $20,000.00 and $30,000.00. If she had. .. had that injury some six weeks earlier, that is the likely result she would have obtained.

2. Mrs Yates lives in a town, namely Muswellbrook, which is home to many hundreds of coal miners. Coal miners are still covered under the previous legislation. Why is there one law for the coal miners and one for everyone else? Why is another injured worker, who might live in the same street as her, and who is a coal miner, likely to receive 10 times the compensation she has received for her disability?

3. Mrs Yates informs us that she has undergone an extensive amount of rehabilitation and return to work programs and retraining but at 57 years of age and living in a country town, the prospects of her ability to return to some form of employment are not good. It would be interesting to ascertain how much money has been spent on rehabilitation, return to work programs and retraining. We suspect that it would be much more than the $2,500.00 that this lady is going to get for her permanent disability.

I point out that Mr Isaksen certainly is not arguing that coalminers should lose their entitlements. Rather, his point is simply that other workers in similar situations should have their entitlements increased. The solicitor who acts for Mr West has provided me with many examples of cases in which injured workers have received less money individually than they would have received prior to the 2001 scheme coming into effect. Pointing to the 2001 increase in the maximum lump sum payments, which some people do in defence of the scheme, is disingenuous nonsense. The mechanism in individual cases means almost always that less compensation is paid for individual workers who have been injured. It is also claimed in favour of the present system that there are now fewer workers compensation disputes or that fewer matters are disputed. It stands to reason that if workers entitlements have been taken away, of course there will be fewer disputes because there are fewer matters to argue about. I restate my previous concerns about medical specialists being used by the system to provide binding determinations on degrees of loss. They can hardly be expected to be regarded as providing impartial advice when they are contracted to WorkCover.

MENTAL HEALTH SERVICES

Mr DAVID BARR (Manly) [6.08 p.m.]: Last November I drew to the attention of the House mental health issues, and I do so again. Recently the east wing at the Manly hospital had six beds taken out of commission because of the shortage of nursing staff. The consequence of that has been that over the past while, people with mental health problems have been parked in the emergency department with security guards minding them because they have not been able to be provided with beds. That is not only unsatisfactory, it is a disgrace. It means that people with serious mental health problems are not receiving the adequate care to which they are entitled and that they present an element of risk to fellow patients in the emergency department and to staff. That situation is no good for staff morale, or for the morale of relatives and patients who are parked in emergency departments. A few days ago a young patient who had a psychotic episode was brought home from overseas and taken to Manly hospital. He was parked in the emergency department for two nights before a bed was found for him.

Clearly, there is inadequate staffing and resources to deal with this serious problem. Mental health is something that we are failing to deal with at all levels. Because of the lack of funding, and because we still have not developed adequate mechanisms to help people with mental health problems, society is not doing the right thing for them or for their relatives. As a consequence, I am holding a mental health forum between 2.00 p.m. and 5.00 p.m. on Saturday 3 April at Harbord Public School hall. I believe that our handling of mental health problems is totally unacceptable: in fact, it is a disgrace. We may have progressed from the dark days of asylums and straightjackets, but we are still falling way short of our obligations. I hope the forum will produce some suggested improvements, which will be passed on to the Minister for Health.

I have invited all interested parties, including Magistrate Andrew George, who has expressed his concerns about matters that come before him and people he has to deal with who are in a twilight zone. If they are not sufficiently ill to be scheduled there is nowhere to send them so he often has to send them to prison. He believes that is entirely unsatisfactory, as should we all. This matter arose during last year's upper House inquiry, which found that since the adoption of deinstitutionalisation following the Richmond report of the 1980s, people who would have been sent to large mental institutions are now sent to gaols. Many people who are in prison would, at another time, have been in mental asylums—not that I advocate a return to asylums. Some people do advocate that, but for me it conjures up images of the *One Flew Over the Cuckoo's Nest* scenario. Before the 1980s all sorts of injustices took place in institutions, matters that we were not aware of.

The problem now is how to deal with people who are not institutionalised. What sort of community support can we provide for them? Clearly at the moment that support is inadequate. How should we deal with homeless people? How should we deal with people with dual diagnosis? What support should we give to carers, families who have to cope with children or parents with mental illness who may go off their medication? What support can be given to police who, increasingly, have to play a carer's role and often have to find a place for

homeless people? The idea behind the mental health forum is to hear about the issues, find some solutions, and pass them on to the Minister's office. People from the Minister's office have arranged for people from the department to attend the forum. I have invited also the local area commander as well as advocate groups. Addressing the forum will be patients, people with mental health problems, who will tell about the problems they have encountered. The idea is to try to find some constructive solutions that can be passed on to the Minister. We need to do much more about mental health issues and devote far more resources to that issue.

DUBBO POLICE FACILITIES

Mr TONY McGRANE (Dubbo) [6.13 p.m.]: I bring to the attention of the House the outstanding work done in the western region by police from the Orana Local Area Command and the difficult conditions under which they operate due to a lack of professional facilities in Dubbo. The Orana Local Area Command, the Drug Squad and State Crime Command police have carried out a number of major drug seizures in western New South Wales and put a major dent in the production and supply of cannabis for sale on our streets. A series of six raids on western region properties over the past 12 months has resulted in the seizure of more than 60,000 mature cannabis plants with an estimated street value in excess of $115 million—one of the most successful series of police drug raids in Australian history.

The biggest bust was in January this year, when more than 30,000 plants were seized at a property north-east of Gilgandra. The bust has an estimated street value of $60 million and is the largest single haul in New South Wales in more than 20 years. That drug operation was highly sophisticated and professional, with a complex drip-feed watering supply linked to a tank system worth thousands of dollars. The cannabis plants were grown amongst native trees, which provided camouflage from the air. More than 200 armed officers were involved in the raid, including 40 from the Orana Local Area Command. The large-scale operation proved an outstanding success in all areas but highlighted ongoing problems with Dubbo's police facilities and current station arrangements.

Dubbo police currently operate out of up to a dozen different offices at various sites across the city. There is no central point to conduct briefings for operations such as drug raids and nowhere to store required equipment and firearms. The raid near Gilgandra went a long way towards smashing a highly organised drug syndicate, with 10 people arrested, including alleged senior members of organised crime groups. Subsequent western region raids in February and March in Tullamore, Balladoran and Trundle netted a further 16,000 plants. My concern is that those types of operations are made complicated and costly, or even jeopardised, by a lack of appropriate police facilities in Dubbo.

Police from the Orana Local Area Command are doing an exemplary job. Crime rates are down across a range of major offences. In the month of February, crime rates for break and enter, stealing, car theft, street and traffic offences all dropped significantly in Dubbo. My point is that the Dubbo police are doing an excellent job. The series of stunning drug busts in partnership with other police groups deserve to be applauded. Officers from the Orana Local Area Command played a key role in the intelligence gathering and operational aspects. The only place where the system breaks down is at the station, because of the lack of modern and professional infrastructure. At the moment police are working in a fragmented system in different buildings across the city. That is not good enough! Dubbo should receive top priority for the construction of a new police station. The current stop-gap system of working from different locations is inefficient on a day-to-day basis and from a policing point of view limits the vital exchange of information from officer to officer.

Working from separate locations has proved to be a failure in the past for New South Wales police, and the situation in Dubbo will worsen, particularly with issues relating to occupational health and safety and overcrowding. Other concerns with the existing station include security problems, with no underground parking or safe storage areas for equipment. The community expects results from its Police Force and our officers need professional support and infrastructure to deliver those results. A new police station opened in Wellington some 12 months ago and has provided a dynamic boost to staff morale and enthusiasm. A new station for Dubbo would achieve the same results, but the process is proving to be a long one. In the middle of last year, with active support from Dubbo City Council, I submitted a private development proposal to the Minister for Police.

The lobbying process has taken that submission through to the Minister's review of the police properties branch. Dubbo, and its police officers, are still waiting on a response. Dubbo is a major regional centre for New South Wales policing, with responsibilities covering almost two-thirds of the State. It requires a large administrative base as well as operational officers on the ground. Police from the Orana Local Area Command are getting spectacular results when one looks at the recent drug busts. They need support for their

good work to continue, and they need a purpose-built police station as a number one priority. I urge the Minister for Police to place Dubbo on the top of the list when considering recommendations from the police properties audit.

Private members' statements noted.

[*Madam Acting-Speaker (Ms Marie Andrews) left the chair at 6.18 p.m. The House resumed at 7.30 p.m.*]

RETIREMENT VILLAGES AMENDMENT BILL

Second Reading

Debate resumed from 24 February.

Ms KATRINA HODGKINSON (Burrinjuck) [7.30 p.m.]: I lead for the Opposition in debate on the Retirement Villages Amendment Bill and state at the outset that the Opposition does not oppose this bill. However, it is imperative that the Minister takes on board and addresses several key issues that were brought to my attention when Opposition members were consulting with members of the community. During my contribution I will highlight several of those concerns. The Opposition recognises that the purpose of this bill is to reform the regulation relating to the retirement village industry in this State. Retirement villages play an increasingly important role for older members in our community and afford them an appropriate choice in housing. Retirees can be accommodated in a similar environment and locality with people of a similar age group. They can feel safe in doing that, enjoy a number of facilities, get together and participate in common activities.

More than 700 retirement villages are currently operating in New South Wales. Those 700 retirement villages house about 40,000 of the 1.3 million aged persons who live in New South Wales today. As we all know, there will be a steady increase in that figure because about five million Australians are approaching their senior years. It will fall on this Government to ensure that effective legislation is in place in New South Wales to keep up with what is happening in the industry. The Government must ensure that those wishing to become part of a retirement village lifestyle are protected and that those operating retirement villages do so properly and well. The Retirement Villages Act, which provides an industry code of practice, was introduced in 1999.

This Retirement Villages Amendment Bill, which aims to address a number of legislative interpretations in recent judicial decisions, also brings forward the due date for the review of the principal Act. The Retirement Villages Act 1999 was originally due to be reviewed in 2005. That review, which will be brought forward, will commence when this amendment bill receives royal assent. As the Minister said in her second reading speech, a report on the outcome of the review will be tabled within 12 months of that assent. All stakeholders with whom I have consulted have welcomed the bringing forward of that review. The bill will ensure that if a resident dies or moves out of a retirement village and into a nursing home, all charges for personal services will cease immediately upon the operator being notified. Under the current Act, operators can continue to charge for up to 28 days after a resident dies or moves out, and personal services can cost around $2,000 per month.

Honourable members will remember the much-publicised case of John Singleton's mother, who died, yet the retirement village required payout fees of about $2,000 a month for personal services that were not necessary and could not be supplied. That was pure greed on the part of the operator. The bill will also enable a resident owner of a unit in a retirement village who wishes to let or sublet his or her premises to do so without first handing back possession and delivering the keys to the retirement village operator. Under the Act, resident owners can let or sublet their premises for up to three years. Units can be difficult to sell and renting out a unit can assist with rent to pay ongoing costs until the unit is sold. Subletting also helps seniors who need short-term, affordable and suitable housing.

This bill will limit the circumstances in which a retirement village budget can be increased if the majority of residents do not consent to additional over-budget spending. It also states that residents who have a lease with a right to assign or transfer can continue to exercise that right. Such a contract will not be terminated on death or vacancy but will continue until the end of the original lease. The bill also clearly defines what constitutes an owner and a non-owner for the purpose of refunds, selling rights and liabilities for ongoing charges. I refer now to comments that the Opposition received since it commenced its consultations with stakeholders on the day of the Minister's second reading speech.

The Opposition has consulted widely in relation to this bill and it has received some significant concerns that I ask the Minister to address when she replies to debate. Before doing so, I thank the Minister for providing me with briefings in relation to this bill. I received correspondence from the Retirement Village Association Ltd. The Retirement Village Association is a peak organisation that represents the operators of private retirement villages in New South Wales. It was concerned that it, along with other industry associations, did not have an opportunity to provide an input into this important amending legislation. It supports an early review of the Act as a number of matters have been brought before the Consumer, Trader and Tenancy Tribunal simply as a consequence of the vagaries of the current Act. I will go through some of the concerns that the Retirement Village Association expressed to Opposition members. It refers to new section 150 (1) (b), which defines "owner". The Retirement Village Association states:

> Currently Section 150 (1) (b) has the effect that a resident who shares in any capital gain on the turnover of the premises is treated as an "owner".
>
> It is now proposed to change the definition of an owner to a resident who holds a registered lease and that has a provision to share at least 50% of any "capital gain". This change in definition excludes from the current definition of owner the following groups of residents:
>
> · Residents may have preferred to enter into any of the above arrangements having taken into account other factors such as the level of the departure fee and the amount of the incoming contribution.
>
> · Those residents have entered into contracts with the operator based on their assessment of the facilities, services and financial arrangements best suited to them. They have made a choice.

The association goes on to state:

> The choice has been made based on information included in the disclosure statement made available to them under the present Regulations.
>
> To alter that relationship is to strip those residents of the benefits they perceived as owner at the time they entered the Village.
>
> As "owners" under the current definition the residents do enjoy the following benefits, which they will be stripped of should the amendment occur.
>
> · Owners are empowered under the Act with the right to set the selling price and appoint a selling agent (Section 168).
>
> · They are empowered to be able to sublet the premises.
>
> · They enjoy a degree of flexibility and ownership as to the items of fixtures and fittings in their unit.

I met with representatives from the Retirement Village Association after they wrote to me. They made it clear that they support a policy of full disclosure, but they are opposed to prescriptive legislation that limits the opportunity for residents to make informed choices when moving into a retirement village. Another issue that they raised with me relates to retrospectivity. They said:

> The proposed amendment to Section 150 will, if passed by Parliament, apply to all existing contracts.
>
> The financial impact of such an amendment would be catastrophic to the industry. Despite the terms of existing contracts operators will be required to repay incoming contributions to residents within 6 months of the resident permanently vacating the premises.
>
> Retirement Village funding for residents who share in capital gains and who mostly operate in the private sector has been predicated on the basis that settlement to the outgoing resident is funded from the sale of the premises to the new incoming resident. This concept is well understood and accepted by residents and financiers.

The association goes on to say that future funding for new retirement villages will be severely restricted as financial institutions factor in the obligation of the operator to repay residents prior to the ultimate resale to a new incoming resident. It claims that in respect of existing mortgage facilities it is conceivable that operators may soon be in default of their financing as the basis upon which the mortgage was provided has altered. As of Monday, the Minister had not met, let alone consulted, representatives of the Retirement Village Association. The Minister claimed that wide consultation has occurred. Opposition members have met these people—it seems that we must do the Minister's job in consulting the stakeholders. We must ask: Are there cases currently before the tribunal relating to owner and non-owner issues that this legislation, which is being rushed through the House tonight, will effectively knock out? I trust that the Minister will address this issue when she replies to the second reading debate.

I also received correspondence from the Aged and Community Services Association of New South Wales and Australian Capital Territory Incorporated. I met its representatives, who wrote to express their

concerns, which are not dissimilar to those of the Retirement Village Association. The Aged and Community Services Association represents the interests of members operating 386 not-for-profit retirement villages in New South Wales and the Australian Capital Territory. The vast majority of those members operate their villages on the basis of loan licence tenure, while some villages operate a combination of loan licence and rental villages and a small number operate leasehold. The association examined the bill and expressed concerns to me about some of its provisions. I will bring those concerns to the attention of the House as I believe it is important to raise them in this place. Subsection (4) of new section 117, "Amendment of statement of approved expenditure", states:

> In the case of an amendment that relates to further expenditure, the Tribunal is not to make an order under subsection (3) unless the Tribunal is satisfied that:
>
> (a) there is an urgent need for further expenditure, and
>
> (b) the further expenditure was not reasonably foreseeable when the statement of proposed expenditure was approved under section 116.

The association points out that providers are currently required to commence preparing the statement of proposed expenditure some three months before the start of the financial year in order to comply with the 60-day time frame in which the statement must be presented to residents. It says that the difficulty of accurately forecasting costs this far in advance is generally acknowledged. The provision in section 117 (4) further exacerbates the pressure on operators to define costs and future expenditure requirements accurately three months before the start of the financial year.

In the not unlikely event that an operator fails to predict costs accurately and residents do not agree to an amendment, the tribunal, on application, cannot make an order for non-urgent expenditure, even if it was not reasonably foreseeable. The association points out that in the absence of a definition of the word "urgent" stakeholders may be faced with inconsistent tribunal outcomes in this area. That point must be addressed. The association believes it would be preferable to remove the reference to "urgent need for further expenditure", but that view is not shared by all stakeholders. The association also raises the owner and non-owner issues in relation to the amendment to section 150, "References to "owner" and sale of "residential premises"". It says:

> The removal of the existing Section 150 (1) (b) and the insertion of the proposed Section 150 (1) (b) will have a substantial effect on some operators of loan licence villages with particular contractual arrangements with residents.

The association understands that the changes are intended to clarify the extended meaning of "owner". However, it says that the amendment as written will have the unintended consequence of removing benefits accorded to certain loan licence operators under section 180. It continues:

> Loan licence village operators who currently have resident contracts with a provision that the refund to the outgoing resident is wholly tied to the amount paid by the next incoming resident will be affected. Currently, residents with these contracts are considered owners for the purposes of Part 10 of the Act—Matters relating to vacation of premises. Importantly, Section 180, Payments to owners (following vacation of premises), applies. Broadly, the section allows for payment to a former occupant, (considered to be an owner), to occur following the sale.

The association points out that the proposed amendment will effectively mean that these residents will be considered to be non-owners for the purposes of part 10 of the Act. In practice, if there is no incoming resident, the operator would be required to make a payment to the former occupant six months after vacant possession has been granted by the outgoing resident. The calculation of the refund of the ingoing contribution to be paid at this time will need to take account of the capital gain figure, which cannot be known if there is no incoming resident at the expiry of six months.

The association says that that provision has the potential to impact on a substantial number of loan licence villages and their operations by changing an integral component of the legislation as originally drafted. Village operators establish and review resident fees, draft contracts and offer accommodation to potential residents based on the content of the Act. The association says that in view of the nature of the amendment it cannot support it. It continues:

> To enable appropriate consultations to occur, it would be more appropriate to deal with the significant proposed amendment during the upcoming Review of the Act. Should this issue be deferred until the Review, ACS will be able to seek input from members on the likely number of villages/contracts affected.

That is a most relevant point, given that the association was not consulted about the amending bill, and particularly this point. Why not include this issue in the review? That would give organisations the opportunity

to consult widely with those operators under their jurisdiction and to find out exactly what is happening with these owner issues. I make this point sincerely and I trust that the Minister will address it sincerely when she replies to the debate.

The Aged and Community Services Association welcomes the bringing forward of the review of the Act by 12 months, and goes on to mention other issues that it would like included in the review. The association says that its members operate retirement villages in the not-for-profit, church and charitable sector in New South Wales. It has a substantial number of members. Other operators, who are not members of the association, run retirement villages—often in rural areas—with the support of volunteer boards and few, if any, staff. I am well aware of several of those types of villages operating in rural communities in my electorate and beyond. Those retirement villages provide an incredible service to their local communities by offering older people, who usually have limited income and assets, retirement accommodation in their own town or nearby. This makes it easier for family members to visit them. The association states:

> As a result of a lack of resources and due to reliance on volunteers, it is a challenge for many of these small villages to meet the compliance requirements set out in the Act, even with the support available from industry associations such as ours.
>
> We are concerned that the future of these affordable housing options for older people may be at risk if more onerous legislative compliance requirements are introduced by the Minister as a result of the Review.

During my preliminary discussions with the Minister's office and department I was left with the impression that those issues will be addressed in the review. I ask the Minister to be very conscious of the real differences in rural New South Wales, the distances involved and the level of community service that retirement villages rely upon in order to operate. Legislative requirements can make people think, "It's all too hard; we can't comply and we don't want to get into trouble if we don't operate according to the letter of the law." I ask that compliance requirements be introduced gently for those community groups that run on a voluntary basis retirement villages in rural areas. The association states that it sees the review of the Act:

> … as an opportunity to address some of the problems which have emerged for both consumers and operators over the first 3.5 years of the operation of the Act, including the following:
>
> - The Act and Regulation are currently silent on probate. We would be seeking changes to the Act to reflect the requirement that a refund to a deceased resident's estate must be subject to probate or letters of administration.
>
> - Condition Report for refurbished units—The Condition Report for attachment to the contract cannot be completed until the refurbishment is carried out. The prospective resident is to be present when the Report is being completed and must have sufficient time to examine the Report and suggest changes.
>
> The prospective resident is then to sign it if they agree. The Condition Report can then be attached to the Contract, which the prospective resident is to have for 14 days before signing. This necessitates the prospective resident visiting initially when deciding they will take up residence, then when refurbishment is complete to be present when the Condition Report is being prepared and to sign it if they agree, (subject to any changes). Many prospective residents live some distance away from the village and are not able to make several visits to the village within this timeframe. We would be suggesting an amendment to the legislation so that there is more flexibility in the timing of the preparation and signing of the Condition Report.
>
> - Interest on outstanding ingoing contributions—Many not for profit villages permit entry of residents prior to full payment of the agreed ingoing contribution (which is usually dependent on the sale of a house). At this point there appears to be only a limited number of circumstances where interest can be charged when final payment is not made. It is suggested that there are good arguments for the charging of interest to be permitted to encourage payment on time.
>
> - Streamlining the Disclosure Statement provided to prospective residents.

I thank Paul Sadler and the Aged and Community Services Association for providing me with their comments in relation to those aspects of the bill. I received relatively late in the piece a response to this bill from Mr Neville Carnegie, Secretary of the Retirement Village Residents Association. He stated once again that the association was "very much in favour of bringing forward the review". He said that the "Act is complex, and necessarily so to override contracts which heavily favour the operators". He continued:

> It is not easily understood by elderly persons a lot of whom are in the 80 plus age bracket—

I point out that Mr Carnegie is 78 years of age and is, therefore, almost in that bracket himself—

> Whether the operators ignore the legislation or interpret it to their advantage, the elderly residents have difficulty understanding it. At the end of the day, all the residents want is reasonable monthly costs, no deficit budgeting or deliberate over-runs of expenditure. They want good compassionate management from people who care about looking after the residents as they would their own parents. We are finding that not all operators are doing this and residents are suffering financially. In my particular

> village, many residents are aged pensioners. It takes one fortnight's pension plus a percentage of the following fortnight's pension to pay the recurrent charges. This leaves little money to pay the electricity, telephone and food and living costs. Many have had to sell their cars because they couldn't afford to run them. Their independence is reduced and their ability to get out and about to enjoy their retirement is reduced.

Members of the Opposition are very much in favour of ensuring that all our seniors, all our aged pensioners and all people in retirement villages receive the level of respect that they deserve. I appreciate Mr Carnegie's contribution. He continued to make several detailed comments on the bill, some of which I will place on the record. He stated:

> We can foresee that there will have to be significant changes to the [Retirement Villages] Act in the upcoming review. Operators in some instances have been charging management and marketing costs to residents. There is clearly a need for a definition of what can be regarded as "operating costs of the village" so that the only costs that can be passed to residents are those for providing services and facilities that the residents desire. Some operators are charging rates on vacant land to residents. There is no benefit to residents in this—only the operator will benefit financially when units are built on that land and the company sells those units.

He agreed with the Minister that there needs to be greater protection for residents. He said that the Retirement Village Residents Association has had many complaints from residents concerning several matters in the Act. He has gone through all the items in the bill, and it is important that I place all his concerns, line by line, on the record. He said that the association supports the amendments that item [11] makes to section 208. He said that it is "a one-off situation" and that "further amendment will be necessary in the major review to take account of review required under the Subordinate Legislation Act 2009 and beyond". Item [11] achieves that immediate aim. In relation to the other amendments in schedule 1 he stated:

> [1] This and [6] facilitates the application [10] … one operator challenged a decision of the Consumer Trader and Tenancy Tribunal to allow a lessee to sublease and the Supreme Court found, reluctantly—

as the Minister mentioned in her second reading speech—

> that the drafting of the Act didn't allow an estate to sub-lease. The argument by operators is that they want to sell units in order to make their money but in some instances it is to the advantage of residents or their legal representatives to sub-lease because it can take so long to sell a unit. The lessee is responsible for paying the monthly fees until it is sold. We have an instance where a unit has been vacant since 1993. You can imagine the accumulated debts on that account but we have no information regarding the former lessee's family so that we can advise them as to their rights. The sub-leasing is therefore a valuable right for a resident to possess. Operators are in a better position to suffer delay in selling than a resident's family member paying recurrent charges for an interminable period.
>
> [2] Hopefully this amendment will have the desired effect. The Office of Fair Trading has maintained that under s 166 (3), the operator can spend no more than the recurrent charges he/she receives in order to meet the expenditure in the Statement of Approved Expenditure [SOAE]. Unfortunately some operators have, without resident consent, exceeded the SOAE and in some instances regarded the expenditure as "unforeseen" … the intention of this is that if an operator has a requirement to spend money on an item which was not in the original SOAE, he can try to get resident consent for the additional expenditure but reduce expenditure elsewhere so that the total cost for the year is not greater than the recurrent charges received. In other words, elderly residents should not be placed in a position where, at the beginning of the year, they agree to $x dollars per month only to find that an operator has spent additional money during the year which requires an adjustment to vary the fees retrospectively to $x + y per month. The $y would normally have to be paid as a lump sum. With pensioners it is a bit much to expect them to save enough to pay an extra lump sum. They should have greater certainty in relation to their money and the operator should be fully accountable to residents by ensuring that he does not exceed the "budget".

He stated that the association was aware of the intention of the Government but that a problem arose as to whether the operators would understand fully their obligations under this amendment. This provision may not be strong enough to protect residents unless the Government takes action to enforce its compliance by seeking to impose the prescribed penalty. The imposition of the penalty is by court action, but the fear is that by the time any penalty is imposed the horse may have bolted if the operator had breached his obligations. This Government is still not protecting residents as strongly as it should—a point made very strongly by the Retirement Village Residents Association. In relation to amendment the association stated:

> [3] This new section replaces the existing provision. In one instance the Consumer Trader and Tenancy Tribunal awarded an operator an increase in the totality of the SOAE in respect of 2 financial years under the existing s. 117 which left the residents with deficits of around $200,000. While the operator has made no attempt to enforce the payment of the deficits at this time, it is a worry to residents that the debt is over their heads.

I am absolutely sure it is. It continued:

> The revised section requires that consent of the residents be sought and only if it was sought and rejected can the operator appeal to the Tribunal. Provided s. 116 (3) as amended is followed as intended, this additional expenditure under the new s. 117 shouldn't present any problems.

The association believes that items [4] and [5] of schedule 1 to the bill are okay. With regard to items [6] and [7], once again there is a reference to owners versus non-owners. The association stated:

> The revised wording has made the existing s.150 much clearer—

I do not think anyone could dispute that. However, the association believes that this provision too should be looked at in greater detail in the upcoming review. The Opposition received comprehensive submissions from numerous stakeholders. With respect to items [6] and [7] of schedule 1, the association stated:

> The revised wording has made the existing s. 150 much clearer. However, we think this is another section which could be looked at in greater detail in the upcoming review. For example, it describes the long-term registered lessees as "owners" for the purposes of the section but there is another class of person emerging and that is lessees who do not have registered leases and whose contracts say they get no capital gain whatsoever. You buy into a village for say $300,000 in 2004 and the operator sells it for $500,000 in 2009. The outgoing lessee will only receive $300,000 less a deferred management which could be say 25%—a return of capital of $225,000. What would a lessee be able to buy for $225,000 at that time? The operator retains the whole of the capital gain. While the primary point is that one buys into a retirement village with a view to living there until you either die or move to a nursing home, for those who want to get out for a variety of reasons, the economic factor is against them. Buying into a retirement village is never an investment.

The association believes that the amendments contained in items [8] and [9] of schedule 1 are reasonable. However, it notes that item [10], which deals with letting or subletting, does not form part of the Act and that judicial notice should be taken of that amendment. The association considers it important that the estates of residents have the right to sublease and would be happier if the operator's right not to consent under section 174 (6) were restricted to subsection 4 (a). For example, a lessee might want to sublease to a wheelchair-bound person, whereas the village has no wheelchair access to the particular unit. The association considers it fair and reasonable that the operator should not be bound to provide wheelchair access for the benefit of the lessee. However, it is concerned that operators oppose subleasing because they want to sell to make money, despite the fact there is no waiting list and no foreseeable prospects of sale. Delays caused by an operator going to the tribunal can cost a lessee or an estate several months recurrent charges. The association supports 100 per cent schedule 1 [11] and considers schedule 1 [12] to be a machinery measure. I quote directly from the letter written by the Secretary, Mr Neville Carnegie, who stated:

> It is tough going that at this age, residents have to be fighting legal battles with operators over the matter of rights and obligations. We retired to enjoy the right of lives and find ourselves having to work over complex legal and contractual matters. Operators who say leave it to us are the ones who are making life difficult and expensive for residents most of whom do not understand they are being "robbed" by greedy operators. It is the quality of management and their lack of experience in managing elderly people which is causing most of the problems. Of course, there are many villages which are very well-run and residents' costs are given every consideration but it continues to be the ones that then Minister John Watkins called "cowboys" that give the industry a bad name and require a more regulated industry than the "good guys" require. It is always the minority for whom further regulation is necessary.

I thank Neville Carnegie for his contribution. I consulted widely with the community. I will read onto the record some concerns from Community Aged Care Consulting Pty Ltd. Mr David Smith stated:

> Firstly, all Housing NSW Pensioner Units are exempt from the RVA, 1999 despite the fact that they represent around 25% of the Department's housing stock. The Act is so good for NSW why exempt the Government's Retirement facilities from it?
>
> Secondly all new Retirement Village developments in the Private Sector MUST meet and Satisfy the Australian Taxation Department policy Guidelines in order to operate within the National framework for the Retirement Village Industry. Comments in the Minister's speech fail to acknowledge nor deal with this MAJOR issue for Private Sector Operators/Developers yet the changes mooted in NSW Legislative framework fail to accept nor understand this.
>
> There remain issues in terms of Compliance with the NSW RVA, 1999 which have the potential to impact Adversely upon Charitable (Non Profit) Operators, yet during the Consultation/Review Process associated with the RVA, 1995 these were ignored. Failure to comply with Australian Accounting Standards as a result of conflicts with the RVA, 1999 and the ASA's being the first layer of difficulty. This is further complicated when we consider the impact upon Operators both Private and Charitable to conduct Commonwealth funded Aged Care facilities (under the Aged Care Act, 1997) as well as Retirement Villages under the RVA, 1999. A breach under the RVA, 1999 could translate into a breach under the Aged Care Act, 1997 resulting in funding sanctions being imposed against such an operator to the detriment of the Operator and the Community which relies upon the service.
>
> The concept (Page 1, Para 5, "However, changes are now required to provide greater protection to residents …") of greater protection addresses only one side of the commercial equation (an important point to make at this stage being that the NSW Government are financially unable/unwilling to support the housing needs of a well documented Ageing Australian population and now wish to impede the Private Sector's ability to pick up the shortfall. The Retirement Village Industry ought to be based upon an Equitable Partnership Agreement, not the continual Operator restrictive and competitive deal being meted out by disinterested and misinformed Bureaucrats who constantly fail to look at the Big Picture which compels Corporate Operators to conduct their business affairs within the parameters of the Corporations Law (where trading insolvent continues to be an issue driven by the failure of bureaucrats to link the failure of Operators to gain consent of Village Residents to variations in Village Budgets (Statements of Proposed Expenditure) to actual operating costs.

He makes further points with respect to licence or rental agreements, lease signability and tax rulings. In summary, the Opposition will not oppose the bill. However, I have outlined several valid points put forward by key stakeholders whom this bill will impact upon. The key recurring point in the submissions is ownership and the fact that most of the stakeholders would have preferred the ownership issue to come through with the review. They are concerned that they were not consulted about the bill, in particular, the new amendment. I ask the Minister for Fair Trading to address the matters I have raised in her reply.

Ms MARIE ANDREWS (Peats) [8.07 p.m.]: I wholeheartedly support the Retirement Villages Amendment Bill, which is a timely and innovative bill. The bill clarifies some uncertainty with the existing legislative provisions and improves the rights of residents living in retirement villages. The Retirement Villages Act was introduced in 1999 by the Carr Government with the primary aim of giving adequate protection to residents. I can speak with some authority because prior to the introduction of the Retirement Villages Act 1999 I received a number of complaints from constituents residing in retirement villages. Their grievances were legitimate and, for the most part, their concerns were addressed in the Act. Notwithstanding that, from early 2001 until August 2003 I was involved in an ongoing saga regarding the Independent Order of Odd Fellows [IOOF] Homes Centre at Ettalong Beach.

A series of events occurred that caused great concern to the residents of those homes. A number of the residents were well advanced in years and I am saddened to report that some did not live long enough to witness the satisfactory conclusion to this saga. With the assistance of the former Minister for Fair Trading, the current Speaker, the Hon. John Aquilina, the current Minister for Fair Trading, the Hon. Reba Meagher, and officers of the Office of Fair Trading, the IOOF board of management eventually acknowledged that it must comply with the terms of the Act and, therefore, had an obligation to look after the interests of residents.

At a meeting of the IOOF homes on 6 August 2003 the chief executive officer of the IOOF board outlined a proposal to either redevelop or refurbish all the dwellings on site. While that redevelopment was in progress all affected residents would be either relocated to vacant cottages or placed in suitable alternative accommodation nearby. The IOOF would subsidise the rent in those cases. In company with the senior policy adviser of the Office of Fair Trading, I attended that meeting. Residents were given the opportunity to consider the proposal. I observed that the residents were delighted with the idea of securing much improved accommodation. I am pleased to inform the House that the refurbishment of the IOOF homes at Ettalong Beach is now well under way. Again, I take this opportunity to place on record my appreciation to the Minister for Fair Trading for her assistance in this matter. Had the Retirement Villages Act not been put in place in 1999 by the Carr Government, I shudder to think what would have happened to the residents of the IOOF homes at Ettalong Beach, as well as residents of other similar retirement villages on the Central Coast and in other areas of New South Wales.

I want to highlight the importance of the Act to so many people. The Retirement Villages Act 1999 put an end to many of the unjust and unfair practices with which the industry was riddled at the time. That Act was groundbreaking legislation, and it was well received by those living in retirement villages. Of course, there are many of those villages not only in my electorate of Peats but right across the Central Coast. Some in the industry claimed that giving greater rights to consumers would send villages broke and drive operators away from the industry in droves. Nothing could have been further from the truth. Under the Act residents have been given greater input into day-to-day matters, such as the village rules and changes in the level of services and facilities. The ability of residents to form residents committees was recognised for the first time. Operators have been required to be more transparent and accountable about the financial affairs of the village. Prospective residents have benefited by the requirements to disclose information in a format that is simple and easy to understand.

The Act brought in many other significant changes that were a vast improvement on the previous regulatory system of an industry code of practice. Having said that, the industry has grown and undergone a number of changes in recent years. It is important that the legislation keeps pace with those developments and continues to provide consumer protection, as well as clarity and certainty for operators. I am therefore pleased that the bill will bring forward the required review of the Act, which was scheduled to be undertaken in early 2005. It is now intended that the review will commence as soon as possible after assent is given to this bill. This is a measure that all members of this Chamber should support as it will provide an opportunity to resolve any possible shortcomings in the legislation sooner rather than later, in the best interests of consumers and the industry generally. As I said earlier, the current Act is a significant improvement on the previous legislation, but I am sure there is still room for further improvement.

Like other members of this Chamber, I regularly speak with people living in retirement villages in my electorate. Many are happy with how the village is run and with the legislation as it currently stands. Others

raise problems from time to time, such as difficulties coping with excessive increases in charges, or problems with getting repairs carried out. The review will enable those and other issues to be looked at. It is important that the review be undertaken to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. Both residents and operators will benefit from having these matters examined as soon as possible, rather than being unnecessarily delayed. For this reason alone, the bill deserves to be supported by all members. It is a small package of amendments to remove a few uncertainties and to continue to protect the rights of retirement village residents. Again I congratulate the Minister on these further improvements to the Act, and I take great pleasure in commending the bill to the House.

Mrs JUDY HOPWOOD (Hornsby) [8.14 p.m.]: The Retirement Villages Amendment Bill is a bill for an Act to amend the Retirement Villages Act 1999 to make further provision with respect to the rights and obligations of residents of retirement villages and for other purposes. More specifically, it is to provide for the circumstances in which the statement of approved expenditure in relation to a retirement village may be amended in order to authorise further expenditure; to make it clear that any liability to pay recurrent charges for personal services, except for those already provided, ceases, in the case of a resident who has moved out or died, when the resident moves out or when the operator of the retirement village is notified of the resident's death; to clarify the assignment of residence contracts and the rights of residents or former occupants to sublet premises; to bring forward the due date for the review of the principal Act; and to make other minor amendments.

The Retirement Villages Act 1999 had the primary and most important aim of protecting the rights of residents. Originally the review was due to commence in 2005. However, it will now be brought forward to commence in line with the assent of this amendment bill and a report on the outcome of the review will be tabled in 12 months. All stakeholders who have been able to be contacted by this side have welcomed this amendment. I have a number of retirement villages in my electorate, both small and large. I note at this point that the Hornsby electorate has more over-90s than any other area, according to the recent census. There are 700 retirement villages currently operating in New South Wales, accommodating around 40,000 residents, or approximately 3 per cent of the New South Wales aged population.

The bill ensures that if a resident dies or moves out of a retirement village—for example, if the resident goes to a nursing home—all charges for personal services cease immediately upon the operator being notified. Under the current Act, operators can continue to charge up to 28 days after a resident dies or moves out. Those personal services can cost many thousands of dollars per month. The bill enables a resident owner of a unit in a retirement village who wishes to let or sublet their premises to do so without first handing back possession and delivering the keys to the retirement village operator. Under the Act, resident owners can let or sublet their premises for up to three years. Units can be difficult to sell, and renting out the unit can assist with rent to pay ongoing costs until the unit is sold. Subletting also helps seniors who need short-term affordable and suitable housing. Residents who have a lease with a right to assign, or transfer, can continue to exercise that right. Such a contract will not be terminated on death or vacancy but will continue on until the end of the original lease.

The bill also contains an amendment in relation to a statement of approved expenditure, where the operator may seek the consent of residents to amend the statement of approved expenditure. If the residents consent to the amendment, the operator is authorised to expend the money in accordance with the amended statement of approved expenditure. But if the residents do not consent to the amendment, the operator may then apply to the tribunal for an order approving the amendment. If the tribunal makes such an order, the operator is authorised to expend the money in accordance with the amended statement of approved expenditure. Also, in the case of an amendment that relates to further expenditure, the tribunal is not to make an order under new section 177 (3) unless the tribunal is satisfied that there is an urgent need for the further expenditure and that further expenditure was not reasonably foreseeable when the statement of proposed expenditure was approved under section 116.

The bill clearly defines what constitutes an owner and what constitutes a non-owner for the purpose of refunds, selling rights and liabilities for ongoing charges. A few concerns about this provision have been highlighted, and it is recommended that it be part of the review. The bill provides clarity and certainty in many respects for retirement village operators and safeguards for consumers. As I have already mentioned, retirement village residents have come to me with issues associated with escalating costs in the retirement villages in which they reside. There has been some unhappiness in relation to unexpected costs having to be borne by those people.

Obviously, people who live in retirement villages are elderly and they must be protected. Contracts can be very complex and difficult for many people to understand. Costs associated with residing in retirement villages must be reasonable, and the residents must be assured of the financial stability of the village. There

must be clarity of the owner versus the non-owner. The operator must be fully accountable to the residents. The review, provided for in the legislation, should result in a further tightening up of protection for retirement village residents.

Mr GEOFF CORRIGAN (Camden) [8.20 p.m.]: It is with great pleasure that I speak in support of the package of amendments and improvements to the laws governing New South Wales retirement villages contained in the Retirement Villages Amendment Bill. I thank the honourable member for Burrinjuck for making such an important contribution to this debate on her birthday. I am sure that I could answer some of the questions she raised, but I will leave it to the Minister for Fair Trading to deal with them in some detail. People should be wary of making sweeping generalisations about the ability of elderly people to understand and debate the contracts they are signing. When I go to retirement villages I find that older people generally know the finer details of the contract a lot better than I could ever explain it to them and ever attempt to debate with them—I never do that.

Retirement villages in Australia first began in New South Wales in the 1950s, and continue to provide an important housing choice for our elderly citizens. It is important that New South Wales continues to lead the way in the regulation of this industry. Most retirement village operators do the right thing by the residents, but a number of rogues within the industry seem intent on taking advantage of, and exploiting, their residents for financial gain. Like most other members in this Chamber, I have a number of retirement villages in my electorate—Carrington, Camden Downs and Kilbride—all of which have excellent reputations. As honourable members will know, retirement villages provide accommodation for some of the most vulnerable people in our community.

The vast majority of retirement village residents are elderly widows in their 70s, 80s and 90s who lived through the world wars and survived the Great Depression. Many of these women left school early, married at a young age and raised families. If they had a job it was generally a low-key, blue-collar one. Higher education was out of the question. Most financial decisions were made by their husbands. The world has changed a lot since then, but it is important to remember the valuable contribution these women made to our society and to ensure that they are protected from abuse and exploitation. I am particularly pleased to see that the bill will put an end to the practice of some operators continuing to charge for personal services after a resident has passed away or moved out of the village. I find it difficult to comprehend how operators can justify charging for meals, cleaning, laundry and other personal services that are no longer being supplied or received.

The bill will amend the Act to ensure that all charges for personal services cease as soon as a resident moves out or when the operator is notified of a resident's death. It is regrettable that such a provision is necessary. Apparently some operators will do the fair and decent thing only if compelled to do so by legislative requirement. I commend the Minister for this amendment. I am sure that all fair-minded people will agree with the Government's proposal. Residents living in serviced premises can pay up to $2,000 per month or more in charges. The amendment will result in significant cost savings for former residents and the estates of deceased residents. The amendment to section 151 will provide relief to residents who move out of the village and into aged care hostels or nursing homes.

Naturally, residents are required to pay fees in the new place from day one. Often other financial burdens are associated with a move to a hostel or nursing home. Removing the requirement to keep paying for personal services previously provided at the village will assist residents in these circumstances. When a retirement village resident dies, it is a difficult time for the family and friends of the resident. While grieving, they have to take care of important tasks such as organising the funeral and settling the resident's affairs. To be then told that a beloved mum or dad will continue to be charged for meals and the like that are no longer being provided would only add to the family's grief. I am pleased to see that the Government will remove this unnecessary source of grief, and I commend the Minister for the amendment.

In a number of retirement villages charges for personal services cease as soon as a resident dies or moves out. Other operators should look at how this can be done and adjust their practices accordingly. I support the other amendments in the bill. I am pleased to see that the Government is amending a small number of existing provisions to offer greater clarity and certainty. This will be of benefit to both residents and operators. I also note that the review of the Act is to be brought forward to ensure that any comments of, or issues concerning, stakeholders can be considered as soon as possible. The bill contains a welcome package of improvements to the retirement village laws and should be supported by all members. I commend the Minister for its introduction.

Mr WAYNE MERTON (Baulkham Hills) [8.23 p.m.]: I will not canvass the particulars of the legislation. There is no doubt that in a country that is experiencing an ageing population—the so-called baby boomers have reached, or are rapidly reaching, an age when they contemplate moving into a retirement village—retirement village legislation and security of tenure are very important. People who enter retirement villages can take up occupation on a number of bases: strata title, community title and leasehold. I imagine that the bill deals with the licence relating to the occupation of the premises. Strata title in a retirement village would be no different to an owners corporation, although quite often more than two proprietors who operate the village have a vested interest and have certain rights arising from the mortgage whereby upon demise, transfer or assignment of the strata title they have a claim.

I will deal with the assignment of leases. The honourable member for Camden referred to elderly people, but we are not dealing exclusively with people in their 70s and 80s. As unbelievable as it might seem, many members in this Chamber would be eligible as residents in retirement villages. That is no reflection on the members but the legislation, which deems a person of 55 to be a retiree for the purposes of retirement village accommodation. I note that, quite rightly, the Federal Treasurer, Peter Costello, is encouraging people to continue to work. We are dealing with people aged 55 plus. It is also true to say that people who live in retirement villages are generally aware of their rights, responsibilities and liabilities. Presumably when they purchased their accommodation their legal representative would have explained their tenure, just as their financier—if they had to raise money—would have explained the situation. However, most retirees would have sold their matrimonial or former home.

On the other hand, retirees who do not have a daily work commitment may have sufficient time to pursue their rights and ascertain their responsibilities. It is true to say that when a person vacates a retirement village or dies, a number of questions emerge relating to their leasehold interest. In the case of a married couple or partners in the leasehold interest, in most circumstances one party's interest would flow to the surviving party and there would not be a problem. However, in the case of a single person or a surviving spouse or partner, some difficulties may arise. I make these comments in the context of a leasehold interest specifically rather than strata title, which is an entirely different matter. When a person dies or vacates retirement village premises, that person's leasehold interest is surrendered. That will entitle the owner of the freehold title to deal with any new tenant on a completely fresh basis and a new lease will come into existence. Alternatively, there may be an assignment of the lease to another party for occupation of the premises. If the lease is terminated by the death of the occupant or for some other reason, the issue is whether death or vacating the premises will nullify the assignment of rights.

Each case naturally depends on the terms of the lease. In the absence of specific terms of assignment in a lease, it is difficult to speak generally in the context of this debate. It is arguable that upon termination of a lease, assignment rights are nullified. If that is so, that would terminate the lease and bring the leasehold interest to an end. Accordingly, it follows that the right of the person who occupied the unit to assign the interest is extinguished. In the case of a deceased lessee, the deceased's estate would be unable to realise the benefits of the value of the leasehold interest in the unit. If a lease is unable to be assigned, the potential exists for residents to lose significant amounts of money. That happens when people act on their belief that if the lessee dies, the lease comes to and end and there is no assignable interest passing to an executor. Based on my experience, that may be the case, depending on the terms of the lease, but in the normal circumstances of a lease an executor would be entitled to exercise the rights of the lessee. The overriding consideration, of course, is that one must have regard to terms of the lease relating to occupation.

As difficult as it might seem in individual circumstances, in some instances the leasehold interest may be construed as conferring personal rights as opposed to a leasehold interest that is transferable. Moreover, assignment may be subject to acceptance by the lessor of the person who takes over occupation of the premises. The important feature of this legislation is that it specifically states that in the case of the demise of the lessee or if a lessee wishes to vacate the premises, there will be a specific right to assign the lease to an incoming purchaser. In other words, if a person has a leasehold interest in a retirement village unit, that person, as well as that person's estate and beneficiaries, are guaranteed that in the case of demise or vacation of the premises, the person's interest in the premises is assignable and the interest may be exchanged for payment.

Leasehold rights in retirement villages must be construed in the context of the amount that is paid for long-term leases being in most cases commensurate with the price of strata title or freehold premises. Payments under the lease represent not just the cost of rent but also a capital outlay to secure a leasehold interest. This legislation protects the investment of people who enter retirement villages under leasehold title. It is worthwhile but long overdue legislation. Because I believe in giving credit where credit is due, I congratulate those who are responsible for bringing forward the bill.

The other interesting point is that the bill provides for the short-term vacation of retirement villages premises. One can imagine a likely situation of a surviving spouse who decides to live with his or her children in England or the United States for a period—for example, three years—and then return to the retirement village unit to resume occupation of the premises. This legislation specifically provides for the right to sublease the unit. That is an important part of the legislation, and I understand that the right to sublease also extends to executors. In circumstances of a depressed real estate market or the inability of an executor to find a suitable person to rent the unit, outgoings such as rates and other charges that are payable pursuant to the lease would mount up, and there would be no rental income to offset those costs.

It may also be the case that the terms of the lease do not provide a specific right to lease the premises to a person pending the sale of the leasehold interest. The legislation provides for executors or lessees to exercise a right to sublease or rent the premises on a temporary basis for up to three years. That is a worthwhile provision because it provides flexibility for lessees and for executors to obtain a realistic market price for the interest by placing the unit on hold until a suitable purchaser is found. There can be no doubt that retirement village legislation must be flexible to meet the many difficult and varied circumstances that emerge. All governments have a responsibility to deal fairly with the rights and interests of Australia's aged population. This bill implements that responsibility. The aspect I have dealt with is a worthwhile one and will reassure those who take leasehold interests in retirement villages as well as their beneficiaries and executors.

Mr BRAD HAZZARD (Wakehurst) [8.38 p.m.]: As indicated earlier, the Coalition does not oppose the Retirement Villages Amendment Bill, although it raises issues of great concern to many residents of retirement villages throughout New South Wales. Those issues need to be clarified to ensure that the disproportionate power of a resident vis-a-vis the proprietor of a retirement village is addressed. There are a number of retirement villages in my electorate, and over the years I have had quite a bit to do with the management of them. Most of my dealings with retirement villages have been amicable and in most instances management has been responsive to concerns I have raised on behalf of residents. However, every now and then I have found that the management of retirement villages can be a little problematic.

Generally, most charitable organisations operate a little better than private organisations. I am aware of issues arising in both charitable and non-charitable organisations. Sometimes the charitable organisations take the view that because they provide what they consider to be a service to older people they are in a slightly stronger position—a higher moral position, if you like—to respond to issues in a certain way. That is not helpful. Equally, private owners can, from time to time, exhibit the same approach to issues raised by residents. Sometimes the approach is worse. As the honourable member for Baulkham Hills said, a number of forms of so-called ownership are available within retirement villages. Essentially, someone moving into a retirement village can own the freehold on the premises or the air space that they occupy, presumably under the Strata Titles Act or the Community Titles Act. In other circumstances the person may be the holder of a long-term lease.

Whether the residency is strata title, community title or leasehold, the resident usually has to enter into a separate agreement for the provision of services. In many instances those services are provided by a totally different entity, not the owner of the village. That can create issues for residents. One of the main issues is the residents' feeling of being disempowered in their relationship with the village management, either the owner of the structure or the entity that provides services to them in the village. I can recollect progress being made in that arrangement in recent years and discussions in the House about addressing those issues. I can remember also that a voluntary code was put in place and it was hoped that the code would address the issues.

Problems continued after the 1999 Act, and that is why the Government eventually decided to introduce this amending bill, which attempts to clarify some issues. One matter not addressed by the bill is the feeling of being trapped that is experienced by many people who buy into retirement villages. I am not saying that life in a retirement village cannot be wonderful; it can be. I know many people who have wonderful lives. They meet many new friends and many new opportunities are presented to them. However, some people are unhappy with the village structure and find themselves trapped. The Government must address the problem of the formulas used in relation to the discount on the purchase price. The language in the documents is often extremely convoluted. Honourable members may be aware that much of the capital profit results from people buying into a retirement village at a certain price, which is the static baseline from which a discount operates as the years go by.

From my experience, an average reduction would be between 2.5 per cent and 5 per cent per year for each year the resident remains living in the retirement village structure. The maximum reduction could be as much as 25 per cent. That means that if someone purchases a unit today for $400,000, and survives the

necessary number of years to lose that 25 per cent, at some point down the track the purchaser will receive only $300,000. On today's values that is much less than the $400,000 in real terms. It means, in effect, that the longer one is in a retirement village the less one is financially able to move out of it. That issue is part of the psychology that causes a sense of entrapment in those in retirement villages, some of whom may then become extremely frustrated.

I ask the Minister for Fair Trading to address that shortcoming in due course. I would be interested to hear whether the Government believes that to be a problem, and whether it is aware of that frustration. A government cannot move to deal with the problem in a heavy-handed way, because people must be encouraged to invest in the industry and provide the necessary facilities for our ageing population. There must be some better formulae than those regularly adopted in contracts in both the private and charitable sectors.

The bill clarifies the liability for recurrent charges when a resident dies or moves out of a village. That is probably sufficient reason for every member of this House not to oppose the bill. That is a serious issue for many residents and their families. Like most members of this House, I have had to make representations to charitable and private organisations requesting that recurrent charges be terminated. It can be problematic for retirement villages to continue the cash flow when a resident passes away. To assist with that, the bill provides for the property to be rented out for a time. I am pleased that has been clarified, but it continues to be an issue.

The bill does not address any of the circumstances of one of my constituents. The Minister would have many other matters to deal with, so she might not necessarily remember this issue. I wrote to her about it and she responded by stating that her department would take action in relation to it. The department probably did not know what to do, so the Minister has not been able to provide an answer. An elderly lady in my electorate moved into a retirement village, which I will not name at this stage. I will not cast aspersions on that village, although I am close to doing so. I will give the village the benefit of the doubt until I have had an opportunity to discuss the issue with the proprietor and look at the unit and the village structure. This well-known retirement village advertised a strata title unit at a price that was relatively cheap for a unit on the northern beaches. The lady entered into an acquisition contract and moved into the unit.

She told me that there was no disclosure by the owner of the fact that the person who lived next door suffered mental and alcohol problems, which made her life a misery. This bill and the 1999 legislation do not impose an obligation on a retirement village proprietor to make disclosures about quality-of-life issues that might affect a resident moving into a retirement village—for example, whether that resident will be living next door to someone with a serious mental problem. That is distressing for the person with the illness, but it made life difficult for the new resident. The lady told me that, after she acquired the property, she discovered on her first night in her new unit that she had been sold a dud. She has had that unit for about two years but she has not been able to sell it. Initially she was unable to sell the unit because she felt morally obligated to tell any prospective buyers about the person next door, who effectively would ensure that any new resident would not sleep at night.

I do not know the answer to the problem. This bill and the earlier legislation do not place sufficient disclosure obligations on anyone who sells a unit. The bill addresses some of the other more obvious issues, such as the clarification of an owner's rights verses leasehold rights, and the effective upgrading of a lessee's rights as opposed to a quasi-owner's rights. It addresses the termination of outgoings so that families or individuals will not have to continue to pay those outgoings if the resident has moved out of the premises. However, if someone moves into a property on the basis of undertakings given—either explicitly or implicitly—by the village and the premises are totally unfit for occupation, there is no way to address that issue under this legislation.

The Minister, no doubt aided by her department, kindly wrote a lengthy response to me in relation to the matter I raised. At the end of the day she said there was nothing the Government could do, although the department would try to take some action. As I have taken the opportunity to raise this issue, it is yet another matter that the Minister will have to address. I said earlier that I would not name the village as I do not want other villages in my electorate to believe they are under the spotlight. I warn the owner of the village—and I will ensure that he receives a copy of my speech—that I have just about had it. I will give him one more chance. I will have another look at the premises and talk to the owner about the problem. He must deal with it by ensuring that the property is sold or that the money is returned to this lady so that she can buy another unit. She has been stuck in limbo land; she has no money to buy anything else. It is time this retirement village faced the public odium of being named, and that will have other consequences. I will reserve further comment in relation to that matter.

Ms GLADYS BEREJIKLIAN (Willoughby) [8.53 p.m.]: The Retirement Villages Amendment Bill essentially deals with the complexity of contracts, standards of village management, excessive fee increases, responsibility for repairs, issues of assignable leases and definitions of ownership, amongst other things. As the shadow Minister and other Opposition speakers have already said, the Opposition does not oppose this legislation. I commend the shadow Minister for the extensive consultation and discussions she has had with stakeholders in relation to many provisions in this bill. Much has been said recently in the media about our changing demographics. Naturally, the prominence of retirement villages will reflect that, and the number of retirement villages will increase. The number of residents in retirement villages will increase, as will the length of time they are spending in those villages.

The introduction of this bill is timely. Residents who intend to move into retirement villages or who are currently in such villages—and even their friends and relatives—need flexibility, certainty and adequate reforms to ensure peace of mind. As has already been said, the bill will ensure that five important objectives are implemented. If a resident dies or moves out of a retirement village and into a nursing home, all charges for personal services will cease immediately upon the operator being notified. Under the current Act operators can continue to charge up to 28 days after a resident dies or moves out. Personal services can cost around $2,000 a month. The amendments will also enable a resident owner of a unit in a retirement village who wishes to let or sublet the premises to do so without first handing back possession and delivering the keys to the retirement village operator.

The amendments will limit the circumstances in which a retirement village budget can be increased if the majority of residents do not consent to additional overbudget spending. Residents who have a lease with a right to assign or transfer can continue to exercise that right. Such a contract will not be terminated on death or vacancy but will continue until the end of the original lease. Amendments will also seek to define what constitutes an owner and what constitutes a non-owner for the purpose of refunds, selling rights and liabilities for ongoing charges. The Minister said in her second reading speech that the current review of the Act would be brought forward. She also said that the Government intended to amend the Act to bring forward the review to commence after this package of amendments had been assented to. A report on the outcome of the review would then be tabled within 12 months from the date of assent.

I am somewhat concerned about the pre-emptive nature of this legislation. I have recently been spending a lot of time with residents in retirement villages and listening to their concerns. Some of the concerns that they have raised relate to some of the amendments we are dealing with today. When the Minister replies to the debate on this bill I would like to receive an assurance that the review that is to take place will not preclude people from raising issues that are currently dealt with by these amendments. Participants in various discussions that I have had at retirement villages have raised a number of issues, particularly issues relating to the definition of "ownership".

Some of the issues that they have raised have been dealt with in this debate, but some have not. Will the Minister inform honourable members whether residents and the public will still have an opportunity to comment on matters that might be dealt with this evening? I strongly support any measures that will introduce reforms that enhance protection for consumers living in retirement villages. I will support any provisions that ensure greater clarity and certainty in the legislation, for residents in retirement villages, future residents and friends and relatives of residents. I commend the bill to the House.

Mr STEVEN PRINGLE (Hawkesbury) [9.00 p.m.]: I reiterate that the Opposition will not oppose the Retirement Villages Amendment Bill. However, like the honourable member for Willoughby, I reinforce the urgent need to review the Retirement Villages Act 1999, which is clearly disadvantaging a number of investors—be they part of the not-for-profit industry or the operators of multimillion-dollar businesses. The Act clearly contains some draconian provisions and needs to improve its level of compassion with regard to some of our smaller rural and semi-rural communities. I draw the attention of the Minister for Fair Trading to aged care facilities at Oberon, which is run by the local council, and at Tumut. Both of those facilities, like a range of others throughout the State, are run by volunteers, who give their time to assist their local communities.

Over the years volunteers have run cake stalls and held lamington drives and all sorts of other fundraising activities in order to fund those local community-based facilities. Such facilities are often small, comprising perhaps six or seven units, and compliance with the Act is extremely onerous for these volunteer groups. They are not the same as multimillion-dollar businesses and they deserve not to be treated as such. I do not want to see small aged care facilities closing—I am sure the Minister does not want that either—and disadvantaging local communities. All honourable members want to see ageing in place. It is extremely

important to offer support and encourage people to remain in their local communities, where they have existing support networks. The Act must be reviewed very quickly. The sooner the bill is assented to, the better.

We note that the Act has been in force for 3½ years but the Act and the regulation are silent on the major issue of probate. Changes to the Act must reflect the requirement that a refund of the deceased resident's estate be subject to probate or letters of administration. The condition report for refurbished units is also a cause of concern for both operators and residents under the existing Act. We must urgently streamline the disclosure statement that is made available to prospective residents. We must ensure that all peak bodies are consulted in the review process. This includes the Aged and Community Services Association, which represents some 368 not-for-profit organisations throughout the State, as well as other stakeholders in this area. Let us get on with the review as quickly as possible. In so doing, we must ensure that we do not force small operators to close, thus disadvantaging those from lower socioeconomic backgrounds whom the Carr Government claims to be trying to look after. They are the people who will lose out if we do not review the Act quickly and allow some degree of flexibility for smaller facilities.

Ms REBA MEAGHER (Cabramatta—Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [9.03 p.m.], in reply: I thank all honourable members who have spoken in the debate this evening and I thank the Opposition for indicating its support for this important bill. I turn first to the issue of consultation. The honourable member for Burrinjuck was a little churlish in suggesting that she was doing my job in consulting the Retirement Village Association. The association was consulted about the proposed bill. It was given an outline of the six proposed changes in a letter that was forwarded to the association and to the Ministerial Advisory Council on Retirement Villages in November 2003. The association responded on 23 February 2004, outlining some general concerns with the proposals. These matters were considered. In addition, a copy of the bill was forwarded to the association upon its introduction in Parliament. Staff from my office and the Office of Fair Trading have spoken to and met representatives of the association to discuss their concerns further.

Several honourable members expressed concern about the legislation, including its definition of "owner". The honourable member for Willoughby asked whether anything in this legislation would preclude further consideration during the review process. That is not the case: All matters pertaining to the legislation can be canvassed further during the review process. I am happy to give the honourable member that assurance. The definition of "owner" has been included in this legislation and not left to a later package of reforms because broad disadvantage has resulted from an interpretation by the Consumer, Trader and Tenancy Tribunal. The tribunal's decision has created uncertainty about the status of residents' contracts.

The Ministerial Advisory Council on Retirement Villages, which comprises members of the Retirement Village Residents Association, the Aged and Community Services Association of New South Wales, the Law Society of New South Wales as well as a number of other key bodies, has indicated that this uncertainty must be resolved urgently. That uncertainty can be resolved here and now through the bill's amendment that seeks to clarify the original intention of the Act. If the issue were left until the review stage this uncertainty could continue for many residents for an unnecessarily extended period.

The bill does not propose to change the entitlements of any current residents to a refund of their original contributions or any other payments. The bill intends to rectify a decision of the tribunal that suggested that most residents should be deemed to be owners. This means that most residents would not be entitled to receive their refund payments in a timely manner. Non-owners are entitled to receive refund payments within six months of departure whereas owners are entitled to receive refunds only upon resale of the units. Therefore, the bill proposes to rectify this problem and to make the original intention of the Act clear: The majority of residents should be able to access their entitlements within the minimum period of six months.

The Aged and Community Services Association has called for the removal of the urgency test in relation to budget amendments. The Government does not accept that there is any need to remove the urgency test in applications brought before the tribunal. Operators have an opportunity to develop a statement of proposed expenditure before the start of every financial year. They can include all forms of proposed expenditure, regardless of whether the reason is urgent. An operator should have a fair idea of what to include in the budget based on experiences of past years and knowledge of the village.

The proposed amendment to section 117 will give operators a second chance. If they wish to amend an approved budget they simply need to obtain the consent of residents again. No urgency test will apply at this stage. Residents may consent to the amendment even if the extra expenditure is not needed immediately and

could wait until subsequent years. The Government understood that this amendment addressed the main concern that the association expressed during consultation. However, if the residents do not consent, the Government believes a higher test should apply. If no urgency is involved, operators should accept the residents' decision and try again in next year's budget if they wish to do so.

The urgency test will reduce the number of tribunal applications as operators will not apply if they think the matter is not urgent. This will benefit residents. The urgency test will also put an end to the practice of some operators incurring additional expenses on discretionary items without seeking the consent of residents and then applying to the tribunal to have the approved expenditure statement amended. The honourable member for Burrinjuck highlighted the importance of rural issues and the differences between retirement villages in metropolitan communities and those in rural and regional areas. I assure her that that distinction will be considered closely during the review. As to the other issues of concern raised this evening, I look forward to Opposition members' contributions to the review process. I thank honourable members for their contributions to the debate and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

NATIONAL COMPETITION POLICY AMENDMENTS (COMMONWEALTH FINANCIAL PENALTIES) BILL

Second Reading

Debate resumed from 17 February.

Mr GEORGE SOURIS (Upper Hunter) [9.10 p.m.]: I lead for the Opposition on the National Competition Policy Amendments (Commonwealth Financial Penalties) Bill, which the Opposition will oppose. I will refer to the history of public involvement and to the pronouncements of the Government and the Opposition. This has been a live issue for a number of years, particularly in relation to the deregulation of liquor stores. Two and a half years ago the Government issued a discussion paper which the Premier has since argued against in the public domain. When I was shadow Minister for Gaming and Racing the Opposition adopted a firm commitment, as part of its policy leading up to the 2003 general election, that it would remain opposed to the deregulation of liquor stores and, in particular, the abolition of the needs test in respect of an application for new liquor stores.

The Government matched that Opposition promise and gave a very firm commitment at the 2003 general election that it, too, was opposed to the abolition of the needs test and, therefore, the deregulation of liquor stores in New South Wales. The Opposition holds firm on its commitment. I am sorry to say that this bill clearly indicates that the Government has broken its election commitment because it abolishes the needs test and therefore deregulates the liquor store industry. Whilst I lead for the Opposition in respect of national competition policy and the section of the bill pertaining to the Liquor Act, as this bill encompasses six aspects and five individual industries, the Deputy Leader of the Opposition will speak in respect of the optometry, dentistry and pharmacy industries and the honourable member for Murrumbidgee will speak in respect of farm debt mediation and the poultry industry.

National competition policy is something that we ought to consider. It began in April 1995 with the Premier of New South Wales—the current Premier—the Premiers of all other States of Australia, the Chief Ministers of the two Territories of Australia and the Prime Minister. At the time the Council of Australian Governments [COAG] agreed on a set of principles called competition principles, which have more recently become known as national competition policy. Under that agreement the National Competition Council was established to supervise the implementation of national competition policy.

In April 1995 there were nine signatories to the competition principles agreement. It is really a list of the fallen, except for one: the sole surviving signatory still in office is the current Premier of New South Wales, Robert John Carr, the architect of this bill. The other signatories to the agreement were Prime Minister Paul Keating; the Premier of Victoria, the Hon. Jeff Kennett; the Premier of Queensland, the Hon. Wayne Goss; the Premier of Western Australia, the Hon. Richard Court; the Premier of South Australia, the Hon. Dean Brown; the Premier of Tasmania, the Hon. Ray Groom; the Chief Minister of the Australian Capital Territory, Kate Carnell; and the Chief Minister of the Northern Territory, the Hon. Marshall Perron. This heralded the commencement of national competition policy.

The COAG agreement established the National Competition Council, whose role—apart from supervising the content of that agreement—was to assess progress in relation to competition reform and to make certain recommendations as to payment of a dividend. The dividend arose from the concept that national competition policy would yield to Australia more profitable businesses in an environment of greater competition and, therefore, would enable higher receipts of income tax by the Federal Government. As a result of those expected higher taxation receipts, dividends called national competition dividends would be paid to the participating States and Territories.

The process is quite clearly indicated and has been faithfully applied. The National Competition Council makes a recommendation to the Commonwealth Treasurer as to precisely what dividend ought to be paid or withheld State by State, Territory by Territory. Until the 2004-05 year the National Competition Council had not recommended that any dividend be withheld. For the first time New South Wales, together with other States, has experienced a withholding of national competition policy dividends to the tune of $51 million out of a figure of more than $300 million which had been received annually for many years—the balance of which was received again this year. The portion of the $50 million that related in particular to the deregulation of the liquor industry was some $12 million. I might at this point refer to a letter written by the Federal Treasurer.

Mr Kerry Hickey: Why do you want to do that? We know what you did to Luna Park.

Mr GEORGE SOURIS: Is the Minister going to keep this up? I listened to the Premier respectfully and in silence, and the Minister for Mineral Resources would do well to do likewise. It is not an area that he has the faintest idea about; it is not in his portfolio. He would do well to listen in the hope that he will learn something.

Mr Kerry Hickey: You have not got a clue.

Mr GEORGE SOURIS: Two-bit players like the Minister for Mineral Resources ought to be outside. The Federal Treasurer, Peter Costello, wrote to the chief executive of the Independent Liquor Stores Association. I think it worth taking a moment to quote from that letter, which also outlines some of the points to which I referred and how national competition policy operates. The Treasurer said this:

> In 1995, under the *Competition Principles Agreement*, governments of all States, Territories and the Commonwealth agreed to promote competition in an effort to boost the Australian economy. They agreed that the revenue proceeds of a stronger economy should be shared between the Governments and they appointed an independent commission, the National Competition Council (NCC), to assess progress and make recommendations on the distribution of revenue.

That is a very important point—an independent National Competition Council.

Mr Kerry Hickey: A fair distribution.

Mr GEORGE SOURIS: I think the Minister for Mineral Resources ought to be breathalised, the way he is going. The letter goes on:

> Premier Carr of New South Wales personally signed this agreement.
>
> In its 2003 assessment of the progress of reform, the NCC reported that in some areas New South Wales had not complied with its obligations, and accordingly was not entitled to additional revenue. One of these areas was liquor licensing.
>
> The competition agreement does not require liquor licensing restrictions to be abolished. It requires an assessment of the restrictions and retention of those that are in the public interest.

That is another very significant point that has been made. It is not that the National Competition Council blindly requires the abolition of all of these so-called barriers to competition, but that it requires an assessment, in particular, in this case, as to whether provisions contained in various pieces of legislation around the States, such as in New South Wales the Liquor Act, are in the public interest or not. That is a very important aspect. I believe New South Wales has a lot to answer for regarding the way this matter has been handled. I continue to quote from the letter:

> New South Wales had seven years to put a public interest case to the NCC to say why its existing liquor legislation, which contains a "needs test" for assessing liquor licensing applications, should be retained, but it has not.

Here is another rather interesting point that is damning of the Carr Government; that is that the Carr Government did not put to the National Competition Council any form of public interest argument. The letter goes on:

> Why the New South Wales Government has chosen not to do this over the last seven years is a matter for it to define. Other States such as Queensland and Victoria, whose legislation previously contained similar needs test arrangements, have attended to the matter and have sensibly protected the public interest.
>
> The New South Wales "needs test" arrangements (which allow any person who would be affected by an application for a liquor licence to object on the grounds that existing facilities meet the needs of the public) place significant restrictions on competition. A New South Wales Government discussion paper—

To which I have already referred, but which is here being quoted again in the Commonwealth Treasurer's letter—

> noted:
>
> > "… whether these tests succeed in protecting community interests and the harm minimization objectives of the legislation is open to question. There are very few examples of persons, other than direct competitors, using these provisions in an attempt to prevent or minimize alcohol-related harm."

That is a quotation from the discussion paper that was issued by the Department of Gaming and Racing in June 2002—that is, by the Carr Government in June 2002. I read further what the Federal Treasurer said in his letter:

> A needs test to protect against competition is not directed at protecting the public interest. A "public interest" test for licences that focuses on the social, community and health implications of a liquor licence application is consistent with National Competition Policy.

So what this letter is saying is that the New South Wales Government argued with the National Competition Council a commercial case, not a public interest case. The Carr Government argued that there was some need to protect the commercial interests of existing outlets and so on. That may well be a good point—I rather like that kind of point—but that is not the point that is necessary to turn the debate with respect to national competition policy, a policy which was enshrined by a COAG agreement, a COAG agreement which Premier Carr himself signed. In that respect, the important aspects already described here focus on the social, community and health implications of a liquor licence, not the commercial interest.

The commercial interest argument was bound to fail before it even got to the National Competition Council, because that is not an argument that rests in the public interest; it rests in the commercial interest. Really, how could a Government that had had so long to prepare for this, had issued a discussion paper, and had undertaken so-called consultation with the industry, completely and utterly abnegate its responsibility to argue a public interest case in respect of adherence to the existing Liquor Act in New South Wales? I refer again to the letter:

> States such as Victoria and Tasmania prohibit the sale of alcohol in outlets such as milk bars, corner stores or service stations. These laws also prescribe a minimum drinking age, responsible service policies and other restrictions that ensure that health, community and social objectives are protected. The NCC has previously assessed these licensing laws as fully consistent with those States' obligations.
>
> The New South Wales Government may wish to present a public interest case to the NCC. Alternatively, the New South Wales Government may wish to reform its liquor laws so as to focus on the social, community and health implications of liquor licence applications through a public interest test, as have a number of other States. This is a matter for the New South Wales Government.

That is the end of the letter. But, very significantly, the point being made is that it really was in the hands of the New South Wales Government to consider this issue properly, to argue the correct arguments—and those are arguments in the public interest—but not to make such a mess, as it has done, of the submission that was made to the National Competition Council. That submission, as was pointed out to this Government, was flawed, erroneous and would fail—and duly did so. A long time has elapsed since June 2002, when the Government issued its discussion paper, to today's presentation and the continuation of the second reading debate on this bill. Quite a long time has passed during which this Government could have made further submissions—as it was invited to do by the correspondence from the Federal Treasurer—to the National Competition Council. And the Government has had further and sufficient time to consider a public interest test.

I now go to that point. I have used the words "public interest" very carefully. Those are the words that base the invitation of the National Competition Council. Those are the words to which the Federal Treasurer has referred. And yet we do not really see that in this legislation. The point is that this legislation produces a social

test, a social impacts assessment process in fact. There is the flaw. There is a further flaw. It is not a social impact assessment that would yield the sort of result we want to see in New South Wales. A public interest test would. The result we want to see in New South Wales is a mechanism that prevents the proliferation of liquor outlets throughout the State. All arguments aside, the net result of the National Competition Policy Amendments (Commonwealth Financial Penalties) Bill 2004 will be to see a significant increase in the liquor store outlets and a significant increase in the number of supermarkets also operating as liquor stores.

The title of the bill gives an indication of what the Carr Government has been up to. The bill does not seek to protect the public interest, to create a public interest or to protect the health and social wellbeing of the public. No, the bill was crafted in the central agencies of New South Wales and focuses on finances to reinstate dividends, irrespective of its impact on the public interest. The small amount of money involved in the dividend flow attaching to liquor stores—$12 million—is far outweighed by the social harm and the impact of the bill on the public interest. Not long ago the Premier of New South Wales convened an Alcohol Summit, which was held in the New South Wales Parliament. The Summit focused on alcoholism, the abuse of alcohol, the responsible service of alcohol and youth alcoholism. If we accept the Government's subsequent pronouncements, it has embraced many of the Summit's recommendations and is funding them far beyond the $12 million that is currently in dispute.

For the sake of $12 million this flawed bill, designed solely to reinstate the National Competition Council dividend flow, will contradict a far greater figure being spent by the Government in response to recommendations from the Alcohol Summit. On the one hand, the Government convened the Alcohol Summit and made a good fist of this rather difficult issue, and is applying considerable funds to carry out its recommendations. On the other hand, the impact of the legislation will completely counteract whatever good came out of the Alcohol Summit. It is a very sad day in the governance of this State when a Government in its most arrogant period of office—its ninth year—has become so immune to the public good and the needs of the community that it is prepared to introduce legislation that is based purely on finances.

It is a sad day when the Carr Government has taken such a desperate measure when so many other avenues were available to deal properly with, and protect, the public interest and achieve the social objectives that the Premier talks about. The Premier's second reading speech was of considerable interest. When he introduced the bill he remarked that the Government introduced it reluctantly, that the Government did not want to introduce it. He implied that the Government had no choice but to introduce this flawed bill. It was extraordinary for the Premier to remark that it was not the intention of the Government to introduce the bill, it did not want to introduce the bill, it did not approve of the bill, and it did not support the bill. Yet here it is. It is all about $12 million. We will sacrifice all the social good and forget the recommendations of the Alcohol Summit.

Mr Paul McLeay: It is $12 million for alcohol.

Mr Steve Whan: You said the bill as a whole.

Mr GEORGE SOURIS: If the honourable members were here earlier they would have understood that three Coalition contributions will be made to the bill. When the Premier introduced the bill he indicated clearly that its purpose was not to protect young people from alcohol abuse—goodness me no! The purpose of the bill is to "enable New South Wales to avoid penalties being imposed" by the National Competition Council.

Mr Kerry Hickey: Who is imposing the penalties?

Mr GEORGE SOURIS: I am reading from the Premier's second reading speech.

Mr Kerry Hickey: Who is imposing the penalties?

Mr GEORGE SOURIS: The National Competition Council. These are the Premier's words.

Mr Kerry Hickey: The Commonwealth Government.

Mr GEORGE SOURIS: I have not made this up.

Mr Steve Whan: The Howard Government.

Mr Kerry Hickey: Johnny Howard.

Mr GEORGE SOURIS: It is worth pausing at this late stage in the evening to explain once again how we are in this situation. For the latecomers I will hold it up again. I have in my hand the COAG agreement, the competition principles agreement, signed by nine Premiers, two Chief Ministers and Prime Minister Keating. Guess whose signature on the document belongs to the only person still in office? Guess whose signature belongs to the surviving person still in office?

Mr Steve Whan: Robert Carr.

Mr GEORGE SOURIS: It is your Premier. I realise that those opposite arrived late, so I thought it was worth explaining how we come to be in this situation. The independent National Competition Council prescribes—

Mr Kerry Hickey: Independent? Yeah, right!

Mr GEORGE SOURIS: It is independent. If the honourable member wants to argue that it is not independent it is worth going through this again. I remind him that the National Competition Council comprises the six States, the two Territories and the Commonwealth Government. Guess how many of the nine signatories belong to Labor administrations?

Mr Barry O'Farrell: Surely not a majority?

Mr GEORGE SOURIS: I know that this is a hard question, but how many of the nine signatories representing States, Territories or the Commonwealth are now in Labor hands? Eight out of the nine! A COAG agreement struck today to deal with the National Competition Council would produce eight Labor signatories to one. It is entirely and utterly in Labor's hands given that Premier Carr represents the leadership of the COAG agreement and the leadership of the National Competition Council. He is the sole surviving, and therefore senior, signatory to the National Competition Council. I will leave it handy in case other Labor members arrive later. I am sure I will refer to it again. While I have the document in my hand, it is important for me to make another comment. Clause 11 says, "The parties will review the need for, and the operation of, the Council after it has been in existence for five years." That was the year 2000. Premier Carr, as the sole surviving signatory that created the National Competition Council, the senior statesman of the Labor persuasion, the senior Labor figure controlling eight of the nine votes, has let this slip by.

What happened to the review by the National Competition Council in 2000? Nothing—and that is the point. It was entirely within the hands of the six States, the two Territories and the Commonwealth Government to review the role, function and future of the National Competition Council. There is nothing new in that because it has already been signed off under clause 11. It was also in the hands of those governments to assess the progress and determine future outcomes. I did not at any stage hear the Premier, Bob Carr, display any leadership in respect of the necessary review of the National Competition Council and its future role. Instead, he required Treasury boffins to draft legislation that reinstated the dividend, irrespective of the social impacts and harm that would be caused by this bill.

The Premier had the power to lead and even orchestrate a fresh Council of Australian Governments, leading to a national competition principles agreement to determine whether any exemptions applying to particular industries would be dealt with in particular ways or whether the public interest tests would be more clearly defined. Instead, the Premier passed up the opportunity. This Government has been in office for nine years. Over seven years of its administration, it has led New South Wales to this extraordinary state of affairs. Such indifference to vitally important legislation is remarkable in the context of the impact that this legislation will have on the liquor industry, not to mention its impact on the dentistry, optometry, pharmaceutical, farm debt remediation and poultry industries, which are characterised by a heavy representation from small businesses and family businesses in New South Wales. The issues I have raised are not connected to important international trade arenas, megainstitutions or monolithic government utilities, which have already been dealt with. We are now up against a brick wall because the industries that have been affected by this legislation are dominated by the very essence of Australian life, which is the small family business.

I am very concerned about the future of small business and family businesses, and the investment of their owners. The remedy was in the hands of the Carr Government all along. It should have taken a serious approach to national competition policy and put aside its blind pursuit of ideology that is inherent in the

document. The Carr Labor Government should have considered the social harm emanating from an economic rationalist implementation of national competition and should have opted instead to do something for the public good of the people of New South Wales. But, no, the Carr Labor Government was not interested in that. It just wanted to get the $12 million and did not want to worry about the consequences. That is the type of leadership by which Labor members are being strung along. It is utterly incredible and damning that someone of the standing of Bob Carr—the leader of the longest-serving Labor Government in Australia and the senior Labor Premier of this nation, who is the sole surviving signatory of the competition agreement and who controlled eight out of the nine votes—abnegated his responsibility. The Premier said in his second reading speech:

> We have made numerous submissions to the council expressing our deep displeasure, and we have provided detailed assessments, as required by the National Competition Principles Agreement.

His statement indicates that the Carr Government had been pretty busy. The Premier referred to "numerous submissions" and implied that he had been frequently making "detailed assessments". One would think from those statements that the Carr Government was on duty and really working hard to resolve problems in the public interest by making submissions to the National Competition Council. The truth is that the National Competition Council issued press release after press release condemning the Carr Government not only for its approach but also for its lack of involvement and its failure to provided detailed statements. The Premier claims to have made numerous statements and detailed assessments. He wrote to the Prime Minister on 18 September 2003 and stated:

> New South Wales will provide detailed comments to the Commonwealth Treasurer accordance with the Commonwealth's process in due course.

The Premier made an offer, but had been rather dilatory up until December 2003. Nevertheless, the Premier stated that "New South Wales will provide detailed comments", indicating that there would be a strong flow of documentation. The Prime Minister pretty quickly wrote back to the Premier, Mr Carr, on 9 October. His letter stated:

> Your invitation to offer detailed comments to the Treasurer in response to the NCC's recommendations in accordance with established procedure is noted.

In other words, the Prime Minister was pointing out that thus far no documentation had been produced. He was thanking the Premier for the offer to provide detailed assessments and a flow of information, and he accepted that and was looking forward to receiving it. That happened in October 2003, but what in blue blazes had this Government been doing for seven years? What had been going on? Was somebody not busily working at this? It was a public issue and the Premier made a huge election commitment in respect of it. Irrespective, tonight the Labor Government has absolutely broken that commitment. This bill represents the official breaking of a very big promise not to deregulate the liquor industry. Labor members ought to be ashamed of themselves.

Just to add a little more salt to the wound, I will quote from the discussion paper on national competition policy that was compiled by the Department of Gaming and Racing. I will not read the entire document because it is an official discussion paper and is publicly available. It was issued in June 2002 and it argued the case for the need to abolish the needs test. I will refer to part of the document because Labor members are looking at me as though they have never heard of the document. I am happy to help—at least that will be some flow of information in respect of national competition policy. The document states:

> 7.6.3 However, statutory tests that place artificial barriers between different license types should be removed. In this context, there is little public interest justification to support objections on the grounds of adverse financial impact upon existing licensees, and therefore this provision in the legislation (the "needs test") should be discontinued under a strict application of NCP principles.

That is the Department of Gaming and Racing's own document, so let us not be confused where this Government has been coming from for a fair while. This Government has been into economic rationalism, boots and all. Every one of its agencies is following economic rationalism as well. I have cited the Department of Gaming and Racing making revealing statements in a publicly issued discussion paper in June 2002. It is worthwhile pointing out those statements because all we have seen from the Premier of New South Wales is a somewhat high-class circus act. He has been conning the people of New South Wales as best he can, and he has been attempting to con this Parliament into believing that his approach is pure and unsullied. He decried national competition policy and said that he would not be taking the steps embodied in this bill; that somehow it was being forced upon him by the Federal Government and he would otherwise not do it under any circumstances.

The important issue is whether there will be more liquor stores. Will there be more supermarkets with liquor stores in them? We need an answer—yes or no. If the answer is yes, that is deregulation, which ushers in a proliferation of liquor outlets. That will dilute very important issues such as the responsible service of alcohol, adult alcoholism, youth alcoholism, under-age drinking and the vital issues associated with drink-driving. I would have thought that they would be considered to be pretty big issues that would justify a somewhat better response and a more diligent manner of doing business than has been seen from the Premier. Instead, all we have seen is the Premier misleading the public and attempting to mislead this Parliament about the role he has played in decrying the various aspects associated with this legislation. Yet it is clear that there will be a significant deregulation of liquor outlets in New South Wales. The Premier said in his second reading speech:

> The Government has calibrated, as best it can, the provisions of the bill so they will have the least possible impact on New South Wales families … I reluctantly commend the bill …

The Premier was saying that the Government tried, as best it could, despite the proliferation of liquor outlets that will come, to not open the floodgates so that there would be a liquor outlet on every street corner. He said that the Government had tried to limit the impacts, to cool down the social harm that would flow from the bill. What an extraordinary admission by the Premier! It is extraordinary that a Premier of nine years standing, at the height of his power, would succumb to that kind of logic and introduce a bill as flawed as this. New section 49C (3) refers to service stations and general stores. On a number of occasions the Premier has said during radio interviews that the Federal Government wants every petrol station to sell liquor. What a load of rubbish! What an extraordinary remark from the Premier. The Federal Government does not want any petrol station to sell liquor—why would it? Where is the logic in that?

The Premier then embarked on a fabulous piece of deception. Three years ago the Premier introduced an amendment to the Liquor Act that expressly prohibited petrol stations from applying for liquor licences. The Premier introduced the bill and he said during radio interviews, "I am going to save you from all of this; I have a clause which prohibits petrol stations from selling liquor." We all breathed a sigh of relief at that. All the petrol station operators, who were getting rather excited, fell into a gloomy mess because the Premier stopped what they thought would be a bonanza for them. And here is where the extra deception comes in: new section 49C (3) defines "general store" and "service station". I am sure honourable members have guessed that a service station sells fuel and oil. By the way, there is a flaw in that definition because it should state its primary activity. The Government should amend new section 49C (3) so that it states "service station means a building or place used 'primarily' for the fuelling of motor vehicles …".

Mr Paul McLeay: It does state that.

Mr GEORGE SOURIS: Oh, it must have been amended—the Government must have taken my advice. The first draft of the bill did not include the word "primarily". I am pleased that some of my press releases have been read. The big flaw is in the definition of "general stores".

Mr Paul McLeay: We'd better check on that too!

Mr GEORGE SOURIS: No, you do not have to worry about that. The Act contains an impediment on general stores applying for a liquor licence. The Government has now defined a liquor store as a general store, and it includes what we understand to be a small shop whose retail floor area is not more than 240 square metres. Suddenly, general stores with a retail floor in excess of 240 square metres would not be excluded. That definition allows every supermarket to apply for a liquor licence, a very important amendment. Why else would the National Competition Council issue a press release that advocates the passing of this New South Wales bill and hire people to lobby the New South Wales Opposition to support it? For the National Competition Council to be so persuaded in essence the bill must be regarded as deregulatory and there will be a substantial increase in the number of liquor outlets, in particular an increase in the number of supermarkets that will be able to apply for a liquor licence.

I turn now to the social impact assessment process. First, the bill lacks detail and asks us to await regulation. That is unacceptable. This bill has taken so long to be introduced. There was plenty of time to contemplate its provisions, and obviously there was plenty of time to have full details in place. In assessing social impacts, we should consider the example of a large supermarket, owned by responsible corporations such as Woolworths or Coles, located in a very large shopping centre and surrounded by large car parks, applying for a liquor licence. One would have to ask: What social impact could be involved to justify the refusal of the application? Really, there would not be any—and that is my point. Many liquor store outlets will now be included in supermarket chains, including Aldi. They would see an opportunity to test the social impact

assessment process, to allow the consulting industry to refine that process and to allow a precedent to be established. It would not be long before any applicants, particularly supermarkets, would not fail the social impact assessment test that is provided by this bill.

The proliferation of outlets that would flow from those avenues is indefensible; this is the method by which there will be a significant proliferation of liquor outlets. The Government cannot argue that the social impact test will give the same result as the needs test—it will not. The National Competition Council would not have gone to the extraordinary length of issuing press releases and question and answer papers, et cetera, if it were not a decomposition of the barriers to competition. Why, for example, did the Liquor Stores Association take a fairly hedged bet in relation to this issue? The Independent Liquor Stores Association represents supermarkets, which is why it is so vehemently opposed to this legislation, as are a number of other organisations, for example, ClubsNSW. The hotels are somewhat ambivalent. I believe the reason for that is that they are unaware of how strongly this legislation will impact on the hotel movement. New section 62F refers to the approval of social impact assessment. Even though the word "social" is not as carefully defined in the legislation as it should be, the overall social impact of the application that is being granted by the court will not be detrimental to the local community or to the broader community.

The legislation provides that in certain applications where it can be argued that the social impacts will be minimal or not detrimental to the local community, the licence application cannot but succeed. That reinforces the importance of a social impact assessment process as opposed to a public interest process. Referring to those who oppose this legislation, another first has been created. The Pharmacy Guild, the New South Wales Farmers Association, the Independent Liquor Stores Association, the Optometrists Association and the Australian Dental Association have formed an organisation called Competition Policy Resistance—an alliance of organisations that are not fly-by-night, but reputable, high-standing and professional organisations fighting against the ruthless implementation of national competition policy.

Mr Steve Whan: By the Howard Government.

Mr GEORGE SOURIS: Not by the Howard Government, but by the National Competition Council. In April 1995 the Premier of New South Wales, at the Council of Australian Governments, signed the competition principles agreement. The sole surviving signatory of that agreement is the Premier, Bob Carr, so let us not revisit that issue. Competition Policy Resistance represents small family businesses that have a history and culture of caring for families and providing valuable service to the whole community. If we care about the success of important policy areas, such as the responsible service of alcohol, road safety imperatives and the high standards of health care to be provided by those three industries, and if the services in those industries are good, we should not change them.

What can be done to the national competition policy to preserve good businesses and responsible community industries that are run by families and small businesses? They provided increased protection in the liquor industry and high standards of care in our community. Over the past six years or so I have observed the enormous progress that has been made by the liquor industry in the responsible service of alcohol. Significant improvements and gains have been made in that area. I fear that a deregulation of the liquor industry would result in diminished imperatives. It would be harder to control and adhere to standards and it would be harder to implement those imperatives in the New South Wales. At present those imperatives are being successfully implemented in New South Wales. The Opposition supports the reforms to farm debt mediation. The Opposition reserves its right to move amendments in the Legislative Council to quarantine that part of the bill. If the status quo remains in that industry and in all other industries, the overall social good would be better served than it would be if this bill, in whole or in part, were agreed to. There will be many adverse social impacts if this irresponsible piece of legislation is agreed to.

Mr PAUL McLEAY (Heathcote) [10.06 p.m.]: On 17 February I received an email from a constituent in Helensburgh that reads as follows:

> Dear Mr McLeay,
>
> Thanks for the letter and the petition.
>
> I will not be signing the petition. I reckon if alcohol is a legal commodity, then fair enough, any outlet should be able to sell it.

That constituent is right: alcohol is a legal commodity. However, I do not agree with the next part of his statement. I do not believe that any outlet should be able to sell it. Currently there are 7 hotels, 14 liquor stores

and 12 clubs in my electorate. I believe, like the majority of people in my community, that that is enough. I speak in favour of the National Competition Policy Amendment (Commonwealth Financial Penalties) Bill and focus my remarks on amendments to the Liquor Act and the reasons why I support the social impact assessment process. Most honourable members understand that there is a well-established link between total alcohol consumption, and broad trends of violence and public health problems.

We are familiar with the effect of alcohol on perception and judgment. We know that alcohol tends to lower people's inhibitions against using aggression or violence to achieve their goals. Several Australian studies demonstrate the well-established connection between alcohol and crime of all types. I refer to research conducted by Devery in 1992, Ireland and Thommeny in 1993, and Stevenson, Lind and Weatherburn in 1999. Less is known about the relationship between the manner in which alcohol is regulated for sale and the effect of those choices on our community. However, there is a significant and growing body of research regarding alcohol sales and outlet density. I would like to bring some of that material to the attention of honourable members in the hope that they will take this opportunity to become more familiar with it before they cast a vote on this bill. In my view this research provides a compelling case against any further deregulation of alcohol sales. Several studies have established a relationship between greater outlet density and alcohol-related crimes, including assaults, homicides, motor vehicle crashes and youth violence. A recent study that is available through the United Kingdom Home Office found:

> There is evidence of a link between the number of outlets in an area and the levels of alcohol-related problems, and there is data to suggest that limitation of numbers may have an impact on alleviating problems.

That research concluded that outlet density is a major predictor of public order and crime problems, as well as motor vehicle accidents and health problems. A 1995 study by McKinnon in the United States of America found that the availability of alcohol in off-site alcohol outlets, including liquor stores and stores with beer and wine licences, was substantially related to arrests for public drunkenness and disturbing the peace. Another United States study by Rabow and Watts in 1983 established a relationship between the physical availability of alcohol, different types of outlets and arrests for public intoxication. A 1995 study entitled "The risk of assaultive violence and alcohol availability in Los Angeles county" by Scribner demonstrated a relationship between outlet density and assaults in 74 cities in the County of Los Angeles. A 1995 report links outlet density and homicide rates in 256 American cities. A concurrent study demonstrates a similar relationship between outlet density and homicide rates in New Orleans in 1994 and 1995.

A disturbing 2003 study from the United States of America entitled "A spatial analysis of social disorganization, alcohol access, and rates of child maltreatment in neighbourhoods", by Friesthler, demonstrates a correlation between outlet density and child neglect and abuse. Some people may be tempted to dismiss this research as ignoring underlying social and economic causal factors. But the relationship between the availability of alcohol and crime holds even when researchers controlled for a range of socioeconomic factors. The same 1990 study by Scribner found that high outlet density is geographically associated with high rates of assaultive violence independent of unemployment, ethnicity or race, income, age, city size, household size or proportion of single-parent households. Far from being broad generalisations, these findings are supported by research at the smallest local level of census tracts or block groups, not only at the city or county level.

Most disturbing is Scribner's finding that in a typical city of 50,000 residents with 10 liquor outlets and 570 offences per year each new alcohol retailer was associated with an additional 3.4 violent offences in that community. How does the number of outlets make a difference to alcohol consumption? Intuitively, one might think this argument is the wrong way around. One might argue that density of outlets is simply a response to demand. That is to say, greater numbers of drinkers will attract greater numbers of retailers, rather than the outlets leading to drinking. But this is not a chicken and egg story. In fact, we can say with some certainty that the retailers come first. In 1994 American researchers Wagenaar and Holder studied five American States where market distribution replaced State distribution. In "Changes in Alcohol Consumption Resulting from the Elimination of Retail Wine Monopolies: Results from Five US States", they concluded:

> … the structure of the retail alcohol distribution system has a significant effect on alcohol sales.

Mr Barry O'Farrell: What are you arguing for? Deregulation?

Mr PAUL McLEAY: No, I am arguing in support of the social impact statements. For a start, as any cola company or drug dealer knows, there is no such thing as inelastic demand. Supply matters, availability and price matter, and an intrusive public presence matters. All these things drive increases in consumption. Simply put, the more often we are asked to buy, the more often we do just that. Ask the people who put brightly

coloured children's treats and magazines at the point-of-sale position in a supermarket whether impulse buying is a factor in consumption, or better yet consider the New Zealand example.

On 1 April 1990 the Sale of Liquor Act allowed wine to be sold for the first time in New Zealand supermarkets, grocery stores and dairies. Researchers Wagenaar and Langley used nationwide alcohol sales data from 1983 to 1993 to demonstrate a 17 per cent increase in sales of wine during that period. Sales of fortified wine, distilled spirits and beer did not increase at all over the same period. Sales of other kinds of alcohol did not decline commensurate with the increase in table wine sales. So we can rule out the substitution of wine for other alcoholic beverages. Shoppers in New Zealand buy a lot more alcohol than they used to. Unless thousands of Kiwis have started cellaring unremarkable table wine, we can conclude that there has been a considerable increase in total consumption. A 2003 report on the drinking habits of American college students correlated retail alcohol outlet density with heavy drinking by young people. Again, one might think college kids like to get drunk and retailers are simply meeting demand. However, the authors considered this and noted:

> … if outlet density were a trivial factor, we might not expect it to influence less committed and or experienced drinkers.

Instead, even when they analysed the drinking patterns over time for a range of drinkers, they found that non-binge drinkers were most at risk of adopting risky drinking patterns within the heavily outlet-dense areas. While acknowledging the difficulty of establishing causal relationships, the authors concluded, "It is unlikely that supply followed demand". Any family looking for a suburb in which to raise their kids would agree with that conclusion. Our physical environment makes a difference to our social norms. A walk down Darlinghurst Road would give a young person a very different impression of the regard that our society affords women than a walk of equal length down Macquarie Street. Those impressions influence behaviour and judgement. It is one reason why we censor offensive material in films and on television.

What also emerges from the research is that spontaneity plays a key role in both consumption of alcohol and alcohol-related crime. Opportunity presents best when there is limited supervision and maximum availability. The proliferation of "off-licence" style sales undermines the few controls we have in place with regard to responsible alcohol service and sale. People who make their living from hotels and dedicated liquor stores tend to take their regulatory responsibilities more seriously than those for whom it is a sideline. The Bureau of Crime Statistics and Research concludes in one study, "The Impact of Alcohol Sales on Violent Crime, Property Destruction and Public Disorder" by Weatherburn, that:

> … evidence suggests that alcohol sales through off-licences are associated with both malicious damage to property and offensive behaviour incidents.

The United Kingdom Home Office study noted above further concluded:

> There is also some evidence that different types of outlets may experience different levels and types of alcohol-related crime/disorder.

That is to say, some outlets are less appropriate for the sale of alcohol than others. Off-licence outlets such as service stations may have staff who are less well supervised and less aware of their responsible sales obligations. In short, they are less likely to check for proof of age or refuse a sale to intoxicated people or to someone who they suspect is buying for younger drinkers. A 1999 American study in the city of St Paul—"Should Wine be Sold in Grocery Stores?" by Britt—found that more than 40 per cent of sellers failed to check for identification from underage purchasers. The majority of these outlets were grocery stores. The study concluded that employees in grocery stores might be taking their responsibilities less seriously than bottle shops because selling alcohol was not a primary focus of these businesses.

I recently read of a fascinating case that illustrates the effect of anti-social businesses on a community. During the Los Angeles riots of 1992, 200 alcohol retail outlets were burned to the ground. The South Central Organising Committee, which had long been campaigning for a reduction in outlet numbers, noticed a range of positive changes as a result. There was less street disorder and public drunkenness, less garbage on the streets and less violent crime. The community collected information to challenge the rebuilding of the alcohol stores. Working with researchers at the Los Angeles Police Department [LAPD] and encouraging the community to collect information, it was able to stop all but 35 outlets reopening, and those that reopened had restrictions placed upon them. As a result, epidemiologists from the University of Southern California were able to demonstrate a link between the number of alcohol retail outlets and the incidence of crime. The LAPD reported reductions in crime in those neighbourhoods with fewer outlets.

This bill will make changes to the Liquor Act's licensing provisions to implement a rigorous and comprehensive social impact assessment process that will actually strengthen our communities. In his second reading speech the Premier said:

> Given the substantial harm associated with alcohol abuse and the clear support for tight regulation that came out of the Alcohol Summit, we strongly support the maintenance of a robust liquor regulatory regime.

He continued:

> …this bill will make changes to the Liquor Act's licensing provisions that we think will be sufficient to satisfy the Commonwealth while hopefully maintaining the integrity of our liquor licensing system. The bill will replace the needs test with a rigorous and comprehensive social impact assessment process.

Therefore, there is no reason to believe that greater access to liquor outlets will help our community deal with the harmful effects of problem drinking. In fact, there is every reason to expect that if we do not strengthen the process it will make things significantly worse.

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [10.18 p.m.]: The National Competition Policy Amendments (Commonwealth Financial Penalties) Bill is important legislation. My colleague and friend the honourable member for Upper Hunter more than adequately set the scene for yet another exploration of the Premier's inability to tell the truth and his depiction of himself as a victim rather than a responsible Premier. As the honourable member for Upper Hunter said, the Premier is in his third term and, some might argue, at the height of his powers. However, if one listens to the Premier and examines this legislation one would regard him as impotent.

I have no idea about any medical condition of the Premier but I know that this is an impotent piece of legislation that demonstrates this man's complete lack of backbone. It again demonstrates the Premier's inability to be fair dinkum with the people of New South Wales. This guy is a serial offender. This is the guy who did not support or want the goods and services tax but who was the first person to sign up to it. This is the guy who now seeks to disown the national competition policy but who is its only remaining signatory. This guy is the Helen Demidenko of State politics: his is the hand that signed the paper, but he continues to deny his authorship.

This is the bloke who got us into this trouble, and he issued memo number 95/31. After signing the Council of Australian Governments [COAG] agreement in 1995 the Premier made it clear that not only did he sign it but he was an enthusiastic supporter and knew its consequences. The memo details the fact that there were penalties for non-compliance in the national competition agreement. The memo issued by the Premier put the public sector of New South Wales on notice. This memo and the signature the Premier applied to Paul Keating's COAG document is the reason I say that optometrists, dentists and pharmacists in this State have been sold out. For the Premier to argue otherwise is a complete nonsense.

As my friend the honourable member for Upper Hunter said, the reality is that the agreement signed in 1995 by Bob Carr was meant to be reviewed in 2000. Did the Premier, who issued that memo and clearly understood that penalties would apply in 2000, seek to review the principles upon which this legislation is based? The answer is no. Has the Premier at any stage since 2000 sought to have the principles upon which this legislation is based reviewed? As my friend the honourable member for Upper Hunter said—on a number of occasions, because of the revolving-door approach of Labor members opposite entering and leaving the Chamber in a rude manner—if the Premier had only but tried. For the past couple of years he and the Australian Labor Party have had the numbers on COAG 8:1, and in anyone's terms that is a majority.

[*Interruption*]

I respect the honourable member for Murray-Darling, but the reality is that at the moment a debate is occurring in the other Chamber about whether there ought to be breathalysers in the Chamber. I warn the honourable member for Murray-Darling about coming into the Chamber late at night and behaving in that way.

Mr Neville Newell: What does that mean?

Mr BARRY O'FARRELL: What it means is that he is pissed, he should not be in the Chamber drunk and that is why we are in trouble with the Greens.

Mr Neville Newell: Point of order: Obviously the Deputy Leader of the Opposition has gone a little over the top. I ask him to withdraw his allegations against the honourable member for Murray-Darling.

Mr BARRY O'FARRELL: I suggest that the honourable member for Murray-Darling withdraw from the Chamber because he does members of this Parliament no credit. He has had fair warning. Others have sought to deal with it. I am not prepared to have him interrupt this important debate this evening.

Mr ACTING-SPEAKER (Mr John Mills): Order! I take it that was a contribution to the point of order. I have been in the Chair for the past 50 minutes. I heard much louder interjections from many other members in the Chamber during that period. I advise the Deputy Leader of the Opposition that I intend to uphold the point of order taken by the Parliamentary Secretary. The remarks of the Deputy Leader of the Opposition are not justified. In the 50 minutes that I have been in the Chair—

[*Interruption*]

Mr ACTING-SPEAKER (Mr John Mills): Order! The Deputy Leader of the Opposition will resume his seat.

[*Interruption*]

Mr ACTING-SPEAKER (Mr John Mills): Order! The Deputy Leader of the Opposition will resume his seat. The point of order of the Parliamentary Secretary is upheld. I ask the Deputy Leader of the Opposition to withdraw the offensive remark.

Mr BARRY O'FARRELL: I do not.

Mr ACTING-SPEAKER (Mr John Mills): Order! I repeat my request to the Deputy Leader of the Opposition, under Standing Order 289 and Standing Order 290, that he withdraw the offensive words.

Mr BARRY O'FARRELL: Mr Acting-Speaker, I regret, with due respect to you, that I will not.

[*Debate interrupted.*]

MEMBER NAMED

Mr ACTING-SPEAKER (Mr John Mills): Order! In accordance with the standing orders, I name the honourable member for Ku-ring-gai for using offensive words and refusing to withdraw them.

Mr CARL SCULLY (Smithfield—Minister for Roads, and Minister for Housing) [10.26 p.m.]: I move:

> That the honourable member for Ku-ring-gai be suspended from the service of the House for using offensive words and refusing to withdraw them at the request of the Acting-Speaker.

Mr BARRY O'FARRELL (Ku-ring-gai—Deputy Leader of the Opposition) [10.26 p.m.]: I am not happy with what is going on. I actually like the honourable member for Murray-Darling, but I have to say to you, Mr Acting-Speaker, that it is unacceptable for members to come into this Chamber in an inebriated state. I will put the facts on the record. I will not gild the lily; I will say exactly what happened. I was sitting with the honourable member for Albury earlier during the contribution of the honourable member for Upper Hunter. The honourable member for Murray-Darling came into the Chamber and was clearly in an unsteady state. He sat next to the honourable member for Mount Druitt, behind the honourable member for Strathfield. At one stage he went to sort of jocularly grab the honourable member for Strathfield. She recoiled.

I rose and went and spoke to you, Mr Acting-Speaker, and said that at a time when the Greens have a motion before the upper House about having members breathalysed before they go into the Chamber, it is not sensible to have members in the Chamber in the state that the honourable member for Murray-Darling was in. Mr Acting-Speaker, I put you on notice at that time. I then listened to the honourable member for Heathcote make his contribution on an important bill. I then sought to raise my issues on behalf of pharmacy, dentistry and optometry in relation to that important bill.

If I have one regret about these proceedings and what is about to occur to me, it is that I have let down those associations to whom I wanted to make point after point in relation to this pernicious legislation brought forward by this Premier, who is so fast and loose with the truth. But I was barely three or four minutes into that speech and the honourable member for Murray-Darling started to interject. I responded, I have to say obliquely,

in the first instance. The Parliamentary Secretary then said, "What does that mean?" I said that means that if he is pissed he should not be in the Chamber. Like the Federal Leader of the Opposition I do not recoil from using the Australian vernacular from time to time. I am Australian; I was brought up in Australia. I went to Australian schools and from time to time I use that language.

I was provoked. The reality is, Mr Acting-Speaker, had you done two things this situation would not have arisen. If you had taken my private warning to do something about the honourable member for Murray-Darling, at a time when the Greens have media focus on the behaviour of members of Parliament and their drinking habits, this situation would not have arisen. If you had taken my suggested action—it is recorded on camera that I went up to talk to you—this situation would not have arisen. Secondly, if when I first responded to the honourable member for Murray-Darling those who were sitting around him had ushered him out of the Chamber—as they have now done—this situation would not have arisen.

I understand what the result of this situation will be, and I am not proud of it. But I have to say I am more disgusted at the behaviour of a member of this place who at this time, when the Greens, rightly, have spotlights on all members of Parliament and their drinking habits, comes into this Chamber in that state and seeks to interrupt a member of Parliament. Mr Acting-Speaker, if you had been in control of this Chamber, if you had stopped the sort of interjections that the clown from Bathurst is making at this very moment, if you had stopped the interjections from the honourable member for Murray-Darling, this situation would not have arisen.

I say again this is a matter of regret for me. It is a matter of regret that when the Parliamentary Secretary stood to take his point of order, out of party allegiance and with complete disregard to the discussion that you and I had earlier, you decided to rule in his favour. You have brought this on; you have brought this to the public attention. You are making an issue of all members of Parliament at a time when the Greens have us under the gun about this precise issue.

I hope the Labor Party is happy. I hope the Labor Party Whip is happy. If he had been doing a proper job, this man would never have been in the Chamber. Today we had a debate about the salary of the Deputy-Speaker. Mr Acting-Speaker, that was not you, but I have to say that I wish the Deputy-Speaker, the honourable member for Maitland, was in the chair because I suspect he would have handled this matter differently. I understand I am about to be ejected. I apologise again to pharmacy, to dentistry and to optometry, but I will not stand in this place and cop abuse from people who are drunk in Parliament.

Question—That the honourable member for Ku-ring-gai be suspended from the service of the House—put.

The House divided.

Ayes, 45

Ms Allan	Mr Iemma	Mr Price
Mr Amery	Ms Judge	Dr Refshauge
Ms Andrews	Ms Keneally	Mr Sartor
Ms Beamer	Mr Lynch	Mr Scully
Mr Black	Mr McBride	Mr Shearan
Mr Brown	Mr McLeay	Mr Stewart
Ms Burney	Ms Meagher	Mr Tripodi
Mr Collier	Ms Megarrity	Mr Watkins
Mr Corrigan	Mr Mills	Mr West
Ms D'Amore	Mr Morris	Mr Whan
Mr Debus	Mr Newell	Mr Yeadon
Mr Gaudry	Ms Nori	
Mr Greene	Mr Orkopoulos	
Ms Hay	Mrs Paluzzano	*Tellers,*
Mr Hickey	Mr Pearce	Mr Crittenden
Mr Hunter	Mrs Perry	Mr Martin

Noes, 27

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

Pairs

Mr Bartlett	Mr Brogden
Ms Saliba	Mr Fraser

Question resolved in the affirmative.

Motion agreed to.

Mr SPEAKER: Order! This being the first occasion during the session upon which the honourable member for Ku-ring-gai has been suspended, his suspension will be for two sitting days.

[*The honourable member for Ku-ring-gai left the Chamber, accompanied by the Deputy Serjeant-at-Arms.*]

NATIONAL COMPETITION POLICY AMENDMENTS (COMMONWEALTH FINANCIAL PENALTIES) BILL

Second Reading

Debate called on, and adjourned on motion by Mr Carl Scully.

BILLS RETURNED

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

Partnership Amendment (Venture Capital Funds) Bill
Superannuation Administration Amendment Bill
Strata Schemes Management Amendment Bill

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

Education Amendment (Non-Government Schools Registration) Bill

Consideration of amendment deferred.

SPECIAL ADJOURNMENT

Motion by Mr Carl Scully agreed to:

That the House at its rising this day do adjourn until Thursday 11 March 2004 at 10.00 a.m.

The House adjourned at 10.45 p.m. until Thursday 11 March 2004 at 10.00 a.m.