

LEGISLATIVE ASSEMBLY

Wednesday 8 May 2002

Mr Speaker (The Hon. John Henry Murray) took the chair at 10.00 a.m.

Mr Speaker offered the Prayer.

AUDIT OFFICE

Report

Mr Speaker, in accordance with section 38E of the Public Finance and Audit Act 1983, tabled the Performance Audit Report entitled "NSW Agriculture—Managing Animal Disease Emergencies", dated May 2002.

Ordered to be printed.

COASTAL PROTECTION AMENDMENT BILL

Second Reading

Debate resumed from 7 May.

Mr HUMPHERSON (Davidson) [10.02 a.m.]: The Opposition will not oppose the bill, which is motivated primarily by a desire to protect the New South Wales coastline. Our coastline is one of the great features of the State. It is highly valued and embraced with great affection by most members of our community. Our beaches, headlands and adjoining bushland are an important part of our environment, which many of us enjoy as part of our normal lives. Because urban development can cause adverse impacts and changes to the environment, we must exercise great caution with any such development. Obviously, much of our coastline has changed over the past couple of hundred years, but where there is an opportunity to preserve, protect and enhance these assets we need to give careful consideration to doing that.

This bill, though it goes a small way in that direction, in my view does not go far enough. In many respects, unfortunately, it is too late because there have been some adverse developments under the Government, despite the rhetoric and promises of Mr Carr made before he became Premier in 1995. He has left the door open for a number of excessive and inappropriate developments up and down our coastline. It is clear that substantial developments close to our beaches and headlands and high-rise development in close proximity to the coastline have adverse impacts on the aesthetics and amenity of our beaches and waterways. High-rise buildings in close proximity to beaches shade those beaches and affect the recreational enjoyment that many of our citizens derive from our beaches.

The close proximity of many buildings destroys a sense of openness and natural enjoyment of our beaches and headlands. It is desirable to substantially constrain development close to the coast and bulky high-rise development in the coastal vicinity. The native habitat of our coastline can be adversely impacted by effluent in particular but also by stormwater. Vegetation loss affects not just habitat but changes the aesthetics of the coastline and an unbuilt environment that we hold in great stead. Of course, we want to avoid any impact on fauna of any form on our coast that could be caused by excessive or inappropriate further development.

The Liberal-National Coalition is committed to preserving and enhancing the New South Wales coastline. I reiterate what previous shadow Ministers have said, for example, about canal developments. There have been proposals for canal developments, particularly in the northern section of the coastline of New South Wales. However, I think canal developments are now a thing of the past. They are inappropriate when close to estuaries. They are inappropriate particularly in the south of Port Macquarie where excavation carried out below sea level results in acid sulfate soils leaching into estuaries, impacting on breeding fish stocks and oysters, causing damage to the natural environment as well as to the economies of some in the fishing industry. The Coalition maintains its strong opposition to canal developments up and down the New South Wales coast.

I have mentioned that this legislation is in some respects too late. There are a number of examples of this in many coastal areas. Some of those have been drawn to my attention in the month or so since I took on

responsibility for the Opposition for planning and environment. The Carr Government approved the Casuarina Beach development on the far north coast, which is literally within a dune area. There was substantial community opposition to a development at Sandon Point, Wollongong. A development in the Cronulla area has been an issue on which the honourable member for Cronulla has been particularly vocal. Excessive high-rise development has taken place in the Premier's electorate at the Prince Henry Hospital site. Substantial high-rise coastal development that is visible has been approved although it is completely inappropriate for the location.

Overdevelopment along the coastline over the past seven years has been driven largely by an ideology and a deliberate Government policy to constrain urban development and to accommodate growing populations within existing urbanised areas. In Sydney in particular that is forcing a compact city policy, with high-rise medium density developments taking place close to our coastal strip. We see evidence of strong pressure for more development and more housing in areas such as Dee Why—not just over the past seven years, but certainly stronger in the past seven years. Those areas have had to accommodate far too much development, and that is changing the character of the area at an excessive rate.

The nature of some developments that are occurring will change irreversibly some parts of our northern beaches. Those sorts of developments change not only the aesthetics of suburbs such as Dee Why, but impact on some waterways, such as lagoons, and on our northern beaches. The extent of overdevelopment being forced on communities in coastal Sydney in particular and also on the northern beaches is of grave concern. That overdevelopment has been a deliberate strategy on the part of the Carr Government.

This bill does not go far enough. I welcome the fact that it includes the coastline from Newcastle to Wollongong and that areas in Sydney and on the Central Coast will no longer be excluded. The State's coastline is continuous and it is appropriate that coastal protection measures should apply to the entire coast. However, there are some serious omissions from the bill, including the strange omission of Sydney Harbour and Botany Bay. If we genuinely wish to protect our coastline, we must protect those two significant coastal estuaries.

The bill is not excessively onerous for local government and makes no substantial steps to erect serious barriers to development. It makes provision for coastal management plans that councils do not have to prepare unless directed to do so at the Minister's discretion. If councils do not wish to prepare those plans and the Minister does not direct them to do so, coastal management plans will not be put in place and the protection that the bill affords will not be offered. The bill should oblige councils, in particular, to put in place coastal management plans and thus erect serious barriers to excessive exploitation and development of our coastline.

If the Government had any real desire to protect our harbour coastline, the bill would apply to the Quarantine Station and, if applied appropriately, would preclude the development proposed for the site. If that development goes ahead, thousands of people will trample the breeding habitat of Sydney Harbour's last 75 breeding pairs of fairy penguins. That area has been designated as critical habitat yet the Government persists in its intention to lease the Quarantine Station for international tourism purposes. The primary entrance to the station will be via the beaches that constitute the fairy penguins' habitat. The two aims are completely incompatible: the Government cannot protect the fairy penguins and their habitat and allow such development in such a critical part of North Head. Callan Park has also attracted much attention in the past 12 months or so, with excessive development proposed for what is currently predominantly open space on the Sydney Harbour foreshore.

It is inexplicable that these issues have not been addressed earlier and that the bill does not go further. Why is the Government so reluctant to move in this direction? Why does the bill not include more areas and why does it not apply more pressure on local government to put in place coastal management plans? It would be regrettable if there were any nexus between the Government's desire for overdevelopment and its desire to improve its relationship with developers. Inappropriate development is at odds with community expectations. People are increasingly rejecting the Government's compact city policy. There is enormous concern about the substantial number of new developments, many of them situated near the coast. Responsibility for about 1,200 development decisions has been taken from local councils. That responsibility has been put in the hands of the Minister for Planning, who will make those planning decisions regardless of the impact on our coastline and the effect on and views of local communities across the State, and particularly along the coast.

I would be very disappointed if a strong nexus were proven between the increased overdevelopment that we have observed and Labor Party deals with developers. We are concerned about the link between the Labor Party and its Ministers and developers and inappropriate development. I hope that the exclusion of Botany Bay from this bill is not related in any way to recent events at Rockdale City Council. Has the Labor

Party—the head office at Sussex Street, the party's general secretary, or Ministers such as John Della Bosca—been involved in facilitating overdevelopment in Rockdale? Have they been involved in facilitating overdevelopment at the expense of the community for the purpose of securing financial gain for the Labor Party and generating campaign funds for the next election? To what extent is overdevelopment occurring in Rockdale, community amenity being sacrificed, extra construction and the erection of higher buildings being approved purely to satisfy the Labor Party's insatiable desire to raise funds? We will obviously hear far more about that issue in coming days. If that is the reason why Botany Bay has been excluded from the Coastal Protection Act, it will become clear very soon.

The people of New South Wales do not want to see overdevelopment along our coast. They do not want to see excessive building heights approved in contravention of existing development controls. They do not want to see that occurring simply because the Labor Party wishes to develop and enhance its shady relationship with some developers and increase the nexus between that relationship and its approval of an increasing number of developments in recent years. The Liberal and National parties are totally committed to protecting our coastline, whether it is the North Coast, the coastline around Sydney, Sydney Harbour, Botany Bay or the South Coast. In opposition and in government we will take a strong stand against increased building heights and excessive, bulky developments in close proximity to beaches and headlands.

Mr CAMPBELL (Keira) [10.17 a.m.]: I support the Coastal Protection Amendment Bill. However, after listening to the debate last evening and this morning, I wonder about the Coalition's commitment to this legislation. Last night the honourable member for Ballina and the honourable member for Coffs Harbour said that the bill puts onerous responsibilities on local government and that it is tough and unfair to local councils. However, the honourable member for Davidson has claimed that the bill gives no real directions to local government, is too soft and needs to go further. As usual there are conflicting views within the Coalition about important environmental issues and I am certain that Parliament is none the wiser about its policy direction in this regard. It is equally clear that the community has no clue either about the direction of the Coalition's environment policy. This Government has a strong view about the environment and a strong policy, enshrined in this bill, which was formulated after a great deal of consultation. The objects of the bill are:

- (a) to amend the *Coastal Protection Act 1979*:
 - (i) to redefine the land that comprises the coastal zone, and
 - (ii) to require local government councils within the coastal zone to prepare coastal management plans if directed to do so by the Minister, and
 - (iii) to modify the doctrine of erosion and accretion, and
- (b) to amend the *Crown Lands Act 1989* with respect to easements for public access over foreshore land within the coastal zone.

I refer to that aspect in schedule 1 of the bill that amends the Coastal Protection Act 1979, and particularly the definition of the coastal zone. Items [1] and [2] of schedule 1 amend the Act with respect to the definition of the coastal zone. Currently under the Act, the urban regions of Sydney, Newcastle, Illawarra and the Central Coast, extending from Newcastle in the north to Shellharbour in the south, are excluded from the coastal zone. A consequence of this amending bill is that the excluded areas will comprise only those parts of the local government areas of Pittwater, Warringah, Manly, Woollahra, Waverley, Randwick and Sutherland that are not and are not likely to be affected by, and that do not and are not likely to affect coastal processes. It will include coastal wave and wind action, and the waters of Sydney Harbour and Botany Bay.

The significance of those provisions for my electorate is that the Illawarra, Wollongong and Shellharbour local government areas will now be in the coastal zone in accordance with the Coastal Protection Act 1979 and will take on all responsibilities that go with that inclusion. There is a long-held view in my electorate that that should be the case. Local councils have taken account of various coastal policies but have not necessarily been required to do so in the past. These provisions clarify the responsibility and the position held by my electorate in the coastal zone. I am quite pleased about that and I know that many people in the Kiera electorate will welcome the certainty of that provision and will be satisfied with the certainty that this amending bill brings. It is also important to make the point that new section 55B provides for the preparation of coastal management plans. The provision states:

A council whose area, or part of whose area, is included within the coastal zone and who is directed to do so by the Minister must make a coastal management plan in accordance with this Part.

New section 55C, "Matters to be dealt with in coastal management plans", states:

- (1) A coastal management plan must make provision for:
 - (a) protecting and preserving beach environments and beach amenity, and
 - (b) emergency actions of the kind that may be carried out under the *State Emergency and Rescue Management Act 1989*, or otherwise, during periods of beach erosion, including the carrying out of related works, such as works for the protection of property affected or likely to be affected by beach erosion, where beach corrosion occurs through storm activity or an extreme or irregular event, and
 - (c) ensuring continuing and undiminished public access to beaches, headlands and waterways, particularly where public access is threatened or affected by accretion.
- (2) A coastal management plan may recommend the creation of easements under Division 5 of Part 4 of the *Crown Lands Act 1989*.

It is important to note that this provision imposes a responsibility for the preparation of emergency plans so that what has happened along the coastline is not repeated in the future. At Wollongong's main beach in the 1960s, all sorts of unconsolidated fill, which included who knows what, was dumped in the foreshore to prevent erosion during a storm, and it was never removed. No-one quite knows what is in the sand dunes, and from time to time all types of things find their way to the surface. It is important to note that local councils will be required to know the types of material that may be used and the types of activities that may be undertaken during an emergency to maintain a beach, and how to deal with that afterwards. That is most important.

I know that everyone will appreciate that subparagraph (2) of new section 55C provides an opportunity for easements to be created to maintain public access along the foreshore. People are becoming more acutely aware of the importance of ensuring that public access to beaches is maintained and I am confident that people will strongly support that provision. It is also interesting to note that the bill has been thoroughly reviewed and strongly supported by the Coastal Council of New South Wales. Draft provisions of the bill were commended to the former Minister for Land and Water Conservation, and the current Minister, Mr Aquilina, picked up this legislation and with vigour and interest has ensured its progress to completion—and rightly so, given its impact on this State. I congratulate the Coastal Council of New South Wales, which is led by Professor Bruce Thom, and the Minister and his staff on their efforts in the preparation of this bill. I strongly commend the bill to the House.

Mr ORKOPOULOS (Swansea) [10.24 a.m.]: I support the Coastal Protection Amendment Bill and on behalf of many people in the Hunter region and in the Central Coast area express gratitude for the inclusion of those areas in the coastal zone after many years of lobbying. As a councillor of the Lake Macquarie City Council, I recall when this innovative legislation was first mooted five years ago. At that time Lake Macquarie was not in the coastal zone and was therefore not subject to the stringent measures of the Coastal Protection Act 1979. At that time the council was told that it would have to consider any developments along its part of the coastline in accordance with the principles applying to the coastal zone, but there is nothing better than being included rather than being considered.

During my speech I will deal in greater detail with some developments in coastline areas south of Swansea where a company, Lake Coal, has purchased three coalmines, a washery, and freehold coastal and foreshore land. Lake Coal has 20 per cent equity in Catherine Hill Bay Development Pty Ltd, which is the owner of the former BHP Billiton's land on the coast. Catherine Hill Bay Development Pty Ltd is owned by a Sydney developer, Rosecorp. There is one thing that needs to be made clear. As a result of this legislation and the attitude adopted by the Lake Macquarie City Council during the local environment plan [LEP] process, this land will be secured for the enjoyment of the people of New South Wales and Australians for many years to come.

On previous occasions I have indicated my total opposition to coastal and foreshore development. I have come to that view because the population of the Lake Macquarie area and its catchment is 300,000, and it is environmentally unsustainable for us to have further housing development. Moreover, there is the proposed development by Lensworth, north of the land owned by Catherine Hill Bay Developments Pty Ltd. It has successfully negotiated an LEP, which has been signed off by the Minister and allows potentially for 5,000 new residents to become part of the Swansea electorate along the coast and the lake's foreshore, after approximately 13 years of battle between the community, the council and various owners. The time has come to draw a line in the sand and say that we do not want any further development. I place great faith in this legislation fulfilling that community goal.

The land purchased by Catherine Hill Bay Development Pty Ltd is strategically located near the southern end of Wallarah peninsula and abuts the eastern side of the Pacific Highway at the Munmorah State Recreation Area. It is a significant area in New South Wales and especially the Central Coast and Hunter. Most of the land in the Wyong local government area is covered by development control plan number 13, which has established an interim conservation zone along the northern boundary of the local government area at that point. The land in the Lake Macquarie local government area is covered by the draft LEP 2001, which again will be reviewed by the council in June after a period of public exhibition.

Most of the land lying east of the Pacific Highway has a draft zoning of 7 (1) conservation (primary), which is the highest conservation zone that can be applied to privately owned land and is within the proposed heritage conservation area. Significant blocks of land purchased by Catherine Hill Bay Developments Pty Ltd, including those currently contained in the coal preparation plant, Moonee Colliery and the coal stockpile, are zoned for acquisition by the Government. A combination of the Government's coastal policy, this bill in particular, and the local environment and development control plans of both Wyong Shire Council and Lake Macquarie City Council will enable us to save what is left of our precious coastline and ensure that further unwanted coastal development does not occur for generations. I believe the people of New South Wales will thank us.

Mr McBRIDE (The Entrance) [10.31 a.m.]: This legislation will help to protect the heritage of our State both now and well into the future. The Coastal Protection Amendment Bill will amend the Coastal Protection Act 1979 to redefine the land that comprises the coastal zone to require local government councils within the coastal zone to prepare coastal management plans, if directed so by the Minister, and to modify the doctrine of erosion and accretion. Schedule 1 seeks to amend the Act with respect to the definition of the coastal zone. Currently under the Act the urban regions of Sydney, Newcastle, Illawarra and Central Coast, extending from Newcastle in the north to Shellharbour in the south, are excluded from the coastal zone. As a consequence of the amendments, the areas to be excluded will comprise only those parts of the local government areas of Pittwater, Manly, Warringah, Woollahra, Waverley, Randwick and Sutherland that are not and are not likely to be affected by, and do not and are not likely to affect, coastal processes, including coastal wave and wind action, and also the waters of Sydney harbour.

I have reservations about that provision because the intent of the bill is to protect the heritage of our State and the lifestyle and beach experience that is unique to Australia. So many people live on the east coast, especially in New South Wales, that these protective measures need to be extended to the areas mentioned, and exclusions should not be made. Proposed section 55E requires a council to give public notice of and to publicly exhibit a draft coastal management plan. Major storms over the last 30 years and more recently in my electorate have caused major beach erosion. For example, North Entrance beach sustained major erosions in 1974, 1978 and 1998.

I remember back in 1998 going to North Entrance beach to inspect problems similar to those that other speakers have spoken about. Erosion had eaten away the beach and exposed ad hoc and unprofessional remedial works carried out by councils or landowners that could cause further long-term damage to the site. At the end of the walkway to the beach I had to jump down a two-metre drop to the sand. North Entrance beach had been eroded right up to and in some cases inside nearby property boundaries. I walked along the beach and inspected the site. Exposed remedial works, by unknown parties, potentially could cause further negative impact on the beach.

I am told that there was sand at The Entrance beach 100 years ago and that the sand comes and goes. On two occasions since I was elected as local member the council has been persuaded to put sand back on the beach, and on one occasion sand dunes were created and planted, but they disappeared within 12 months. Some areas of sand have lasted, but in other areas of that beach it keeps disappearing. Work had been carried out on that site. Locals claim that the mini-wave energy wall caused eddying at the southern end of the beach, and that eddying continues to erode the beach. Many people in that community are deeply concerned that that work, undertaken in the 1930s, caused the problem.

Major storms in 1974 eroded the Wamberal beach foreshore and created drops of three to four metres to the sand level. Reports on television and elsewhere in the media indicated that ad hoc, unregulated and unstructured work by council had not been properly engineered, and that boulders and other available loose material had been used in an attempt to stop erosion in front of houses. Subsequent investigations indicated that within 50 to 100 years all of that beachfront, if left in that condition, would be eroded and houses would be left sitting on piers surrounded by water. That might be an attractive option to some people. Council passed new

regulations following that storm. Houses will have to sit on piles sunk 20 metres into the sand. One prediction based on engineering possibilities is that over the next 50 to 100 years those beaches and the sandhills behind them could be totally eroded, and that would create an interesting situation in Wamberal. I understand that what may happen there could create a problem for a member of this House.

In 1998 major unregulated work was undertaken at Collaroy and Narrabeen. I have a longstanding interest in this issue because years ago in another life I actually worked in the coastal engineering branch of the Public Works Department. I remember going out while doing the north shore survey and associated work on our beaches to look at that area. I have had a varied career. As my wife points out, this is the longest job I have ever had in my life. She is very pleased for me to continue in it because she knows where I am on a Monday.

Erosion is a major issue both locally and internationally. California has suffered major beach erosion over the past 30 to 40 years. Malibu beach and another beach on the Californian coastline have disappeared. Erosion is also a major problem on the east coast of the United States. Sceptics doubt this happens and think that beach sand does not move much and is stable, but any person who takes any interest in the issue knows that a beach changes significantly over time. When I was about eight years old there used to be a pier in the centre of Bondi Beach, and I remember seeing exposed piles and watching seawater running up to, hitting and lapping over the promenade wall. When I was 18 years old and working for Waverley council I was shovelling sand off the promenade. The beach level at Bondi Beach now is almost as high as the promenade. Experts talk about seven-year cycles, 21-year cycles and 50-year cycles. Beach sand does move—it is moveable feast.

This measure is essential for the long-term protection of our State's heritage. Access to our waterfront land is another issue. Local residents closed off Seven Shillings Beach in Woollahra by chaining up the pedestrian access gate and saying, "This does not belong to you. It belongs to us and is part of our waterfront." Boundaries that are defined by reference to a mean high-water mark afford public access to beaches in that area. As I said earlier, we cannot ignore the fact that areas such as Sydney Harbour have been excluded from such definitions. Historically, a lot of people have been denied access to certain areas because they have not been defined as being available to the public.

I refer also to the important issue of easements. In other western developed countries people cannot go onto—and they do not have access to—beaches without paying for it. They might be able to stand on a rock somewhere on a beach without paying for it. However, in Australia we have an egalitarian culture in that we believe that the beaches belong to everyone; they are part of our culture and our history. I hope that that culture remains for the rest of time. As a member representing the Central Coast I believe that this legislation is important for the Central Coast. It is also an important issue for our State and this country.

Mr GAUDRY (Newcastle—Parliamentary Secretary) [10.41 a.m.]: As the member for Newcastle and, more particularly, as the parliamentary representative on the Coastal Council, it is with great pleasure that I speak in debate today on the Coastal Protection Amendment Bill. I take this opportunity to congratulate the Minister on introducing the Coastal Protection Amendment Bill, which is part of a comprehensive package of government reforms to the Coastal Protection Act. The Government recognises the importance of the coast to the people of New South Wales. It is a wonderful recreational resource and an outstanding place in which to live and work.

The proposed amendments take into account the fact that, over the next two decades or more, there will be a 60 per cent increase in coastal population. We must plan for that increase and take into account—as the honourable member for The Entrance just said—that Australians love the coast. They love to live on the coast, pursue recreational activities and develop coastal areas. However, some of those issues are in conflict with the capacity of the environment to sustain coastal development. I give as examples water quality, water management, the availability of water, the potential destruction of habitat and the unsustainability of some coastal development.

In response to that the Government has introduced a comprehensive coastal assessment package and has allocated \$11.7 million to implement its initiatives. That package is designed to change coastal protection, State environmental planning policies and coastal water management strategies. It is also designed to extend and update coastal policy and develop a new coastal protection manual. It is appropriate when mentioning these reforms to acknowledge the presence in the House today of Professor Bruce Thom, Chair of the Coastal Council. The Coastal Council of New South Wales is an advisory body to the Government on its coastal policy. The valuable role that that council has played has led to these reforms today. It has also brought to the attention of the Government the need for comprehensive coastal assessment.

Such assessment will lead in the future to the environmentally and ecologically sustainable development of the New South Wales coast. If we are to have balanced development policy we must take into account the environmental needs of the coast and the social needs of each community. It is appropriate today to thank the committee of the Coastal Council for the work that it has done and for its expert input during the period of its existence. This legislation was introduced as a result of the former Minister for the Environment, the Hon. Richard Amery, seeking to review problems on the New South Wales coast and update the management of our beaches. That review was triggered as a result of emergency action taken in August 1998 in response to storm wave erosion on beaches such as the Collaroy-Narrabeen beach—an issue that was referred to earlier in debate by other speakers.

At that time works were carried out, without authorisation, in order to protect property. A range of products such as concrete and rock were used to construct emergency walls. However, it resulted in destroying the amenity of the beach and it afforded properties less protection. It is well-known that hard rock walls, rather than absorbing the energy of waves, refract and cause further erosion. So rather than affording long-term protection unauthorised works often lead to future problems for the very properties that they are intended to protect. This bill contains some vital amendments for the protection of persons and property along the coast. The bill will also afford people free and unfettered access to our beaches.

Those honourable members who participated in debate today pointed out clearly that Australia has a large coastal population. We all value our beaches and we need to protect them as a public amenity. I mention in passing that last Thursday evening I had great pleasure in attending the Clean Beach Challenge awards in Sydney. Austinmer Beach received the award for being the cleanest beach in New South Wales and Nobby's Beach was the runner up. On that night the two sister cities of Newcastle and Wollongong celebrated the fact that they had that high level of civic pride in their beaches. We focus on all our beaches but we must concern ourselves with their long-term protection and maintenance, which is why this bill is important. Under new section 55C councils will now be directed, if necessary, to produce coastal management plans which must make provision for:

- (a) protecting and preserving beach environments and beach amenity, and
- (b) emergency actions of the kind that may be carried out under the *State Emergency and Rescue Management Act 1989*, or otherwise, during periods of beach erosion, including the carrying out of related works, such as works for the protection of property affected or likely to be affected by beach erosion, where beach erosion occurs through storm activity or an extreme or irregular event, and
- (c) ensuring continuing and undiminished public access to beaches, headlands and waterways, particularly where public access is threatened or affected by accretion.

I know that the honourable member for Peats, when speaking in debate on this bill, would have clearly referred to the issue of beach accretion and the problems that that has caused. Under the present legislation people have exerted their right to build walls and extend their land, thus denying the public access to beaches. As a member of the Coastal Council I have travelled with Professor Thom virtually from the Queensland border to the Victorian border looking at issues common to the coast. We are experiencing a complete change in climate which is causing a series of east coast storms. In the past two or three years in particular they have created real problems but it is not a new issue. It was mentioned that in 1974 a large storm caused destructive erosive actions up and down east coast beaches, nowhere more than in the suburb of Stockton with the sinking of the *Sygnia*. There was also loss of public property and beach amenity.

A similar storm on Mother's Day 1997 resulted in the destruction of property including the North Stockton Surf Club, the Stockton Surf Club and the memorial on the beach. There was concern that erosion would take out Mitchell Street at Stockton. A hard rock seawall had been constructed at Stockton Beach to prevent erosion. However, as I mentioned earlier, the seawall has created erosive action which has resulted in loss of much of the beach in front of the seawall. We are dealing with those issues. A comprehensive coastal management plan and an emergency plan are needed. In the interim, while we are developing a comprehensive coastal management plan or upgrading our management plan, the emergency plan should be well co-ordinated with the State Emergency Service so that people can live in confidence that if a storm event occurs all steps will be in place to protect the beach and the amenity of the beach.

It is an important aspect of the bill to put in place a well set out planning process so that what happened at Collaroy-Narrabeen or Belongil Beach at Byron Bay is not repeated. This is not just an issue to do with storms; it involves past planning decisions which have not taken into account the cyclical nature of storm events, accretion and erosive action on beaches, and certainly not what we are now concerned about, potential

sea level rise over time and the indications of climate change. We need well co-ordinated emergency management plans under the coastal management plans of councils. The Coastal Council and the Government are dedicated to ensuring that local councils have the ability and backup to develop those plans. I commend officers of the Coastal Council, who spend a lot of time visiting councils and talking with them about coastal policy and its implementation by councils.

The Coastal Division of the Department of Land and Water Conservation is deeply involved in the updating of our coastal management strategies and plans. I have the privilege of having that division based in Newcastle. I know how enthusiastically it is undertaking this work. This important bill will provide certainty in the preparation for erosive events on beaches. It is giving leadership to local councils in the development of their coastal management and estuary management plans. It provides the legislative power to ensure that the plans are put into effect and that our beaches are kept as a safe amenity accessible for present and future generations. I commend the amendments to the House.

Debate adjourned on motion by Mr Oakeshott.

LOCAL GOVERNMENT AMENDMENT (GRAFFITI) BILL

Second Reading

Debate resumed from 7 May.

Mr RICHARDSON (The Hills) [10.56 a.m.]: The Opposition does not intend to oppose the bill but I will point out some concerns that we have with it. Those concerns were anticipated by the Minister in his second reading speech. Given that he understood the issues and concerns that councils would have, particularly in relation to funding what he is proposing, I am surprised that he has come to the House with the bill in its present form. The bill seeks to extend councils' powers to remove graffiti from private property by allowing them to remove graffiti from places visible from public places without seeking the property owners' consent. That builds on the bill introduced last year which was designed to facilitate the creation of agreements between councils and private property owners to remove graffiti on an ongoing basis. Implicit in the legislation was a suggestion that councils would probably partly fund such agreements. Councils were given the ability to remove graffiti expeditiously without going through a protracted process. The Minister has spoken about the benefits of removing graffiti within 72 hours so that it could be removed easily before the paint is fully set.

Graffitiists receive vicarious enjoyment from thinking that passers-by will admire their handiwork and their tags. The psychology of graffitiists has been well studied and documented. In a paper I wrote on combating graffiti in 1994 when the Coalition was in government I advocated rapid removal of graffiti. From that point of view the Minister is on the money and we would not oppose any efforts to remove graffiti. Last year we were sceptical about what the Minister was really attempting to achieve through the previous bill. We were concerned about the cost aspect, as we are in relation to the bill currently before the House, concerned about the unrealistic expectations that would be raised within the community that councils would be able to clean up graffiti just about everywhere.

I spoke to Mr Robert Ball, the General Manager of Hornsby Shire Council at the time and he was very concerned about those issues. Honourable members will recall that under the previous bill councils were required to enter into an agreement with property owners to remove graffiti and it allowed them to part fund the removal. Under the previous bill councils had to pass a resolution for a program to contribute financial assistance for the removal of graffiti under section 356 (1) of the Act. This bill goes even further. It will allow councils to remove graffiti that is visible and accessible from a public place without council having to enter the property. That is a whole new ball game, and councils are justifiably concerned. In his second reading speech the Minister said:

I am sure the Opposition will endeavour to criticise this bill by raising the question of unfunded mandate.

So the Minister had anticipated the major flaw in the legislation. He went on to say:

It should be remembered that these provisions confer an ability on councils to remove graffiti—not an obligation.

The Minister suggested that, given that we elect 1,700 councillors in New South Wales every four years at a cost of \$15 million, it is appropriate that councils determine how their money should be spent. That is extremely generous of the Minister; he is very good at spending councils' money for them. However, the difficulty is that

rate-pegging has been in place in this State for many years and there is only so much money to go around. This morning I discussed this issue with David Mead, the General Manager of Baulkham Hills Shire Council. He told me that this year the council had suffered a 100 per cent increase in workers compensation costs—that is, it had paid out an additional \$600,000—without a significant increase in claims.

The council also had a 45 per cent increase in public liability insurance costs, which have gone up from \$275,000 to \$400,000. We are talking about an additional \$725,000 in insurance costs, and yet the Minister expects council to fund the removal of graffiti from private property. As the Minister said, there is no obligation on councils to do so, but there will be an expectation by the community that if councils are able to remove unsightly graffiti from the wall of a real estate agent, for example, perhaps next to a car park or alongside an adjoining property fence, they should do so. Community pressure will ultimately force councils to carry out work for which they do not have the funds. However, the problems go a little beyond that. In his second reading speech the Minister said:

As council will not need to notify the owner or occupier or obtain their prior consent, particular care will be required to ensure that the means used to remove the graffiti does not cause damage to the surface bearing the graffiti.

So we have the absurd situation where council will, out of the goodness of its heart, go to the property and remove graffiti from a wall because people have complained about it, and it might end up stripping the paint off the wall. It should be remembered that council does not need to notify the property owner that it is going to remove the graffiti. The Minister conceded:

For instance, painted surfaces may prove difficult to restore, as it will not be possible to always match the colour of the surface. In those situations the owner or occupier may wish to repaint the surface once council has removed the graffiti.

It seems strange that one should go through the process of firstly blasting off the graffiti and then repainting the wall. With a painted wall, the appropriate way of removing the graffiti may be not to blast it off but to simply paint over it. Yet, here we have a two-pronged strategy. Under the bill councils will remove the graffiti, probably unnecessarily, and then, because the paintwork on that wall will have been damaged, the property owner will have to repaint it. No doubt the property owner will be grateful to council for having given him the opportunity to do so!

I believe that that aspect deserves the Government's further consideration. It seems that it creates an unnecessary series of steps in the removal of graffiti that a different strategy, including consultation between the council and property owner, might well have avoided. However, under section 67B (4) a council is only required to notify the owner or occupier of the land concerned within a reasonable period after the work has been carried out, which is an extraordinary state of affairs. Another issue that councils would clearly be concerned about is that under section 67B (5) a council must pay compensation for any damage caused by it in carrying out graffiti removal work. In his second reading speech the Minister said:

... the owner or occupier may wish to repaint the surface once council has removed the graffiti. This is considered to be reasonable given that the costs associated with removal of the graffiti will be borne by council.

Clearly, the stage is set for considerable conflict over who ought to pay for the repainting of the wall after council has done its best with its graffiti blaster. I do not believe that this provision was well considered, as indeed the previous bill was not well considered. The real issue here is preventing the graffiti from occurring in the first place. Members would be aware that I have a bill before the House that would force retailers to lock up spray paint cans or keep them behind an attended counter. In my view, that would significantly reduce the opportunities for graffitiists to gain access to their tools of trade—90 per cent of the cans they use are stolen—and thereby would significantly reduce the incidence of graffiti in the community.

One might say that that is trailblazing legislation. It certainly was trailblazing legislation when I introduced it in 1995, but it is no longer trailblazing legislation because last year the South Australian Government, with the full support of the Labor Opposition, passed a similar bill. It also banned the sale of spray cans to minors, which is reasonable given that, according to statistics provided in a Bureau of Crime Statistics and Research [BOCSAR] report, something like 85 per cent of identified graffitiists are under the age of 20. Is it appropriate for the Government to once again shift the cost to local government and to impose the unrealistic expectation on councils that they will have to clean up graffiti that occurs virtually anywhere within their area? Or is it more appropriate to stop graffiti occurring at its source, to make it more difficult for graffitiists to ply their trade? The Minister and the Government have not addressed that issue. [*Extension of time agreed to.*]

A couple of years ago the Premier had some half-baked proposals to ban the sale of spray paint cans to those aged under 16 and also to put whistles in the nozzles of spray cans, which I found quite bizarre. Those

plans have not been proceeded with. The additional cost to spray paint manufacturers, who complained about my proposed bill because they thought they would lose sales because of it, would be extreme. A large number of people might not want to buy spray paint cans, because they and their neighbours could not put up with the noise, and a roaring trade would be done in replacement nozzles. It was an unworkable proposition. It is symptomatic of a government that has a problem that it does not know what to do with, and of a government that seems hell-bent on opposing reasonable, realistic and sensible legislation simply because it has not been proposed by one of its members. Members in this place are supposed to act on behalf of all the citizens of New South Wales.

Graffiti is probably a bigger problem for many members on the Government side than it is for members on this side of the House, and the BOCSAR paper tends to bear that out. I note that whenever a graffiti bill has been debated in the Chamber members on the Government side of the House have been very keen to debate the issues and point out the problems they are experiencing in their electorates. Members on this side of the House understand the issue and sympathise with those members. We have introduced a bill to deal with the issue and we are at a loss to understand why the Government will not support it, particularly given that the Labor Party in South Australia supported identical legislation.

The precedent has been set. The legislation is there and the opportunity is there for the Government to do something positive at the source to prevent graffiti occurring rather than simply shift the cost to local government, which is having more and more burdens and duties placed on it. Local government is struggling to make ends meet. The insurance issues I raised today represent a major additional cost burden for councils. My bill is an opportunity to do something about reducing councils' costs and I exhort the Government to support it.

Mrs PERRY (Auburn) [11.14 a.m.]: This bill is a solution to graffiti in New South Wales. Communities across New South Wales will rejoice in this Government's decision to provide local councils with the ability to remove graffiti from property without the necessity of first obtaining the agreement of the owner or occupier, provided that the graffiti is visible and accessible from a public place. The fact that the bill builds upon existing graffiti provisions will provide additional incentive to councils, business, police and the wider community to form proactive partnerships in the fight against graffiti. Illegal graffiti is a community issue that requires serious solutions. The bill provides the missing link for councils and communities who seriously believe they have a problem with graffiti.

It would be no exaggeration to say that no community is untouched by the blight of graffiti vandalism. Police refer to graffiti vandalism as property damage. It is a crime that carries financial penalties and imprisonment. Any unauthorised intentional mark on a location is considered to be graffiti vandalism. Graffiti vandalism detracts from the visual image of the community, devalues business, discourages tourism, creates an atmosphere or a perception of lawlessness, and costs the community millions of dollars. It is estimated that graffiti costs Australia up to \$100 million a year. The proposed amendments will provide councils with the opportunity to be innovative with graffiti abatement programs and to offer local solutions to local issues.

Last night in this House my colleague the honourable member for East Hills referred to the commitment by Bankstown council—also the local government authority responsible for areas within my electorate—to remove illegal graffiti. It would be true to say that Auburn Council has been a leader in best practice when it comes to the fight against graffiti. Under the guidance of Mr Ray Brownlee, the general manager, and Ms Jenny Coppock, whose presence in the gallery today I acknowledge and who is Auburn Council's Place Manager, a graffiti abatement program has been driven on a budget of \$25,000 per year. Through a policy of zero tolerance to illegal graffiti, Auburn Council has taken up the challenge. When speaking at the Sydney Graffiti Seminar held in Auburn in August 2000, the Premier said:

I accepted the invitation to be here because I'm goading councils and communities around the State to do what Auburn [Council] is doing, and that is to take the graffiti problem seriously.

Through the innovation of Ms Coppock and Mr Brownlee, Auburn Council can boast the following statistics since October 2000: more than 287 sites cleaned and 7,000 square metres of graffiti removed, of which 60 per cent has been removed by paint-out and the other 40 per cent by chemical removal. In a matter of eight to 10 weeks after the commencement of this program the bulk of the graffiti vandalism in the Auburn local government area, which in some instances had been present for more than 10 years, had been obliterated and to this day has not returned.

Further statistics show that only 2.5 per cent to 3 per cent of sites cleaned up in the Auburn local government area are being tagged again. This is the best evidence of practical solutions and of Auburn Council's

graffiti abatement program working. The enthusiasm and vision of Ms Coppock, in particular, means that she is in demand from other councils to advise on how Auburn's program works. To date she has assisted 27 councils across New South Wales and interstate. As part of her commitment she provides councils with ongoing advice and information. She has been to many councils, including Liverpool, Campbelltown and Holroyd, to assist them to get their programs under way. I was pleased to read recently that councils such as Burwood and Strathfield have modelled their graffiti removal campaigns on Auburn Council's program.

Auburn's program involves a graffiti hotline, the utilisation of participants in the periodic detention system and those who have community service orders against them, the accreditation of field officers through a recognised graffiti management course, partnerships with business and property owners, and a partnership with the police through a joint community safety agreement between Auburn Council and local police. That has worked well. Auburn Council will welcome and embrace this bill as part of its ongoing commitment to graffiti management, which is now in its maintenance phase.

This bill adds to the strategies already put in place by the Government to deal with illegal graffiti. To this end the Government's initiatives include the work undertaken through the New South Wales Graffiti Solutions program and agencies such as the Attorney General's Department and the Department of Local Government, the expenditure of \$60 million a year on cleaning graffiti off trains and railway corridors, the provision of \$25,000 graffiti blasters to 13 councils, including Auburn and Bankstown, and clean-up crews provided through the Department of Juvenile Justice to assist councils with graffiti removal. I congratulate Auburn and Bankstown councils on their proactive attitude towards the fight against graffiti. For councils that are serious about graffiti removal, the provisions of this bill will be another tool to assist them. As the Minister for Local Government said in his second reading speech, this bill recognises the New South Wales Government's commitment to giving every stakeholder in the fight against graffiti the very best weapons to win the war. As such, I commend the bill to the House.

Mr TORBAY (Northern Tablelands) [11.21 a.m.]: Firstly, I warmly welcome to the Parliament the headmaster and students of Armidale School, which is in my electorate. It is great to see them in the gallery today. I support the Local Government Amendment (Graffiti) Bill. Many previous speakers expressed support for the bill but raised questions about the cost that will have to be picked up by local government. The Minister will know my view in this regard, as will the shadow Minister for Local Government. The issue of unfunded mandates to local government has been debated for a considerable period. That is why I introduced into this place the Local Government (Review of Legislative Proposals) Bill. The Government and the Opposition do not support that bill as it provides for the scrutiny of unfunded mandates from this place to local government. I remind speakers who raised that issue that my bill is currently before the Parliament and that they have an opportunity to support it.

The Local Government Amendment (Graffiti Removal) Bill is good legislation. It will enable local government authorities to undertake graffiti removal work without the agreement of the owner or the occupier of an affected property. Graffiti is a considerable cost to local government—I have seven local government areas in my electorate of Northern Tablelands—and this legislation is a step in the right direction. However, we must look at providing resources to local government rather than adopting an all-care-but-no-responsibility approach. I commend the bill to the House.

Mr GREENE (Georges River) [11.23 a.m.]: It gives me great pleasure to support this bill. I congratulate the Minister for Local Government on his continued efforts to stop graffiti in our local communities and to support local councils in their ongoing work to remove graffiti from public places. As honourable members would be aware, the Government has initiated many programs in a multifaceted attempt to attack graffiti. As I said, I congratulate the Minister for Local Government for extending one program, which will now give local councils the opportunity to remove graffiti from private property that faces a public place.

Hurstville and Kogarah councils, which are in my electorate of Georges River, are keen to work within the legislation to remove graffiti from public places. As many previous speakers have said, there is no doubt that graffiti is a blight on communities, and it is a blight that needs to be addressed quickly. Many programs have been suggested and, indeed, implemented in the fight against graffiti, but undoubtedly the most effective means of attacking graffiti is to remove it within 72 hours. Research has shown that that is the most effective way of not only removing an eyesore but, most importantly, reducing the impact of graffiti and showing those who commit this form of vandalism that it will not be tolerated and that we will win the fight against their graffiti in our communities.

Only last week I attended a meeting at Hurstville council on community safety issues within the council area. One matter that was raised was graffiti, particularly in the Hurstville central business district

[CBD]. Comments were made about the need to remove graffiti. One of the most interesting comments came from a local real estate agent, who was imploring the council to assist in removing graffiti, particularly within Hurstville CBD. The problem—and this is addressed in the legislation—is that many properties are owned by landlords who live outside the council area or, indeed, overseas. This legislation provides council with the opportunity to remove graffiti from private property that faces public land. In other words, although it is private property it borders on public land.

As an extension of last year's legislation, councils will now be able to remove graffiti on private property as quickly as they remove graffiti from public property. So we will see the removal of graffiti from private property that faces public spaces. There will be no need for council employees to enter private property but they will be able to work on that private property that faces public land. That is very important. I am pleased to inform the House that Hurstville council has set aside \$50,000 in its proposed budget for next year—and it enthusiastically set aside that amount—for the removal of graffiti from private property. That is a positive step as it shows that the council is prepared to address this problem.

I place on record my thanks to the Attorney General, who has provided Hurstville council with a graffiti blaster machine, which is very effective. In fact, the machine has been so effective in the hands of Hurstville council employees that Kogarah council uses the machine one day a fortnight. Recently I applied to the Attorney General for Kogarah council to be provided with a graffiti blaster machine because it has proved so effective in our local community. Recently I met with employees of Hurstville council who use the graffiti blaster machine or, where necessary, paint out graffiti. I commend them on their successful work. Most importantly, I commend senior officers and councillors of Hurstville and Kogarah councils for their work in making sure our community can become as close as possible to graffiti-free.

I acknowledge that graffiti is an age-old problem. Last night reference was made in debate on this bill to problems with graffiti in the Greek culture in 200 BC, 300 BC and 400 BC. It is sad that we still have those problems, but this legislation addresses the problem in a proactive manner. I congratulate the Minister for Local Government on introducing this legislation. I urge CityRail and State Rail to continue their graffiti removal programs along rail corridors which graffitiists use for their acts of vandalism. I almost said "graffiti artists", but I do not understand how graffiti and art can be used together. Prior to the Olympics CityRail and State Rail did an outstanding job, and I know that post-Olympics they are continuing to work to remove graffiti and maintain those rail corridors.

As I said earlier, it is important to look at the problem of graffiti in many ways. Various pieces of legislation, this bill being the latest, address the problem. However, a multi-faceted approach must be taken on behalf of our local communities. I refer again to the property located on the corner of Hannons Avenue and Forest Road, Peakhurst. People with spray cans have defaced the fence, which faces public land but is on private property. The gentleman who owns the property is in great difficulty because of other personal problems—in particular, he has a very sick wife—and cannot spend as much time as he would like maintaining the exterior of the fence. This legislation will give the council the power to remove that graffiti.

Private citizens should not have their homes vandalised. Recently I spoke to a gentleman from Oatley whose property has been vandalised with graffiti on numerous occasions. The Colorbond fence on his property faces a popular walkway and, sadly, he has to regularly remove graffiti from it. I trialled a product that would have made the removal of graffiti a much simpler process for him. Kogarah council will now be able to address the issue on his behalf. Honourable members should give local government authorities the power they need to address the problem. I again congratulate the Minister, and commend the bill to the House.

Mrs HOPWOOD (Hornsby) [11.34 a.m.]: I support the Local Government Amendment (Graffiti) Bill with some reservations. However, most local government people to whom I have spoken support the provisions of the bill. The overview of the bill states:

The object of this Bill is to amend the *Local Government Act 1993* (*the Principal Act*) to enable a local council to carry out certain graffiti removal work on land without the agreement of the owner or occupier of that land if the graffiti concerned is visible and accessible from a public place.

To be more specific, in relation to graffiti removal work by agreement, section 67A provides:

A council may, by agreement with the owner or occupier of any private land, carry out graffiti removal work on the land.

In relation to graffiti removal work without the agreement of an owner or occupier, section 67B provides:

- (1) A council may, without the agreement of the owner or occupier of any land, carry out graffiti removal work to property on that land if the graffiti concerned is visible from a public place.
- (2) The graffiti removal work referred to in subsection (1) may only be carried out from a public place.
- (3) The council concerned is to bear the cost of graffiti removal work referred to in subsection (1)
- (4) If a council carries out graffiti removal work in accordance with this section, the council must, within a reasonable period, give the owner or occupier of the land concerned written notice that the work has occurred.
- (5) A council must pay compensation for any damage caused by the council in carrying out graffiti removal work in accordance with this section.

Those provisions build on the Local Government (Graffiti Removal) Act, under which a local council, by agreement with the owner or occupier of any private land, is able to carry out graffiti removal work on that land. The Act also facilitates the granting of financial assistance as part of graffiti removal programs. I have spoken to members of Hornsby Shire Council recently. The council is a leader in graffiti removal. In relation to the remarks of the honourable member for Auburn I advise the House that Hornsby Shire Council is providing a local solution to a local problem. The objective of the graffiti management policy of Hornsby Shire Council is to establish a council-wide approach to address graffiti management. The policy protocol of the council, on which it has consulted widely, is:

Council's graffiti management protocol adopts a broad focus through the combination of environmental and social measures to prevent illegal graffiti by:

1. Lessening the negative financial and social impact on graffiti and reducing the fear of crime in the community.
2. Enhancing the built and natural environment by reducing the incidence of graffiti within the Hornsby Shire.
3. Developing initiatives with the local community to reduce graffiti, including involving young people as partners and advisers in reducing graffiti.
4. Removing graffiti in targeted areas rapidly as a strict deterrent.
5. Developing a "best practice" graffiti reduction policy and strategy.
6. Working with police, community and Government agencies in identifying young people/public space issues and dealing with them via appropriately proactive and reactive means.

My recent conversations with members of the Hornsby council have been productive. I look forward to working with those in charge of graffiti removal to reduce the visual impact of graffiti as much as possible. Peter Powell, the Manager of Engineering Services at the council, is passionate about graffiti removal; it is one of his pet projects. Hornsby council has undertaken two initiatives. First, the council has taken advantage of the graffiti blaster program. That program has been on trial in Beecroft for six months and has been very successful. Peter Powell has written to the crime prevention section of the Attorney General's Department seeking approval to continue the program for another six months. Under that program graffiti is removed from council buildings within 48 hours, and after some time those responsible for the graffiti move on. Graffiti has also been removed from some private buildings.

The second initiative is the Beat Graffiti program, which has established a hotline and provided legal graffiti walls. Hornsby Shire Council recently took the progressive step of providing graffiti perpetrators, or "budding artists", with their own walls. Those walls, which are still in the developmental stage, are at Montview Oval, Hornsby Heights, Greenway Park, Cherrybrook and Ruddock Park at Westleigh. They provide a means by which young people who wish to express themselves artistically in a public place can do so legally. The honourable member for Auburn referred to the fact that the cost of graffiti is in the vicinity of \$100 million per year; she also referred to the necessity to remove it as soon as possible. The Hornsby Shire Council's Beat Graffiti strategy is a targeted strategy.

I will refer to some documentation of the Hornsby Shire Council in relation to that strategy, which is designed to deal with graffiti issues in the shire. The strategy incorporates initiatives based on research conducted by Warringah Council, Baulkham Hills Shire Council, Lane Cove Council and Penrith City Council. The strategy includes utilisation of structures in council-owned open spaces as legal venues, as I have already mentioned; establishment of a graffiti reporting hotline, which has been very successful; a community art project, developed in partnership with the Epping YMCA Youth and Family Services; and the formulation of a graffiti management policy and strategy inclusive of a rapid-response approach to removing graffiti, which the council found to be the most effective deterrent and moves graffiti perpetrators on very quickly.

The council's successful application to the Beat Graffiti grants scheme is testament to the viability of the innovative, multi-faceted approach displayed in the proposal. The strategy is committed to addressing the needs of young people in a mutually beneficial relationship with the wider community. The most recent report regarding the Beat Graffiti strategy was brought to a June meeting of the council, which resolved to endorse the establishment process and use of kickwalls at Ruddock Park and Montview Oval for the purpose of legal graffiti. With respect to Greenway Park, Cherrybrook, the council endorsed the option of a purpose-built kickwall for the purpose of legal graffiti.

Council's interdivisional Beat Graffiti working party has been given the task of formulating a protocol document for graffiti management within Hornsby shire for council's approval. It was resolved also that council establish an interagency working party comprising representatives of business, the Beecroft Civic Trust, any other interested community groups, Telstra, Sydney Electricity, the Roads and Traffic Authority and other appropriate persons.. That shows that this committed council is working hard and thinking to the future about a very serious and until now hard- to-solve problem. The bill widens the ability of councils to work effectively to deal with this issue.

The formulation of the graffiti management policy has focused on enhancing the council's existing approach, taking into account the graffiti information obtained from other councils. This has entailed liaison with local police, the chamber of commerce, community safety councils and other relevant parties. The principles include a variety of factors, such as urban design, retail management, community attitudes, the availability of youth facilities and support services—all of which contribute to the complex relationship of young people to community space. The way young people relate to each other, their perception of themselves and their understanding of their role in public environments, are crucial to an understanding of the issues involved in the use that young people make of community space.

I will be actively involved in discussions with a working party that is looking at Mills Park and a complex change there for recreation facilities, and I will be promoting the building of another such wall there. There are a variety of responses to graffiti that can be manifested through urban design, prohibition, deterrence, redirection and positive encouragement. The principles and tools of urban design are most relevant to deterrence and redirection. Prohibition relates to legislative and other sanctions, and as such is directly linked to policing. This bill will assist with deterrence and redirection.

The council recognises the value of programs that focus on the prevention of graffiti before it occurs as being complementary to those aimed at removing it once it has been applied. It also recognises the value of involving young people in any graffiti management scheme, including the consideration of their needs in local planning processes. Also, it recognises community partnerships in the effective management and reduction of graffiti. It recognises the value also of graffiti management programs that involve enforcement so as to ensure that serious offenders are dealt with through the proper legal channels. It acknowledges that removal techniques must be cost effective.

That brings me to the cost attributed to the council of removing graffiti on walls that are privately owned, as well as compensation for any damage caused by graffiti removal. Graffiti lowers the demeanour of an area. Graffiti activity is often dangerous to the perpetrator of the graffiti, and graffiti makes the observer of the graffiti feel unsafe. Therefore, it is of paramount importance that graffiti is removed not only for the beautification of our lovely areas but also to ensure that people, particularly older people, feel safe when walking through areas and accessing services. I commend the initiative contained in this bill. Councils—in particular the Hornsby Shire Council, which I have spoken to most recently—look forward to working in the community to remove graffiti. , I also recognise that councils may find the costs prohibitive.

Mr McBRIDE (The Entrance) [11.45 a.m.]: I support this amendment to the Local Government Act 1993 to give councils more powers regarding the removal of graffiti. Graffiti is an enormous issue for our communities. People must feel comfortable in the local environment. I should point out that that has been recognised by the Government in its effort to address these community concerns and also the financial and social costs of illegal graffiti. The State Government already spends up to \$60 million a year cleaning graffiti off trains and railway corridors. It has provided \$25,000 for the provision of graffiti blasters to 13 councils. One of those is Gosford City Council, which very much appreciates the graffiti blaster.

Through Juvenile Justice, the Government provides clean-up crews to assist councils with graffiti removal. From July to December last year cleanup crews spent 16,000 community service order hours removing graffiti. Also, the \$900,000 Beat Graffiti program has been implemented by councils to cover legal graffiti art,

development of graffiti prevention plans and removal of graffiti from business and residential properties. This legislation is important because it addresses a number of issues that have not been covered adequately by current legislation. It is well-known that the quicker graffiti is removed, the more effective is the prevention of further graffiti attacks in our community. But most important is the way that graffiti affects a community's perception of its area.

While amendments made in July 2001 were generally supported and endorsed by councils, and have been well received by local government as a whole, discussions with councils have highlighted some problematical issues. Many agreements are not entered into until after graffiti occurs. There is a special need to expedite removal of obscene or inflammatory graffiti. Difficulties that occur in contacting the owner or managing agent of a residential retail property to obtain permission to remove graffiti delays the graffiti removal. Difficulties also occur with commercial properties where a number of entities share responsibilities for the maintenance of buildings, walls and other likely graffiti services, and some owners are not concerned with removing graffiti from the walls of commercial blocks. Just over two weeks ago the Premier visited a school in my electorate that had had problems with graffiti. During that visit an operator was using a graffiti blaster to remove graffiti from the school walls.

School graffiti has been an issue of particular concern to the local community. A number of strategies have been put in place within the school itself. They have created art work within the school community in areas previously subjected to graffiti. That tactic has proved to be very effective in reducing graffiti in the area. Another strategy involves the school principal, Karen Jones, involving the community in making the school a community school. Other government departments have become involved—for example, the Department of Housing, to interview Department of Housing tenants there. In addition, other services provided by government organisations are located at and provided through the school itself. In addition, sporting groups and local clubs are encouraged to use the school's playground facilities out of hours as a way of combating graffiti. Many strategies may have been put in place to deal with graffiti, but it remains a problem.

The use of graffiti as a means of racial vilification was brought to my attention yesterday by a school principal. A block of shops located across the road from the school had graffiti that vilified a particular race. The problem was complicated by the block of shops being owned by four separate tenants. When it came to removal of the graffiti, the issues that had to be determined included who would take responsibility for its removal, who should initiate the removal, how removal would be carried out, when that should be done and all the other issues with which honourable members are familiar in getting a job done. To the credit of the school principal, she acted personally and contacted the real estate letting agent. She advised the real estate agent and the shopkeeper whose wall was involved of the action she intended to take. The wall is accessible from public space and, to the great credit of the principal, she actually painted out the words.

The school principal told me that she was motivated by the fact that the graffiti constituted an attack on a particular group of students in her school and it was important to her that it should be removed as quickly as possible. She was concerned not to allow the graffiti to remain on the wall in full view of anyone who passed the shops and who may have been affected by it. More importantly, the actions of the principal demonstrated to people who had been vilified the concern of the school and the community over racial vilification. I have to say that I was most impressed by the school principal's action. I have not yet met any other school principal who has been so determined to deal with community issues associated with a school. The school principal told me that she did not know whether her actions would attract court action or prosecution.

When the legislation was first mooted, I tried to think of incidents to which it might apply. I have now had personal experience of the importance of this legislation in dealing effectively with issues in the community. I congratulate the Minister at the table, the Minister for Local Government, on his persistence in dealing with this difficult issue. A widespread perception which has been propagated by the media is that somehow the community is out of control and that there has been no response from government and other organisations to deal with community issues. Although in terms of major legislation this bill may be regarded as of minimal community significance, I believe that this type of legislation impacts significantly on attitudes within the community. The bill sends a clear message to people who are misbehaving and graffiti artists who are polluting our community that this Parliament will not tolerate that type of activity.

When the proposal for this legislation was debated in caucus, I tried to think of examples when it would be an important tool in dealing with social issues. As recently as Monday of this week, I had personal experience in a school in my local community that emphasises the importance of this legislation. In conclusion I point out that the action being taken in my electorate drew a visit by the Premier. As I said earlier, the graffiti

blasters were removing graffiti from the school wall as the Premier arrived. The coincidence was totally unscheduled but, nevertheless, it provided a good example of the importance of the issue in a school and, two weeks later, of the school principal acting to address a graffiti problem in line with the provisions of this bill. I support the efforts of the Minister to eradicate graffiti from our community. This legislation is particularly important in relation to strengthening the public's perception of the way the State Government deals with community issues, and in developing a sense of community, fair play and justice in dealing with racial vilification.

Mr GLACHAN (Albury) [11.54 a.m.]: No-one in this Parliament would do other than strongly support this bill. I certainly wish to have my name added to the long list of those who support it. I congratulate the Minister on his attempt to address the problem of graffiti because this bill will assist local authorities in a real sense to deal with a major community problem. I infrequently travel on public transport in the metropolitan area, but recently I attended the Royal Easter Show. On the western rail line the train passed the former site of the railway workshops. Ugly, mindless graffiti has been sprayed all over public property along the rail line, and that is distressing. I wonder why people carry out mindless acts to deface our urban landscape. Local councils in my electorate encounter many vandalism problems, especially graffiti. The Albury City Council has spent huge amounts on cleaning up graffiti.

Some years ago in a program in which I had minor involvement, young people who were found spraying graffiti were encouraged under their parents' supervision to clean the graffiti off the walls. I thought it was a great idea and it made some of the young people realise how stupid they had been. Cleaning off graffiti certainly made a difference to them, but others who seem to have no sense of public responsibility at all continue to deface public and private property. The costs to a private property owner of cleaning up graffiti are extremely high and constitute an unnecessary expense. Personal responsibility is an important issue in dealing with the problem of graffiti. In Albury there is a special pioneer cemetery that is maintained and protected by a trust. The trust is constituted by community members who have contributed a great deal of time and effort to improving and upgrading the cemetery and surrounding areas.

From time to time disgraceful acts of vandalism take place and important headstones and monuments are destroyed. From time to time graffiti is sprayed on graves in the cemetery. I believe that somehow we have to ensure that people who are involved in mindless acts of vandalism are made to take responsibility for their actions. Police seem almost powerless, and when at times they find the perpetrators of these stupid acts, they often say that nothing can be done because the perpetrators are under age or belong to a particular racial group. The police feel that there is no point in trying to do anything about vandalism, but we have to try to do better than that because vandalism of property adds to insurance costs borne by individuals and communities.

Either directly or indirectly, each one of us pays at some time and in some way for stupid acts of vandalism. Somehow we have to change the way that the community regards these acts of vandalism to ensure that people take responsibility for their actions and pay for engaging in stupid behaviour. Although this bill will not solve all the problems—it is difficult to know how to solve all the problems—it is certainly a step in the right direction. It will help local government in a marked way. I add my voice to the voices of all those who support the bill. I commend the Minister and I hope that local government will now be able to do a lot more than it has been able to do in the past to get rid of this blight on our urban landscape.

Ms MEGARRITY (Menai) [12.01 p.m.]: The Local Government Amendment (Graffiti) Bill is a welcome extension to existing graffiti provisions in the Local Government Act which facilitate agreements between councils, owners or occupiers of private land for the timely removal of graffiti. A range of national and international strategies employed to deal with the blight of graffiti have all emphasised the effectiveness of removing graffiti as quickly as possible. The swift removal of graffiti is especially important when it is of an obscene, sexist, racist or other inflammatory nature. Even graffiti that does not come within those categories can degrade the overall appearance of a suburb and adversely affect the perceptions of local residents and visitors about the area.

This outcome can be achieved in a relatively short space of time by just a few thoughtless individuals. Surprisingly, these activities are not confined to night-time hours—that is, under the cover of darkness. On a recent Saturday afternoon, when I was travelling along a rather busy road at the Liverpool end of my electorate, I was astounded to see a young graffiti artist—if I may use that term—at work on the overhead concrete pylons of the M5 motorway. On many occasions Liverpool council has responded swiftly to the concerns of local

residents about graffiti in public places. Liverpool police have also initiated a graffiti register which is where the graffiti is photographed, put into a register, the tags are identified and they are then matched up to other offenders.

That program, which has involved the co-operation of residents and community groups, has yielded some good results. About two years ago the Carr Government provided a \$25,000 graffiti blaster to Sutherland Shire Council. In the Sutherland part of my electorate—that is, in Menai and in surrounding suburbs—the problem of graffiti has definitely increased in the last 18 months or so. To its credit, Sutherland Shire Council established the Greater Menai Area Anti-Graffiti Working Party. The working party, which has met several times, comprises local residents, police and councillors. Earlier this year council also attempted to establish a graffiti removal program in co-operation with the probation and parole service using offenders performing community service work.

Depending on whom one consults or to whom one listens, different reasons are offered for the fact that this program was not successful. Following concerns raised with me by local residents and council about the progress of the project, I spoke to the governor of Parramatta correctional facility, Mr Tony Kelly, who gave me a firm undertaking that people in periodic detention would be provided and supervised on Thursdays and Fridays, starting right after the Easter period. I am pleased to report to the House that, according to all the reports I have received about this program, it has been a tremendous success. I take this opportunity to thank Tony Kelly and other staff at the Parramatta correctional centre for their co-operation in this program.

An overwhelming proportion of the graffiti that is being removed through that program is on private property facing onto public property. Just last weekend in Barden Ridge I was shown another upsetting case of graffiti on Colorbond fences on private property surrounding a council-managed and, therefore, public reserve. This bill will enable the legal removal of graffiti in Barden Ridge without the time-consuming complication of seeking the agreement of the owners of those properties because the graffiti is visible from a public place. I look forward to the example that I saw being included in the program as soon as possible.

Under the legislation, following graffiti removal, council will be required to notify affected owners or occupiers of its action. When a dispute arises concerning damage caused by graffiti removal work, the parties may agree to refer the matter to arbitration for resolution. If agreement cannot be reached, the parties can refer the matter to the Land and Environment Court for determination. To ensure accountability when carrying out work on property using public funds, council must keep a publicly available register containing details of the graffiti removal. I, like other speakers in the debate today, congratulate the Minister on this initiative. This graffiti blight must be addressed through a concerted effort by many different portfolios and levels of government.

In March when the Minister for Police, the Hon. Michael Costa, was in my electorate, I took the opportunity to show him some of the examples of graffiti that I have outlined to the House today. I drew his attention to the fact that a greater police presence in that area would assist in alleviating this graffiti problem. Earlier this year I was pleased, on behalf of the Attorney General, to announce State Government grants of \$4,745 for projects to combat graffiti in the area about which I am talking. Lucas Heights Community School received \$2,245 for the Sea of Hands project, involving an Aboriginal artist working with students to produce three large mural panels with a reconciliation theme in areas where graffiti has been prevalent. It is hoped that those murals will enhance the school environment as well as reduce illegal graffiti.

Sutherland Shire Council's grant of \$2,500 was for a project to establish a legal graffiti wall in Menai Park and include young people in managing graffiti in the area. I know that members of my local community have had differing thoughts about whether legal graffiti, murals, et cetera, will only encourage a problem or help to resolve it. Certainly all the evidence points to the fact that such ideas and initiatives have turned out well in other areas. I hope that, once the community starts to see these projects take shape, it will welcome these initiatives as a valuable way of connecting with local young people who may be at risk of becoming involved in antisocial activity, at the same time as tackling graffiti problems.

The provision in this bill to remove graffiti from private property facing onto public property is another great step. I hope that the three local councils in my electorate will continue to work with the State Government to reduce this problem which upsets our constituents on a daily basis. I would like to see the time of these young people—and overwhelmingly it is young people who are involved in this form of pursuit—better spent. I hope that the grants that were announced earlier this year will bear some positive fruit along with the initiatives introduced in this bill and other government initiatives.

Mr KERR (Cronulla) [12.07 p.m.]: The object of this bill is to amend the Local Government Act to enable a local council to carry out certain graffiti removal work on land without the agreement of the owner or occupier of that land if the graffiti concerned is visible and accessible from a public place. When the Minister replies to debate on the second reading of the bill I would like to know whether the Government commissioned a report, costing \$24,000, which recommended that graffiti be painted over.

Mr E. T. Page: Money well spent.

Mr KERR: I am sure that the honourable member for Coogee could have told the Government that if it had paid him \$10,000.

Mr Maguire: He is overpaid.

Mr KERR: We know that he is overpaid. As those honourable members who have contributed to debate on this bill have said, graffiti is a great problem in our community. It has been a problem for quite some time. The honourable member for The Entrance referred earlier to the broken window theory of crime. He said that when graffiti is left in place it gives the impression that order has broken down, that nobody cares and that nobody will take a stand against this insidious activity. As has been pointed out by a number of honourable members, the visual impact of graffiti can be quite devastating in a community. It is important to look not just at private property but at property owned and operated by the State Government. One need look no further than Cronulla railway station to see examples of graffiti. Cronulla railway station is the responsibility of this Government. It does not have to establish who is the owner-occupier of those premises; it can go to Cronulla railway station and remove that graffiti tomorrow.

Mr E. T. Page: The State Government is impersonal. Grammar is important; otherwise you undermine your argument.

Mr KERR: The honourable member for Coogee claims to be a member of an impersonal government. He is quite right, because there is very little relationship between this Government and the community. That is demonstrated by the neglect that has occurred in relation to State-owned property. It is no defence to say that the State Government is an abstraction. It actually exists, and it is capable of carrying out personal activity, and part of that personal activity should be the removal of graffiti. It is important that in his reply to the second reading debate the Minister should answer the honourable member for The Hills' arguments about a number of shortcomings in relation to the bill. The honourable member for The Hills has taken a very personal interest in relation to graffiti, and to that end he moved a private member's bill. If that bill had been acted upon years ago, we would not have the scourge that is occurring in our community today.

Mr George: Hear! Hear!

Mr KERR: The honourable member for Lismore said, "Hear! Hear!", as I am sure all members would say. If the bill of the honourable member for The Hills had had the support of the other side of the House, action could have been taken. It is an indictment on this impersonal government that it was not persuaded by the arguments of the honourable member for The Hills. As I said, there are some long-awaited advantages to this bill, and the Opposition will not vote against it. However, I urge this impersonal Government, as an owner-occupier of various public buildings, to start practising what it preaches in relation to the removal of graffiti.

Mr E. T. PAGE (Coogee) [12.12 p.m.]: As other members have said, this bill is a step in the right direction. However, as a number of members have also said, it does not solve the problem. We are not addressing the difficulty we have in our community with regard to some tasteless artwork appearing in inappropriate places in our electorates, on both public and private buildings. I believe that the solution must be to capitalise on the benefits of outdoor artistry. Some 12 years ago when I was the mayor of Waverley council, the council ran a graffiti artistry course. We organised for graffiti artists to attend the council premises, and we supplied materials and gave them training in mural artistry. We also made sure that there were walls in the community on which they could practise their art. It was quite a successful operation, because those who were interested in graffiti concentrated on the walls that were available to them, which they could paint legally, and they left alone other areas in the community where graffiti was not welcome.

It is absolutely ridiculous to suggest that somehow one could have a wish list of proposals to tell these young people that they cannot be involved in al fresco artistry. It reminds me of the result of the Drug Summit. People came to realise that what the Government was doing as far as drug addicts were concerned was not

working and that there needed to be new avenues of addressing the issues. That also applies to graffiti artists. There will always be a group of young people involved in outdoor artistry, and nothing will stop them. It is costing us a fortune to overcome the unfortunate aspects of graffiti work. However, we are not addressing the real issue, and that is that these people will continue to do it and there should be some way of harnessing their artistry to improve the outdoor environment in our community.

There are umpteen State-owned properties in which outdoor artistry would be an improvement. For example, there are thousands of kilometres of railway property. As the honourable member for Cronulla said, Cronulla railway station has been vandalised. I have not seen the graffiti there. What would be wrong with getting together the graffiti artists in the Sutherland shire—and they would be easily found—and saying to them, "We want you to refurbish the railway station in Cronulla. We will work together co-operatively. We will get a consultant artist to talk about the designs and what we think is reasonable. We want your artistic input, as people who have a yen for graffiti. Let's make this a positive project for the community. As graffiti artists, it will allow you to carry on an activity from which you get enjoyment."

Graffiti work, regardless of how inartistic it might be thought to be, is rarely vandalised by other graffiti artists. The community has a respect for artistic works. I am sure this would also be the case if graffiti artists throughout the community were encouraged to improve public and private buildings, to allow them to indulge their artistic bent. At Bondi Junction, in Coogee electorate, there are four artistic ventures. One appears on a large wall near a child care centre that is owned and operated by Waverley council. The artwork, which is extremely artistic, was done by a group of graffiti artists whom the council trained. Another artistic work appears on a large wall near the McDonald's building in Newland Street, and the other is on the side of the Laing and Simmons franchise, near Oxford Street.

About 12 months ago I inspected artistic work that was jointly financed by Woollahra council and either the Roads and Traffic Authority or the State Transit Authority and appears on a large foundation panel under Syd Einfeld Drive at Bondi Junction. It is an incredible piece of artistic work, and there are no complaints about its impact on the community; everyone is happy about it. I believe that in the medium and long term a different attitude needs to be adopted by the Government and by society towards graffiti artists. We are not going to stop them. Inartistic work will cause the community a fair amount of angst, and a lot of money will be spent on obliterating works that are not acceptable.

I believe a logical solution would be to put that money into encouraging graffiti artists to do artistic work they will enjoy doing, work that may lead them into other artistic efforts, and work that is acceptable in the community. We should not stop trying to repair damage to community property caused by inappropriate graffiti work, but if we can channel the efforts and the artistic bent of these people involved in graffiti we will be doing the community a great service. Many blank walls would be dramatically improved with the assistance of credible artistic people, if they are given access to the property.

Ms MOORE (Bligh) [12.20 p.m.]: Like other honourable members who have spoken in this debate, I welcome this legislation as a step forward in battling the problem of illegal graffiti and unsightly tags. It is important that home-owners and councils act swiftly to clean off or paint over illegal graffiti, particularly prominent racist, homophobic or obscene graffiti. Graffiti is a significant issue in inner urban areas such as my electorate. Residents are legitimately angry when vandals deface their homes, their public places and their open space. Unsightly illegal graffiti adds to an atmosphere of neglect and urban decay—often a reinforcing cycle! When areas are targeted by graffiti and tagging it is symptomatic of much more serious problems, such as theft, assaults, littering, wilful damage or vagrancy.

As a result of last year's Local Government Amendment (Graffiti Removal) Act, councils and private landowners can enter agreements for councils to remove illegal graffiti from private property. This legislation will enable councils to act more quickly, even where agreement with a private property owner has not been reached but action is needed to remove unsightly illegal graffiti visible from public places. It is important that local communities do more than just remove illegal graffiti. As this bill recognises, there is a significant cost associated with graffiti. We also need to change our urban design to reduce the opportunities for graffiti and address the causes of illegal graffiti.

Action on graffiti is one aspect of community safety audits currently being done by Kings Cross police and local communities in East Sydney, Darlinghurst and Woollahra—and soon to be carried out in Surry Hills and Redfern commands. Strategies that result from safety audits include quick removal of graffiti, plantings to limit access, increased lighting, and keeping areas clean and well maintained to show an active and

caring local community. Graffiti is linked with social, economic and political alienation. Effective crime prevention is important where young people are concerned as it can mean the difference between minor offences—or not offending at all—and the escalation to more serious offending.

Aerosol art is a significant art form, particularly for young people and other disadvantaged groups who are marginalised from mainstream society. The graffiti art style has become an established aspect of modern visual arts, but aerosol artists can be frustrated by the lack of legal opportunities to develop their skills—even though some public spaces benefit from large colourful pieces. Knowledge of the groups doing graffiti and tagging can help in finding solutions which can reduce the impact of illegal graffiti. To help address all sides of this issue in an integrated fashion, South Sydney City Council developed an aerosol art and graffiti policy. The policy was developed to help council remove unauthorised graffiti from council property; work with private property owners in removing graffiti from private property; establish an aerosol art program at legal sites; and co-ordinate key agencies on graffiti-related issues, including council departments, residents, youth representatives, public utilities, funding bodies, and aerosol artists.

Much more important and more far-reaching is the Government's recently commenced innovative and very welcome Redfern-Waterloo project, which will develop effective and long-term solutions to address the complex and chronic issues that affect that community, particularly in relation to youth crime. A street team will target children and young people congregating in public places at risk of harm or engaging in anti-social or criminal behaviour. The team will provide advice and support and will link the young people with other programs such as counselling and with recreational and sporting activities being conducted in the area. An integrated plan will be developed for the location and delivery of all youth services in the area. A youth intervention and development program will target young people engaging in risk-taking or anti-social behaviour. Programs and activities will be built around the specific requirements of those high-risk groups and individuals, such as camps with community elders or the police.

An intensive family intervention and support service will work with high-risk families, including Aboriginal families, to increase their ability to cope with problems. A kidspeak project will target young children and families in public housing and provide weekly get-togethers, arts and crafts activities and family support. The project will link to South Sydney City Council's recreation strategy. The Children's Crime Prevention program will promote positive social development of children and young people. Whilst young people from the Eveleigh Street area, and from the high-rise flats in Redfern and Waterloo, are at much greater risk than those in other areas, this innovative approach of the Government could be taken up in other areas of the State. It would mean that in future debates about graffiti, which is just a symptom of the sorts of things that are happening to young people in our communities, would not be taking place in this Chamber. However, in the interim it is important that local communities and councils can work together to ensure that their areas are cared for. This legislation is one component of tackling illegal graffiti in an integrated way, and I support it.

Ms SALIBA (Illawarra) [12.26 p.m.]: I support this bill. I am on record in this Chamber as having supported the bill introduced last year. We are now improving that bill by allowing councils to undertake work without the permission of the owner when graffiti is on property that faces public areas and can be reached without going onto private property. Graffiti costs up to \$100 million a year. That cost is borne by the whole community. It is borne by businesspeople, by councils and by individuals—the community at large. It is an expense that we can do without. The two councils in my region, Shellharbour City Council and Wollongong City Council, have introduced policies and practices to try to prevent and reduce graffiti. Shellharbour City Council has used what I call a best practice model of graffiti reduction. It has done this through a two-strand approach. In the first instance it is painting over or removing graffiti and using graffiti-resistant material to prevent further graffiti being put onto that space, and by providing open space where graffiti can be painted.

The idea is to provide designing space to reduce the possibility of graffiti. When the council is planning developments, it takes into consideration all aspects of the planning, whether public walls will be available to attract young graffiti artists, and plans to reduce those kinds of opportunities. The council in its overall planning strategy also provides legitimate spaces where young graffiti artists can be involved in graffiti design and in painting that graffiti onto the walls. The Shellharbour city sports complex has a big wall that has been designed by the young people in the Shellharbour city area with the assistance of council and some of our local artists. Stencils were made up and young offenders who were given community work were involved in putting the stencils onto the wall. There has not been any damage to this space. Young people and the community at large feel responsible for that area and are committed to ensuring that it is not damaged.

The skateboard ramps at Albion Park have been designed and painted by young people in the Shellharbour City Council area. They look beautiful. They have not been damaged by others, because these

young people have ownership of them. Shellharbour City Council has implemented a good process for dealing with graffiti and a great way of giving young people the opportunity to be artistic. The council is doing all it can to ensure that graffiti is not an eyesore or an expense to the community. It is well known that graffiti must be removed within 24 hours to 72 hours, as that prevents graffitists from receiving recognition for their work. The idea is that removing graffiti as soon as possible will prevent those responsible from taking pride in their work and reduce the opportunity for recognition of the work.

Graffiti is a big and costly issue that affects the whole community. I understand that councils are doing all they can to solve the problem. Wollongong City Council has a number of programs in place to reduce graffiti. It received a graffiti blaster last year, and it has been working hard to ensure that the graffiti problem is addressed. Recently a woman who owns a number of factories in a block of commercial units in my electorate approached me with photographs of the devastation caused to her property by young people who had put graffiti on everything. The damage to the building, which is less than six months old, was disgusting. The woman was keen to get the property cleaned up as soon as possible and to look at ways of addressing the problem to ensure that artists do not have the opportunity to return and cause the same damage.

The businesses and councils in my electorate of Illawarra accept responsibility for dealing with graffiti. The State Government has accepted responsibility by introducing this legislation, which will allow councils to remove graffiti as quickly as possible to ensure that people do not get recognition for their offences. One cannot describe graffiti as "artwork" because in many cases it is purely words, it is obscene matter that should not be available for people to see in the first place. This legislation is a step in the right direction. We will do whatever is necessary to ensure that graffiti does not happen. I commend the two councils in my electorate for the work they are doing with graffiti, and I commend the Minister for introducing this bill. I assure the community that this problem will be addressed.

Mr MAGUIRE (Wagga Wagga) [12.33 p.m.]: Speakers in this debate unanimously agree that graffiti causes considerable distress in our communities and that it is an undesirable act that is costing communities throughout New South Wales, Australia and, indeed, the world enormous amounts of money to rectify. The overview of the bill states:

The object of this Bill is to amend the *Local Government Act 1993*... to enable a local council to carry out certain graffiti removal work on land without the agreement of the owner or occupier of that land if the graffiti concerned is visible and accessible from a public place.

Other speakers have read in detail the provisions of the bill. However, the explanatory note relating to schedule 1 [3] states:

The proposed Division contains a new section ... that provides that a local council may, without the agreement of the owner or occupier of any land, carry out graffiti removal work to property on that land if the graffiti concerned is visible from a public place. The graffiti removal work may only be carried out from a public place. The local council is to bear the cost of graffiti removal work and must pay compensation for any damage caused in carrying out the graffiti removal work. **Schedule 1 [3]** also moves certain provisions of the current section 67A (graffiti removal work carried out with the agreement of the owner or occupier of land) relating to the register of graffiti removal work into a new section ...

I shall expand on that point. While I welcome the initiative to remove graffiti from public places, et cetera, that are visible, it is another unfunded mandate. We have not heard much about unfunded mandates, and I shall harp on it because every requirement imposed on local councils comes at a cost. That is of concern to us all. This mandate will be added to the Local Government (Approvals) Amendment (Sewage Management) Regulation, the Waste Minimisation and Management Act, the Contaminated Land Management Act, the environmental objectives for New South Wales waters, the Marine Parks Act, the Companion Animals Act, the Local Government (Community and Social Plans) Regulation, as well as planning and building regulations, street lighting charges, total catchment management costs, the provision of public health infrastructure support such as facilities to attract general practitioners to country towns, the provision of community law and order and safety measures, the Protection of the Environment Operations Act, the Local Government Amendment Regulation, stormwater management planning, et cetera.

These measures are important to enhance the environment in our communities but they come at a cost. Nowhere in this debate have I heard that local councils will receive extra funding, apart from funds to cover the initial cost of purchasing machines to remove graffiti. In his reply the Minister should tell the House whether the Government considered costings when it decided to give local councils this mandate, with councils' agreement, of course. What will be the cost to local councils over a 12-month period, and how will that impinge on councils' budgets? Another issue relates to the Summary Offences Act 1988. Section 10A of that Act relates to the damaging and defacing of property by spray paint, and states:

- (2) Instead of imposing a fine on the person or sentencing the person to imprisonment, the court:
- (a) may make an order under section 8 (1) of the *Crimes (Sentencing Procedure) Act 1999* directing the person to perform community service work, being an order containing a recommendation of the kind referred to in section 91 of that Act, or
 - (b) may make an order under section 5 of the *Children (Community Service Orders) Act 1987* requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 5 (1A) of that Act.

Section 91 of the Crimes (Sentencing Procedure) Act 1999 states:

91 Removal of graffiti

A community service order may recommend that the community service work to be performed by the offender should include:

- (a) the removal or obliteration of graffiti from buildings, vehicles, vessels and places, and
- (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal or obliteration of graffiti from them.

I would like the Minister, in his reply, to tell the House how many people have participated in this program and how many sentences or orders had been given to offenders who have committed an act of graffiti. I make a distinction between graffiti and art. Some people are graffiti vandals and some are artists. I recognise that some graffiti is stunning, but I do not regard a tag, inflammatory comments or disgusting language that people can read in public places, such as on buildings, et cetera, as art. I have seen some magnificent air art murals in the electorate of Wagga Wagga, but we should not compare art and vandalism. Vandalism is an act committed by people who have absolutely no respect for their community and the resources and ongoing funding provided by that community.

Vandals need to be targeted. Will the Minister advise how many people are undertaking community orders? How many have undertaken them in the past? Is it possible for people who are given community orders to assist council, to help reduce costs by doing graffiti removal with the graffiti blasters? That would require the person sentenced with committing a graffiti crime to clean up his or her work, and other people's work for that matter, and it would give council access to a resource that will help it save money. It is important to get the Minister's response on this. The Government should look at every possible way of reducing the overheads associated with unfunded mandates being imposed on councils. Councils are at the coalface. Whenever government has a good idea it thinks, "Beauty, we'll give it to council," but they never provide the resources to support councils and councillors in their work.

Rate capping has limited the ability of councils to raise extra funds, and now councils will have to pay compensation for any damage occasioned to a building during graffiti removal. There are problems attached to it, particularly where litigation and insurances are a major problem throughout Australia at the moment. A great deal of consideration has to be given to section 67B. Setting aside an area for artists, as distinct from graffiti vandals, is a good suggestion. I see honourable members nodding their heads in vigorous agreement. A mural on the side of the Civic Centre in Wagga Wagga has some wonderful artwork. I certainly encourage the concept of providing areas for young people to carry out their art, but I encourage the Government to question whether the sentencing and community orders handed down to graffitiists by the judiciary are adequate responses to the legislation. If not, the Government needs to encourage that for a number of reasons.

Firstly, vandals must be taught that the community will not accept their destroying private or public property, and that they must accept the responsibility to rectify it. Communities throughout the world are trying to find ways to resolve conflict. We are trying to develop our nation to give people better opportunities, one of which is tourism. What would tourists think if they visit one of our towns, villages or cities and see an enormous amount of vandalism? First impressions mean a lot, and a town or city that is covered in graffiti vandalism does not leave a good impression.

I have seen such vandalism when I have travelled to various destinations throughout the world, and it leaves a long and lasting impression. The first thing I remember about a city in Holland is the graffiti vandalism I saw there. In closing, I ask the Minister to respond to the points I have raised. I look forward to his answers, and if they do not meet the expectations of the community or the Government it is up to the Government to ask the judiciary to define the difference between artistry and vandalism and to impose the maximum penalties available, including requiring offenders to remove graffiti by using graffiti blaster machines. That would help reduce the cost to council, to government and the community.

Mr HUMPHERSON (Davidson) [12.46 p.m.]: I support the comments of my colleagues. The Opposition does not oppose this bill. Honourable members share a common concern about the impact of graffiti on our urban environment. In many respects, graffiti has become a modern day plague, with graffiti tags and unpleasant language on our streets, alleys and buildings. It obviously impacts on, and substantially detracts from, our pleasant urban environment throughout the State. I do not believe that graffiti should in any respect be considered art. It is not: it is pure vandalism. If someone is spray painting or using other materials to put a message on property or other privately or publicly owned assets without the consent of the owner or the public authority responsible for that property or asset, that is vandalism just like any other form of vandalism. There is a great distinction between graffiti and mural art painted on areas that many councils make available. Murals can actually add to the surrounding environment.

Many people are sick and tired of the desecration of their community through vandalism, and particularly graffiti, in its various forms. Graffiti changes the visual character of an area and impacts on the aesthetics of communities, but some graffiti is less visible. Yesterday a constituent from Roseville drew my attention to graffiti along the North Shore railway line which can only be seen from a train. Those responsible for dealing with that graffiti probably have not seen it, so it remains there. In my view this bill is a small but not insignificant step, but it is nowhere near enough. There are some benefits in empowering councils to remove graffiti from private property that is visible from public places, but clearly there are a lot of potential problems. Councils will not necessarily remove the graffiti unless pressured to do so, because of the potential litigation problems. Clearly, if paint or graffiti is applied to certain surfaces it will be almost impossible to remove it without changing the nature of the surface, a point that has been made by a number of honourable members.

This legislation is not a serious attempt to attack the problem of graffiti, nor does it go far enough. It does not address all graffiti on private property that is visible from public places, and it does not address the key problem of the source of graffiti. One form is the motivation for predominantly young people in our society to pick up a spray can and apply paint to property. Second is the fact that graffiti artists have access to spray cans, which is probably their main weapon of choice. In 1995 and again last year the Coalition Opposition introduced a graffiti control bill. The 1995 bill was rejected without justification by the current Government in 1996. At this point the Labor Party is not prepared to give bipartisan support to address the accessibility of spray cans through available retail outlets. I want to put on the public record today that that Coalition bill, whose carriage rests with the honourable member for The Hills, Mr Michael Richardson, is Coalition policy. In government we will introduce it as legislation.

That bill requires spray cans to be placed effectively under lock and key. Spray cans will have to be placed in locked cages or cabinets inaccessible to customers who enter stores. Accessible cans on display will have to be dummy cans. Members of the public, particularly young persons, will not be able to, nor should they be able to, access spray cans in stores. One of the primary reasons for that measure is that 90 per cent of spray cans used for graffiti have been stolen, that is, removed by juveniles from retail outlets without authorisation and used to commit graffiti offences.

The cost of graffiti is substantial, an estimated \$100 million per annum, and we must make a substantial impact on that cost to government. This is the cost of graffiti applied to public buildings, trains, buses, et cetera. As Opposition spokesman on environmental matters, I reiterate that the Coalition is committed to introducing our bill when it returns to government. We want to address graffiti attacks. For the life of me, I cannot see why the Government will not embrace this Opposition bill, which was embraced in South Australia on a bipartisan basis. In that State both major parties joined in the enactment of identical legislation, which was augmented with a prohibition on persons under 18 years acquiring spray cans. Sadly, that is a measure that is necessary. If proof of age is necessary to try to reduce the enormous cost to the community of cleaning up graffiti and the vandalism of our urban environment, that is a step that has to be taken.

If it is necessary to ban the sale of spray cans to persons under the age of 18 years, let us consider doing that. It is clear that whatever measures have been taken to date have not been sufficient to stamp out this problem. As the honourable member for Wagga Wagga said, we need to look at the effectiveness of some of the penalties and deterrents in place today. I, for one, would like to see those who perpetrate these crimes being required to clean up the graffiti they spray on buildings. That may or may not happen, but I would like to hear from the Government in reply about how frequently perpetrators are required to clean up their graffiti. How many hours or weeks do graffiti vandals spend cleaning up their vandalism? If we need to go further and introduce more effective measures in that regard, let us do so. I would welcome any move to reduce the impact of graffiti on our community. I do not believe that this bill will make a great deal of difference. In addition to addressing the consequences, we must attack the source as the primary means of reducing graffiti.

Mr COLLIER (Miranda) [12.55 p.m.]: I am pleased to speak in support of the Local Government Amendment (Graffiti) Bill. To Miranda constituents and many other constituents across New South Wales graffiti is offensive. This bill is an extension of the existing graffiti provisions in the Local Government Act 1993, which facilitate agreements between councils and owners or occupiers of private land for the timely removal of graffiti. This legislation enables councils to remove graffiti without the agreement of the owner or occupier of the affected property if the graffiti is visible and accessible from a public place.

One of the most effective strategies in preventing graffiti is to remove the graffiti as quickly as possible, that is within 48 to 72 hours, and to persist in removing it. This bill allows that to happen. The community will benefit from the speedy removal of illegal graffiti which otherwise detracts physically from the area. Moreover, it will encourage councils to take an active and participatory role in graffiti prevention, particularly as local communities look to their councils to assist with addressing their concerns about graffiti. This provision will be limited to situations where the graffiti is visible and can be removed from a public place. In other words, council officers will not be able to enter property to remove graffiti without the owner's or occupier's consent. This minimises interference with owners' and occupiers' property rights. On the other hand, it facilitates the removal of graffiti from surfaces that generally are visible from public land and are particularly attractive targets for graffiti artists.

Following graffiti removal, councils will be required to notify affected owners or occupiers of their actions. Where a dispute arises concerning damage caused by the graffiti removal work, the parties may agree to refer the matter to arbitration for resolution. If agreement cannot be reached, the parties can refer the matter to the Land and Environment Court for determination. To ensure accountability where council is carrying out work on property and is using public funds, councils must keep a publicly available register containing details of graffiti removal work. While many property owners readily enter into agreements for the removal of graffiti, there are a number of circumstances in which there can be undue delay. Swift removal of graffiti is important where the graffiti is obscene, sexist or inflammatory.

Presently, if the owner of an affected property refuses to remove such graffiti, it takes some time to get approval through the New South Wales Anti-Discrimination Board, if the graffiti vilifies a certain race, or through the Administrative Decisions Tribunal. It has often proved difficult to address graffiti on commercial properties. Some owners are not necessarily concerned with removing graffiti from the walls of commercial blocks. Delays have also occurred where number of entities share responsibility for the maintenance of building walls. Delays have also been encountered where residential properties affected by graffiti are rental properties, and there is difficulty in contacting the owner or managing agent.

Graffiti affects people's perceptions of an area, property values, community wellbeing and civic pride. That is particularly so where the graffiti is on property that is highly visible from public places, such as roads, wharves, bridges, parks and railway stations. Moreover, graffiti removal costs up to \$100 million a year. Experience and research have proven that the best way to deter offenders is to remove graffiti, and keep removing it, as quickly as possible. The proposal contained in this bill adds to the strategies adopted by the Government to deal with illegal graffiti, and will assist councils in this challenge. In turn, communities will benefit. The Government is committed to addressing community concerns about the financial and social costs of illegal graffiti. To this end, a number of initiatives have been taken through the New South Wales Graffiti Solutions Program, and in work by agencies including the Attorney General's Department and the Department of Local Government. The State Government already spends up to \$60 million a year cleaning graffiti off trains and railway corridors.

The State Government is providing assistance to local governments in the form of graffiti blasters worth \$25,000 each. Thirteen local councils have received them, including Auburn Council, Bankstown City Council, Blacktown City Council, Blue Mountains City Council and the council responsible for the administration of local government matters in my electorate, the Sutherland Shire Council, which received its graffiti blaster in 1999. Through the Juvenile Justice portfolio, the Government provides clean-up crews to assist councils in the removal of graffiti. From July to December last year, clean-up crews spent 16,000 community service order hours removing graffiti. The Government has also provided the \$900,000 Beat Graffiti program to support legal graffiti artists, the development of graffiti prevention programs and the removal of graffiti from businesses and residential property.

In Kirrawee in my electorate, some walls have been regularly desecrated and marred by unwelcome graffiti. A disabled artist has contributed rather picturesque paintings that have added beauty to those walls and created a deterrent to those who would spray them with illegal graffiti. The artist is currently undertaking a

program of placing art on some of the walls at Gymea railway station, adding beauty to the area and deterring illegal graffiti artists from desecrating the station's walls. Some 42 councils have received funding under the Beat Graffiti program. Another successful strategy in the fight against graffiti has been the painting of murals on highly significant graffiti sites. Since completion of the murals, most of the sites have not had any incidents of graffiti. That project has also had a positive impact on the offenders who were involved in places such as Gymea and Kirrawee, to which I have already referred. The Government is working in partnership with local government, businesses and the wider community. With State and local governments working together, we can win the fight against graffiti. I commend the bill to the House.

Debate adjourned on motion by Mr Hunter.

[Mr Acting-Speaker (Mr Mills) left the chair at 1.01 p.m. The House resumed at 2.15 p.m.]

BILLS UNPROCLAIMED

Mr SPEAKER: Pursuant to standing orders, I table a list detailing all legislation unproclaimed 90 days after assent as at 8 May 2002.

PETITIONS

Australian War Graves French Airport Proposal

Petitions asking that the House join with the Federal Government in lobbying the Government of France to stop development of land occupied by Commonwealth War Cemeteries containing Australian war graves, received from **Mr Price**.

North Head Quarantine Station

Petition praying that the head lease proposal for North Head Quarantine Station be opposed, received from **Mr Barr**.

Annandale 20/10 Youth Refuge

Petition asking that the 20/10 Youth Refuge be removed from 108 Nelson Street, Annandale, to a more appropriate location, received from **Mr Richardson**.

Genetically Engineered Food

Petition praying that the House suspend the commercial release and trials of genetically engineered crops, support the implementation of mandatory labelling of food derived from genetic engineering and fund independent scientific research to investigate the potential risks to health and the environment, received from **Ms Moore**.

Freedom of Religion

Petitions praying that the House retain the existing exemptions applying to religious bodies in the Anti-Discrimination Act, received from **Mr Campbell**, **Mr Collins** and **Mr George**.

Hazardous Material Burning

Petition asking the House to amend legislation in relation to the regulations governing the burning off of hazardous material, received from **Dr Kernohan**.

Wilderness Access

Petition praying that the Government allow continued access to public lands, abandon plans to declare the south-east wilderness study area wilderness, and repeal the Wilderness Act 1987, received from **Mr Webb**.

Manly JetCat Services

Petition seeking reversal of the decision by Sydney Ferries to stop JetCat services to Manly at 7.00 p.m., received from **Mr Barr**.

Keira Electorate Traffic Arrangements

Petition asking that traffic and pedestrian signal lights be provided at the intersection of Princes Highway, Campbell Street, Popes Lane and Ball Street in Woonona, received from **Mr Campbell**.

Lane Cove Tunnel Works

Petition praying that the House initiate a review of Lane Cove tunnel works, received from **Mr Collins**.

Cammeray Traffic Arrangements

Petition praying that pedestrian traffic signals be installed at Raleigh Plaza on Miller Street, Cammeray, and that the 1997 traffic study be implemented, received from **Mr Collins**.

Bus Route 321

Petition asking for extension of bus route 321 from Vacluse to beyond Bondi Junction, received from **Mr Debnam**.

Oallen Ford Road Upgrading

Petition asking that Oallen Ford Road, a major thoroughfare between the Hume Highway at Marulan and the M92 already under construction, be upgraded, received from **Mrs Hodgkinson**.

Tumbarumba to Jingellic Highway Upgrading

Petition asking that the Tumbarumba to Jingellic section of State Road 85 be sealed, received from **Mr Maguire**.

Moore Park Landscaping

Petition calling for permanent removal of car parking from Moore Park, and praying that Moore Park be landscaped to the same standard as Centennial Park, with strategic mounding and tree planting to prevent future car parking, received from **Ms Moore**.

M5 East Tunnel Ventilation System

Petition praying that the Government review the design of the ventilation system for the M5 East tunnel and immediately install filtration equipment to treat particulate matter and other pollutants, received from **Mr J. H. Turner**.

Manly Lagoon Remediation

Petition praying that funds be made available to assist in the remediation of Manly Lagoon, received from **Mr Barr**.

John Fisher Park

Petition praying that the Government support the rectification of grass surfaces at John Fisher Park, Curl Curl, and oppose any proposal to hard surface the Crown land portion of the park and Abbott Road land, received from **Mr Barr**.

Queenscliff Geographical Names Board Classification

Petition praying that Queenscliff be reinstated as a suburb by the Geographical Names Board, received from **Mr Barr**.

Old-growth Forests Protection

Petition praying that consideration be given to the permanent protection of old-growth forests and all other areas of high conservation value, and to the implementation of tree planting strategies, received from **Ms Moore**.

Northbridge Primary School

Petition seeking permanent classrooms to replace temporary demountable classrooms at Northbridge Primary School, received from **Mr Collins**.

Currans Hill Public School

Petition asking that air conditioning be installed in all demountable classrooms at Currans Hill Public School, received from **Dr Kernohan**.

Casino Policing

Petition requesting increased police numbers at Casino and that the police station be manned 24 hours per day, received from **Mr George**.

Warragamba Police Station Closure

Petition asking that the House take every possible action to rectify the closure of Warragamba Police Station, received from **Dr Kernohan**.

Cronulla Police Station Upgrading

Petition praying that the House restore to Cronulla a fully functioning police patrol and upgrade the police station, received from **Mr Kerr**.

Wagga Wagga Electorate Policing

Petition asking that more police officers be provided to service the communities of Yerong Creek and The Rock, received from **Mr Maguire**.

Surry Hills Policing

Petition praying for increased police presence in the Surry Hills area, received from **Ms Moore**.

Malabar Policing

Petition praying that the House note the concern of Malabar residents at the closure of Malabar Police Station and praying that the station be reopened and staffed by locally based and led police, received from **Mr Tink**.

Wentworthville Police Station

Petition asking that any move to scale back or close Wentworthville Police Station be opposed, received from **Mr Tink**.

Monaro Policing

Petition asking that a police officer be appointed to frequently patrol rural areas of the Monaro and surrounding regions, received from **Mr Webb**.

BUSINESS OF THE HOUSE**Reordering of General Business**

Mr BROGDEN (Pittwater—Leader of the Opposition) [2.29 p.m.]: I move:

That General Business Order of the Day (for bills) No. 5 have precedence on Thursday 8 May.

The Coalition's bill seeks to amend the Crimes Act to provide for a compulsory life sentence for any person who murders a New South Wales police officer in the line of duty. The community demands a greater level of safety

for our police, and the police deserve it. The police deserve from us an assurance that we will stand by them when they are in need. They deserve from us an assurance that a person who murders a police officer in the line of duty will go to gaol for life. Why? In the past seven years six police officers have died in the line of duty. In 1995 Senior Constable Peter Addison and Senior Constable Robert Spears—

Mr SPEAKER: Order! I have been advised by the Clerk that a bill may only be reordered if it is before the House. The Leader of the Opposition has not yet introduced his bill.

Mr BROGDEN: You will not let me deliver the second reading speech.

Mr SPEAKER: Order! It is not a matter of what I will or will not allow you to do. The standing orders provide that a bill cannot be reordered unless it is before the House.

BUSINESS OF THE HOUSE

Reordering of General Business

Mrs SKINNER (North Shore) [2.31 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me earlier this day [United Medical Protection] have precedence on Thursday 9 May.

The Minister for Health needs to explain why, on 18 January this year, he knowingly approved United Medical Protection [UMP] as an insurer under the provisions of the Health Care Liability Act when he knew that the organisation was insolvent and not likely to survive. The motion should be given priority because the Minister for Health, in the most hypocritical fashion possible, has tried to shift the blame for the current problems with medical insurance to the Federal Government. The Minister had the gall to approve UMP as an insurer on 18 January, when he had been advised that the organisation was broke. The Minister received a copy of an Ernst and Young report that had been commissioned by the Australian Medical Association. He had it in his bottom drawer, because it told him that UMP was broke. The Minister had also received a letter from Peter Lepparde, the Asia-Pacific Chief Executive Officer of the United States-based insurer St Paul's, which said:

Calculations showed that all but one of the defence organisations—MDA National—would fail basic solvency test of the Australian Prudential Regulation Authority ... Given the parlous state of most of these funds ... we believe that the NSW Government is running a very high risk of generating ... another HIH situation in the medical indemnity field.

On 1 March the Minister met with two doctors. During conversations about other matters, he told those doctors that he knew that UMP was insolvent and not likely to survive. He told them that he was "going to pull the plug on then in February but held off because of the obvious political ramifications". I am very confident, as the Minister knows I would be, about the accuracy of that quote, because one of the doctors was the Hon. Dr Brian Pezzutti, a member of the Legislative Council. The Hon. Dr Brian Pezzutti and the other doctor who was present, an anaesthetist, who is mightily angry with the Minister, are prepared to vouch for that quote. The Minister suggests that somebody else should take the blame when he knowingly approved UMP as an insurer whilst it was broke.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 36

Mr Armstrong	Mr Humpherson	Mr Slack-Smith
Mr Barr	Dr Kernohan	Mr Souris
Mr Brogden	Mr Kerr	Mr Stoner
Mrs Chikarovski	Mr McGrane	Mr Tink
Mr Collins	Mr Merton	Mr Torbay
Mr Cull	Ms Moore	Mr J. H. Turner
Mr Debnam	Mr O'Farrell	Mr R. W. Turner
Mr George	Mr Oakeshott	Mr Webb
Mr Glachan	Mr D. L. Page	
Mr Hartcher	Mr Piccoli	
Mr Hazzard	Mr Richardson	<i>Tellers,</i>
Ms Hodgkinson	Ms Seaton	Mr Fraser
Mrs Hopwood	Mrs Skinner	Mr Maguire

Noes, 54

Ms Allan	Mrs Grusovin	Mr E. T. Page
Mr Amery	Ms Harrison	Mrs Perry
Ms Andrews	Mr Hickey	Mr Price
Mr Aquilina	Mr Hunter	Dr Refshauge
Mr Ashton	Mr Iemma	Ms Saliba
Mr Bartlett	Mr Knowles	Mr Scully
Ms Beamer	Mrs Lo Po'	Mr W. D. Smith
Mr Black	Mr Lynch	Mr Stewart
Mr Brown	Mr Markham	Mr Tripodi
Miss Burton	Mr Martin	Mr Watkins
Mr Campbell	Mr McBride	Mr West
Mr Carr	Mr McManus	Mr Whelan
Mr Collier	Ms Meagher	Mr Woods
Mr Crittenden	Ms Megarrity	Mr Yeadon
Mr Debus	Mr Mills	
Mr Face	Mr Moss	
Mr Gaudry	Mr Newell	<i>Tellers,</i>
Mr Gibson	Ms Nori	Mr Anderson
Mr Greene	Mr Orkopoulos	Mr Thompson

Question resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Reordering of General Business

Mr BARTLETT (Port Stephens) [2.41 p.m.]: I move:

That General Business Notice of Motion (General Notice) No. 23 [Public Liability Insurance] have precedence on Thursday 9 May.

I move precedence on the motion of which I gave notice yesterday. The motion reads:

That this House:

- (1) recognises the difficulty that the tourism industry and community groups are facing with public liability insurance premiums.
- (2) supports the Treasurer's 14-point plan to help resolve this issue.

Public liability insurance is the biggest issue affecting both the ecotourism industry and community groups in my electorate and, I am sure, in the electorates of other honourable members. Debate on the motion will allow the canvassing of issues raised by the community in the light of recent announcements.

Motion agreed to.

STANDING COMMITTEE ON PUBLIC WORKS

Report

Ms Beamer, as Chairman, tabled the report entitled "Report on Government Building Maintenance", dated May 2002.

Ordered to be printed.

QUESTIONS WITHOUT NOTICE

ROCKDALE CITY COUNCIL CORRUPTION ALLEGATIONS

Mr BROGDEN: My question without notice is to the Premier. In view of his statement today that he emphatically believes that no Minister in his Government is involved in corrupt activities in Rockdale City Council, will he tell the House what steps he took to arrive at this conclusion?

Mr CARR: I am assured that no Minister in this Government has had anything to do with the corruption now being exposed at the ICAC about Rockdale council. Police Minister Michael Costa has already made a public statement this afternoon flatly rejecting an allegation floating around the ICAC that he is somehow associated with any activity on that council. Grubby local councillors who tout for bribes for development applications are, in my view, the scum of the earth. They ought to be frogmarched out of local government and, yes, treated by the law as the law provides. What they do smears all the good local people who serve and who have served in local government. It betrays the trust that people have invested in them.

It should concern both the Liberal and Labor parties that people who wear the badges of these great organisations have gone into local government and, in a small minority of cases, behaved corruptly. That is wrong and it ought to concern the Liberal Party as much as it concerns the Labor Party, looking at the things being said in this inquiry. One notes, for example, the name of Andrew Smyrnis figuring big in today's reports. He is Liberal but by all accounts the name of a Labor councillor is going to figure in the revelations of ICAC as well.

Mr Anderson: Who?

Mr CARR: Adam McCormick. It was in the papers today. If honourable members want to rake over this, their attention is directed back to the *Telegraph-Mirror*, as it then was, reporting the September 1995 Sydney City Council elections. It reported that on Mrs Greiner's Sydney Alliance ticket the final seat ended up being a battle between Mrs Greiner's Alliance candidate, Andrew Smyrnis, the No. 3 candidate on that ticket—

Mr Anderson: Is that the same Andrew Smyrnis?

Mr CARR: I can only assume it is, it not being a common name. Mr Sartor was No. 4, with Michael Yabsley, the campaign director—the man who figured in the recent destabilisation of the leadership of the honourable member for Lane Cove. Both the Liberal Party and the Labor Party are entitled to be indignant at corrupt behaviour from a very small number of people who get into local government and betray the public trust. I regard them as the lowest form of human life because they taint all honest government through their behaviour. Both the Liberal party and the Labor Party should see that they are frogmarched out of the honourable ranks of these great political organisations.

In response to the boasting of one of these local government characters before ICAC, the Minister has said emphatically that he has not met the man to the best of his knowledge and has certainly not discussed local government development approvals with him. It should not surprise us that people engaged in corrupt behaviour attempt to talk up their influence, to say that they are well connected and they can get things done. That is part of the psychology of these very bad people.

Let me put this on the record. Local councillors who tout for bribes will very likely find themselves behind bars. Under section 249 of the Crimes Act, the maximum penalty for receiving or soliciting a reward in return for influencing local council affairs is seven years imprisonment. The Government's capacity to dismiss a council is very limited at present. It can only dismiss a council after a lengthy public inquiry process. This is clearly inappropriate when an ICAC inquiry is already uncovering evidence of corruption. Today the head of the Cabinet Office has spoken to the Commissioner of ICAC about this process.

The commissioner has indicated that she would support the Government introducing legislation to amend the Local Government Act to enable the Minister for Local Government to dismiss a council and appoint an administrator immediately, based on the recommendation of ICAC in an interim or final report. In other words, when an ICAC inquiry has uncovered evidence of corrupt behaviour there would be no need to have an inquiry under the Local Government Act to see the council spilled out into the streets, and that is what we would

want in such a case. I foreshadow an amendment to the Local Government Act to enable the Minister for Local Government to suspend an individual councillor or staff member of that council if ICAC recommends their suspension in an interim or final report or if they are charged with a criminal offence relating to their council responsibilities or council employment.

Effectively, in the case of Rockdale, this will mean the ICAC commissioner being able to trigger, through this Government, the dismissal of the whole council. That would happen in an expeditious fashion. Today I have also asked the General Secretary of the New South Wales branch of the Australian Labor Party to expel from the party any local government councillor who admits to corrupt behaviour or is found to have acted corruptly in the current ICAC proceedings. And I confidently expect that the Leader of the Opposition would take the same approach with members of his party.

DRIVERS HAND-HELD MOBILE PHONE USE

Mr MOSS: My question without notice is to the Minister for Roads. What is the Government's response to community concerns about drivers who use mobile phones, and related matters?

Mr SCULLY: Last year's road toll was the lowest in 50 years, but more needs to be done. Recent research has confirmed the serious danger of driving while using a hand-held mobile phone. It has been illegal to use a mobile phone while driving in New South Wales since 1989. Unfortunately, in the past four years police have caught more than 42,000 people driving while using a hand-held mobile phone. Using a hand-held mobile phone while driving is both dangerous and unacceptable. That is why, from 1 July, if people value their licence they will not drive while using a hand-held mobile phone.

From 1 July of this year demerit points will apply to this offence for the first time. People who are caught driving while using a hand-held mobile phone will find three demerit points applied to their licence, and the fine will increase to \$220. A British study has recently confirmed that using a hand-held mobile phone while driving is even more dangerous than drink driving. In fact, drivers using a hand-held mobile phone have 30 per cent slower reaction times and miss more road safety signs than a driver with a blood alcohol level of 0.08. That is well over the legal limit. The same study has shown that reaction times increase dramatically when using a hand-held mobile phone.

For example, drivers travelling on a motorway at 110 kilometres per hour while speaking on a mobile phone had a 50 per cent slower reaction time. That translates into travelling an extra 14 metres before drivers react, let alone apply the brakes. That could be the difference between life and death in such situations. Telstra surveyed 400 customers on this issue. It found that one-third admitted to committing this offence at least once a week, and more than half reported a noticeable loss of concentration in their driving while talking on a hand-held mobile phone.

That research and anecdotal evidence have given the Government enough prompting to take action. Western Australia has already taken action by imposing a penalty of only one demerit point. The New South Wales Government believes that a penalty of three demerit points is appropriate. New South Wales and Western Australia are the only two States that have taken such action. The message is that New South Wales has the toughest penalties in terms of driving while using a hand-held mobile phone. From 1 July, if people value their licence I strongly suggest that they cease and desist doing what they may have felt was necessary in the past.

The Government is concerned about some other issues relating to driver behaviour around schools and pedestrian crossings. This issue constantly comes to the attention of members on both sides of the House. Recent surveys by the Roads and Traffic Authority [RTA] and the NRMA found that many motorists still drive too fast in school zones. This is on top of concerns raised by the Pedestrian Council of Australia about poor driver behaviour around pedestrian crossings. In response to the concerns of members on both sides of the House and of the Pedestrian Council, and in relation to research by the NRMA and the RTA, I have decided to increase from \$211 to \$320 the penalty for drivers who fail to stop or give way to a pedestrian at a marked crossing.

The penalty will also increase for drivers who pass or overtake another vehicle at school and pedestrian crossings. The Government believes that this action will help to modify driver behaviour in and around pedestrian crossings and the school environment. As much as possible, we must encourage people to obey the traffic laws. The issue is significant and we cannot be complacent. Over the past 20 years, under both the previous Government and this Government, huge inroads have been made on the road toll. Dramatic reductions

have been made over the past 20 years. This Government has a good record on the road toll. Figures for the past 10 to 15 years show that the previous Government also had a good record on the road toll. However, we cannot be complacent; 500 to 600 people being killed every year is totally unacceptable. The record is good relative to 20 years ago but we need to do more. If accidents are more likely to occur because people are using a hand-held mobile phone while driving, we should do all we can to encourage people to stop using a mobile phone while driving. And if people do not stop, they will have their licence taken from them.

WATER MANAGEMENT PLANS

Mr SOURIS: My question without notice is directed to the Minister for Land and Water Conservation. What is the Minister's response to advice from agricultural, banking and local government authorities that his water reforms threaten the social and economic viability of rural New South Wales and will have a devastating impact on communities such as Gunnedah which rely on agriculture for their survival? Will the Minister commit to genuine public consultation and respect for property rights?

Mr AQUILINA: This question gives me the opportunity to tell precisely what this Government is doing to bring about the most historic reform in the use of water that this State has ever seen. The reform will provide a degree of security for the future use of water for at least the next 10 years. It will also provide a flexible approach that will enable farmers, irrigators and conservationists to adapt the use of water to ensure that everyone has a justifiable share of this limited resource. In its seven years in government the Coalition allocated water licences as if there was absolutely no limit to the availability of water in this State to the extent that there is now four times as much water allocated as is actually available.

It has taken this Government to bring some sanity into the use of water in this State. I congratulate my predecessor on the introduction of the Water Management Act 2000. In co-operation and in consultation with all users—irrigators, those who have domestic use in rural New South Wales, environmentalists who require the environmental flows to make sure our rivers—creeks and streams have a healthy future. We are now looking at these major reforms. At this very moment, 37 water sharing plans are out for consultation, and they are being greeted well by all of the communities.

Mr Armstrong: Point of order: My point of order is relevance and the truth. Quite simply, the community in the Lachlan has not had the opportunity to review the Minister's proposal. Will the Minister guarantee water allocation in the Lachlan for the next review of his statement of a 10-year supply?

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

Mr AQUILINA: Today the honourable member for Lachlan received from me the water-sharing plan for his area indicating that his local community has until 24 May to respond to it. He has received that water-sharing plan, along with 37 others. I see a number of his colleagues nodding their heads because they have also received the water-sharing plans indicating precisely what is going on, as have members of the Government, particularly members of Country Labor who are very much concerned about this issue. They talk to their local communities in their electorates and feed their responses to the Government. Having said that, there are major difficulties in some areas, one of which is Gunnedah in relation to the Namoi ground water system. In the Namoi ground water system there is a sufficient legacy of past management practices that have to be addressed if the extraction of water is to match the recharge levels. If current practices continue we will be mining our water resources, and that will lead to an increased risk of salinity and the subsequent collapse of water resource and economic production.

Currently six of the 13 aquifers in the Namoi will have a history of water use estimated at 40,000 megalitres per year above sustainable yield. Consequently use in these aquifers will have to be reduced by 40,000 megalitres per year in order to limit extractions to levels equal to what is a sustainable yield. This is an essential prerequisite to the long-term farming viability of irrigators. The irrigators know that. They do not want to keep using water to the extent that the water they use will end up being saline and when they will not be able to sustain their long-term production. They have a lot more sense than the Leader of the National Party who knows nothing at all about this issue.

The Leader of the National Party should listen to this. Cuts in the water use through the 13 zones of the Namoi will vary from zero to 29 per cent over 10 years—not cuts of 70 to 90 per cent mentioned in some quarters, particularly by the Opposition. We recognise that there has been full endorsement by all parties, including the irrigators, of the necessity to implement sustainable extractions. However, there is also the issue of

addressing the equitable distribution of a sustainable yield among licensees. We have that detailed proposal. Tomorrow, Bob Smith, the Director-General of the Department of Land and Water Conservation will be in the Namoi to talk to the people who matter about the detail of what needs to be done to bring some sanity into water use in that area. He will make sure that farmers in that area have long-term security and that everyone will benefit from the available water, not the imaginary water which was allocated by the Coalition when it was in government.

PUBLIC LIABILITY INSURANCE

Mr CAMPBELL: My question without notice is to the Premier. What is the latest information on public liability and related matters?

Mr CARR: Yesterday, as honourable members are aware, I released the Government's draft Civil Liability Bill on which action is needed urgently because we backdated the effect of the reforms to 20 March, the date of my original statement in this Chamber about reform. However, the spotlight now must turn to the insurance industry and the regulation of the insurance industry. The States, certainly New South Wales and Queensland, are doing their bit to reform the law of torts, but if the insurance industry thinks the spotlight has shifted from it, its behaviour and its pricing, then the insurance industry is wrong. What we are doing fixes up the underlying law in this area of concern. As I explained yesterday, we will restrict awards for personal injury damages and lawyers' costs in small claims, and there will be a range of tort law reforms next session that will involve broad-ranging reforms to the law of negligence.

These are matters over which the States have power, but regulation of the insurance industry is something for which the Commonwealth is responsible. The Australian Prudential Regulation Authority [APRA] is responsible for licensing general insurers to operate in Australia. The Australian Securities and Investment Commission is responsible for consumer protection in relation to financial services, including insurance. The Australian Competition and Consumer Commission is responsible for competition and prices surveillance. It is the Commonwealth's responsibility to examine the conduct of insurers towards consumers, including small businesses to see whether unconscionable tactics are being used. They should also monitor the insurance industry for any sign of anti-competitive practices and, if necessary, the Commonwealth should subject the insurance industry to price monitoring.

I have also consistently called on the industry to review its practices. The industry should give rational quotes for public liability insurance based on the real risks involved. Insurers must pass on cost savings they make from State law reforms. Windfall gains, at the expense of small customers are unacceptable. Therefore, I will be urging my counterparts in the States and Territories to join me in insisting the Commonwealth use its regulatory powers to stop such gains. The organisations seeking insurance must also do what they can to implement sensible risk management programs. They must ensure that they are only seeking the insurance cover they actually need. The Government has worked with the insurance industry and affected organisations to deal with these issues.

There is some evidence of a stabilisation in the market. Regional Arts New South Wales, the peak body for the arts in regional and rural New South Wales, provides public liability and volunteer insurance to regional arts boards, local arts councils and other arts groups. Regional Arts is one of the organisations that approached the Government over its difficulties in obtaining affordable insurance. My officers met Regional Arts in February then raised their difficulties with the Insurance Council of Australia. Last year Regional Arts paid a premium of \$16,000. As they tried to renew their insurance, they were quoted premiums of \$140,000 and \$180,000. Things looked pretty bleak. I am delighted to report that, on Monday, Regional Arts announced that their "public liability nightmare" is over. They have insurance for \$20,000. That is up on the premium of \$16,000, but it is considerably below the quoted premiums of \$140,000 and \$180,000. They can now get back to their core business.

That good news does not remove the need for the Government's reforms, of course. We need to deal with unrealistic judgments and huge damages payouts. We need to restore sense and balance in the law of negligence. I am pleased to see that Queensland has announced it is developing a reform package. I have sent a copy of the New South Wales bill to Premier Beattie. We will examine his legislation. I will of course consider the Queensland reforms as soon as they become available. With action from the Commonwealth and the insurance industry, our tort law reforms will restore sanity to public liability insurance. They will ensure the continuation of vital community services and the survival of community events.

ROCKDALE CITY COUNCIL CORRUPTION ALLEGATIONS

Mr BROGDEN: My question without notice is addressed to the Deputy Premier, and Minister for Planning. What investigations have you made to determine whether you, any member of your staff or Planning New South Wales have ever received communications from Deputy Mayor of Rockdale Adam McCormick, or ALP headquarters on his behalf, regarding any planning matter involving Rockdale City Council?

Dr REFSHAUGE: I have thoroughly searched my records. There is no evidence of any correspondence between the deputy mayor—

Mr Brogden: Or phone calls?

Dr REFSHAUGE: Or phone calls between the deputy mayor and myself or my office.

SCHOOL STUDENTS LITERACY LEVELS

Mr PRICE: My question without notice is to the Minister for Education. What is the latest information on literacy levels for New South Wales boys and girls in years 7 and 8?

Mr WATKINS: Honourable members will recall that in December last year an OECD study said New South Wales students have literacy levels right up there with the best in the world. This prestigious international study showed New South Wales students were on par with the first place-getters—Finland, Canada and New Zealand. In Australia, New South Wales leads every other State. In the same study the OECD noted the gap between the general results and those of particular groups, such as boys and indigenous students, was also worthy of attention. Although the "gaps" in achievement were not as pronounced as in some other countries, certain groups of students required more intensive help.

Today I can report that the latest test results, under the comprehensive literacy program in place in New South Wales schools, show encouraging improvements for those students. The Government has committed \$464 million over four years to improve literacy and numeracy outcomes in our schools. That plan includes the Basic Skills Test and the English Primary Writing Assessment in years 3 and 5; the English Language and Literacy Assessment test, or ELLA, in years 7 and 8; and the Secondary Numeracy Assessment Program in year 7. In March this year more than 137,000 New South Wales year 7 and year 8 students took part in the ELLA test. ELLA assesses the literacy achievement of students at a crucial transition stage—between primary and secondary schooling. It gives teachers vital diagnostic information about each student's achievement in writing, reading and language. Today's results showed teachers are using ELLA test results very effectively to pinpoint students who need help and to target specific strategies to help them overcome problems that they may have.

ELLA results are being sent to schools this week, and to parents soon thereafter. They will have again this year an individual, comprehensive report about their child's achievement. While overall results remained high, this year's result shows definite improvements for the groups that the OECD said needed special help. They also show that year 8 students who were identified as needing help through the year 7 tests last year have received that help and are improving the most. Although girls are still outperforming boys, the difference in reading scores for boys and girls in years 7 and 8 is the lowest since testing began in 1998. So the difference between boys and girls is narrowing. This year, indigenous students have again improved their reading, with the 2002 test results being the best ever. The gap between indigenous students and others has also narrowed. Students from non-English-speaking backgrounds have also had strong results in all areas tested.

Honourable members may be aware that, apart from testing in year 7, ELLA is also available to retest students in year 8. Nearly all public schools now retest year 8 students. This year, 99 per cent of public schools participated in that retesting. It is perhaps this area where the ELLA test results are most pleasing. They show just how well our hardworking teachers are going. The 2002 data shows those year 7 students tested in 2001, and found to have the greatest need, have clearly benefited from the additional assistance that they have been given. This year, those students—now in year 8—have improved at a far greater rate than all other groups. That means that those students, now in year 8, have improved at almost six times the rate of growth for the total population in their writing test; in reading, it was more than two and a half times the rate; and in language it is five times the rate.

Identifying the problem in year 7, providing the required resources and retesting in year 8 show that results can change through specifically targeted resources. The literacy strategy is helping all students in years 7

and 8, not just those with particular problems. Across the board, from year 7 to year 8, the average improvement in writing was 1.1 marks, for reading 2 marks, and for language 0.9 of a mark. In addition, 60 per cent of students who were in the lower achievement category for writing have progressed to a higher achievement level, that is, 60 per cent who were in a lower group have come out of that group; in reading, 69 per cent who are in a lower group have progressed; and, in language, 52 per cent have moved up.

There are always minor fluctuations from year to year, upwards and downwards, in the ELLA results, but the ELLA test has now been in place for five years. The trend data across that time shows a constant high standard is being achieved by New South Wales students. It also shows a slight increase in mean scores since testing began. The New South Wales State Literacy and Numeracy Plan is one of the most comprehensive, important and successful examples of targeted and effective education policy. By 2004, approximately a billion dollars will have been spent on the strategy, such is the priority that is being given to the basics of learning, which indicates that the Government is supporting students during transitional times, such as when they move from primary education into secondary education.

Assistance is also being given in the provision of intensive local training and development for teachers to enable them to recognise the needs of their students, and by providing additional support for students who are experiencing the greatest difficulties. The results from both the basic skills tests and ELLA show that the money will be well spent. There are now fewer students with lower achievement ratings and more students in the higher achievement bands, and that means that those students are obtaining a more rewarding and successful education. In conclusion, I take this opportunity to thank New South Wales teachers. This is their success. The results have been achieved through the efforts of these hardworking men and women who, day in and day out, provide effective care for their students, especially in literacy and numeracy. I am proud to acknowledge that several of those hardworking teachers are present in the gallery.

LIVESTOCK DISEASE CONTROL

Mr MARTIN: My question without notice is to the Minister for Agriculture. What is the Government's response to the Audit Office's report on animal disease preparedness in New South Wales?

Mr AMERY: By way of background and before I respond in detail to the question, I point out that last week in Hobart when the Primary Industry Ministers Council met I discussed this matter with Ministers from other States and with Federal Ministers. At that meeting I discovered that a report highlighting a national approach to disease preparedness is being co-ordinated by the Primary Industry Ministers Council. As a result, I indicated to the meeting that while State Governments throughout Australia may think that it would be easy to say that Australian Quarantine and Inspection Service [AQIS] and national quarantine are a Federal Government responsibility in an attempt to shift blame to the Federal Government, should a foot and mouth disease outbreak occur in Australia, that argument, in the circumstances of an actual foot and mouth disease outbreak of the magnitude of the one that occurred recently in Great Britain, would last approximately one day.

Furthermore I pointed out that each State has a responsibility to undertake preparation to combat foot and mouth disease as well as a clear statutory responsibility in management of the disease, should an outbreak occur in Australia. At the meeting I was able to successfully move that at the next meeting of the council each State should submit an audit report to bring national authorities up to date on not only what the national government is doing but also the preparedness of every individual State Government. It is against that background that I was somewhat disappointed to read some of the comments and notice some of the emphasis placed by the performance audit report of the Auditor-General's Office on the disease outbreak preparedness of New South Wales Agriculture. The report clearly made some complimentary statements about the department.

However, although the executive summary states that the New South Wales Department of Agriculture is to be commended for its leadership, that statement is followed by a "but". Moreover, when dealing with all the issues raised in connection with disease preparedness, the report acknowledges that the task of becoming fully prepared is immense and that the level of activity is commendable, but adds a "however", and proceeds to outline a number of shortcomings in this State's preparedness to combat disease. Generally speaking, I believe that when New South Wales Agriculture and national bodies examine the report, they will accept criticisms that are regarded as genuine and dismiss criticisms that are regarded as being plainly wrong. I should add that the response of New South Wales Agriculture to the report is fairly relaxed. In a letter dated 19 April, the acting director-general of the department states:

The report has accurately identified some issues and shortcomings in preparedness and response capabilities of NSW Agriculture to Emergency Disease incidents, and I believe the recommendations are appropriate. In many cases these issues and shortcomings were identified prior to the report and have been or are being addressed by my department.

Having said that, I should also state that from a philosophical perspective the report is a typical Audit Office report—it can be all things to all people, and it is possible to lean towards some of the positives as well as on some of the negatives. Although the report commended New South Wales Agriculture for its leadership, it has done little to acknowledge the broad range of initiatives and significant resource allocations that have been made to animal disease management preparedness during the past few years. In addition, New South Wales Agriculture is being publicly acknowledged by the Commonwealth Government and by some of the other States for the initiatives it has taken on behalf of Australia to improve the nation's ability to respond to disease emergencies.

Some of the initiatives to which I have referred but which were not found in the report include the establishment of a well-trained response team comprising approximately 70 people who are available at very short notice to undertake all major roles of disease response. No other response team has been established in Australia. All honourable members may wish to note that the Commonwealth has sought the support of New South Wales in making this team available interstate, if the need arises. I also point out that this Government's encouragement of a national approach to the disposal of infected carcasses and waste and to undertaking a national consultancy on the issue was also not acknowledged. The report on the consultancy proposal has been presented and has been acknowledged as a significant contribution to a national approach to solving the issue.

As a result of the standard of this consultancy, the Commonwealth invited project manager Dr Bruce Christie to attend on its behalf an international workshop in Canada on this very subject. From experiences gained in dealing with Newcastle disease, New South Wales Agriculture has developed a set of over 300 standard operating procedures for most operations that are associated with emergency disease responses, but that also was not acknowledged in the report. The operating procedures are being sought by most other States and overseas organisations for training programs. That is a great credit to the Department of Agriculture.

The body of the report refers to a decline in the number of New South Wales Agriculture veterinarians whereas in reality that is not the case. Records show that over the past 20 years the number of veterinarians in the department and in Rural Land Protection Boards has increased slightly, despite the number of total staff in the department having decreased over that period.

Mr Armstrong: I have noticed that.

Mr AMERY: That is a very important interjection. What I am saying is that although the number of people involved in human resources and administration has reduced, the number of front-line services, which also includes proportional extension, has actually increased. That has been a deliberate strategy adopted by this Government. I believe that that trend existed under the honourable member for Lachlan's administration as well, so the honourable member for Lachlan may take credit for that. The report implies that the introduction of laboratory fees and a decline in the number of tests are factors in emergency disease preparedness, and the honourable member for Barwon will recall this point being raised at a forum at Parliament House some months ago. That imputation demonstrates a lack of understanding of our disease and testing policies because all emergency and notifiable diseases are tested free of charge. If the existence of a disease is suspected, any livestock producer or veterinarian can submit a sample and will not be charged for the service.

Mr SPEAKER: Order! There is far too much audible conversation among honourable members. I include the honourable member for Menai, the honourable member for Parramatta and the honourable member for Wollongong in that warning.

Mr AMERY: The report also refers, very importantly, to pressures on laboratory resources and a run-down in skills. In fact, the trend is proceeding in the opposite direction. In addition to \$1 million which has just been provided through a capital equipment program, additional equipment will be provided in 2002-03. A laboratory information management system which is valued at more than \$1 million is currently being installed. All laboratories have been internationally accredited at a cost of approximately \$500,000. The closure of two veterinary laboratories and the development of modern facilities at three remaining veterinarian laboratories have improved the turnaround time and capability of diagnostic services. The reduction in the number of diagnostic pathologists has been directly related to the closure of two laboratories and the adoption of modern diagnostic technology. Five additional veterinary officers-in-training have been employed and some of them have diagnostic pathology skills. These people will be available to replace staff who retire.

In conclusion I point out that the audit report fails to acknowledge that New South Wales has a statewide surveillance system involving Rural Land Protection Boards that is the envy of all other States. This

State also has a government-resource integrated and internationally accredited diagnostic service and a veterinary workforce that has attained significant skills in the management of emergency disease outbreaks in Australia and in the United Kingdom. We are being relied upon and we contribute nationally in many significant areas of emergency disease preparedness and response. I will write to the Audit Office and supply a copy of that correspondence to the Opposition. When the ministerial council meeting meets later this year the audit report will also be circulated to all honourable members. We will take the report on face value and tick off those areas where we believe criticism is warranted. However, I point out that many aspects in this report are factually wrong.

DEPARTMENT OF COMMUNITY SERVICES HELPLINE

Mr R. W. TURNER: My question without notice is directed to the Minister for Community Services. After waiting for an hour on hold on the helpline and after spending two hours in the Orange Department of Community Services office on 26 April, why were four aunts of a nine-month-old baby told that Department of Community Services managers were on flexi leave and that no staff were available to protect him from his mother who has already had three children removed because of mental, physical and sexual abuse?

Mrs LO PO': As this is a serious case I ask the honourable member to meet with me after question time so that we can get to the bottom of this matter. Nobody should have to wait so long on the helpline. The helpline was set up to capture this sort of thing. As I am deeply concerned about what the honourable member has said I ask him to meet with me after question time so that we can sort out the matter.

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

STRATHFIELD POLICING

Mr TINK: My question without notice is directed to the Premier. How does he explain his betrayal of the people of Strathfield when just prior to the last election he put nine police into Enfield police station, which is now shut, and he is now forcing Strathfield ratepayers to pay twice to meet his broken police promise?

Mr CARR: What a dog's breakfast of a question time from the Opposition today! Opposition members were all over the place. Under the honourable member for Lane Cove the Opposition would take one by surprise. One would get hit with a question out of the blue and there would be a bit of a revelation in it. Under the new Leader of the Opposition, questions come out of last week's newspapers or from press conferences that Ministers gave this morning.

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

Mr CARR: Sometimes, when Opposition members are really sharp and they have been working on issues all night and counting away, their questions come out of this morning's newspapers.

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

Mr CARR: This question comes out of a morning press conference by the Minister for Police. The Minister has been out in the community dealing with this issue, talking about it and enunciating the position, but Opposition members decided that it will be their question in question time. What went on over there? The honourable member for Lane Cove and my old friend and fellow author the honourable member for Willoughby used to put a bit of zest, a bit of life and a bit of vibrancy into question time. Now, Opposition members have dismissed those dynamic researchers. Remember Luis M. Garcia?

[Interruption]

Kerry, has he got a job? The *Sydney Morning Herald* might have him back for a second or third time due to cyclical recycling, but we might even give him a job.

Mrs Chikarovski: He will do a better job than Walt.

Mr CARR: No, he would not. No-one would do a better job than Walt. This is a Walt criticism free zone.

Mr Armstrong: Point of order: I acknowledge that Walt has more firepower or gun power than Luis Garcia.

Mr CARR: Seriously, when I faced previous State Liberal leaders there was a time when we had a bit of fun in question time. Now Opposition members just rely on what is in the morning's papers, last week's papers, or on statements made at ministerial press conferences.

[Interruption]

If honourable members want me to detain the House, as the Minister said several hours ago at his press conference for the public record—and this is in answer to the shadow Minister's question—Strathfield council has committed \$50,000 to supplementary policing. Superintendent Alan Wilson and representatives of the Ministry for Police will be meeting with council next Tuesday. Flemington local area command, which contains Strathfield, has just been allocated 19 new police. A supplementary policing trial will add to and again enhance local policing. I thank Opposition members for never taking us by surprise and for rehearsing questions in the public media with us before asking them. But why the change? In the second parliamentary week under the new leadership, we are left asking: Why did Opposition members make the change? Where is the beef?

INDIAN FILM-MAKING AND TOURISM

Ms HARRISON: My question without notice is directed to the Minister for Small Business, and Minister for Tourism. What is the latest information on Indian film-making and tourism in New South Wales?

Mr SPEAKER: Order! The honourable member for Baulkham Hills will remain silent.

Ms NORI: I note the levity in the House, which in some sense is justified. It is pleasing to see an emerging and strengthening trend in New South Wales. Indian film-makers are increasingly choosing Sydney and New South Wales as their preferred destination for the production of films, video clips and commercials. In fact, Sydney has become a hot favourite for Indian audiences with Bollywood, as it is known, committing to bigger and more expensive productions in Australia. In the last couple of years 40 films, television advertisements and videos have made in Australia. Putting that into context, the Indian film industry makes about 1,000 movies a year, many of which are musicals.

On any given day 20 million citizens of India—which is equivalent to the whole population of Australia—will be watching a movie. They are looking for what they call an exotic location. They found that Sydney can afford them the very things that they need most for their productions. For example, last year Parramatta stadium was chosen for the largest ever Indian television commercial which used 400 extras, about 80 per cent of whom were locals. The spin-off for the tourism industry is also significant. Whenever an icon of this city or this State is part of a backdrop it is sending the message that this is an interesting and an important place to visit. That is reflected in the fact that the number of people who come from India to New South Wales is increasing.

Sydney is the second most preferred destination for Indian students after the United States of America. That is pleasing for an industry that is valued at \$3.5 million a year and that employs about 16,700 people directly and 34,000 people indirectly. It is pleasing to see that there has been a 73 per cent increase in the value of productions since 1995. I look forward to continued growth in this important market not only for the film and television industry but also for tourism.

Question without notice concluded.

CONSIDERATION OF URGENT MOTIONS

United States Farm Bill

Mr BLACK (Murray-Darling) [3.39 p.m.]: This matter should proceed because it is urgent. The United States Farm Bill is in the process of being enacted while we are discussing this matter in the House. This matter is urgent because Australia is currently negotiating, or it is preparing to negotiate, preferential trade agreements with four Asia-Pacific countries—Singapore, Japan, Thailand and the United States of America. Those negotiations are urgent. While they originated at different times and for different purposes, not all of them trade-related, they have in common a heritage that is part of the Howard Government's much-vaunted bilateralism in foreign and trade policy.

This matter is urgent because the problem for Australia is as follows. The Howard Government has not presented or foreshadowed any overarching strategic plan for its bilateral trade agreements; its approach is entirely ad hoc. This matter is urgent because, once again, the Prime Minister has indicated that the only bush he cares about is George W. This matter is urgent because the National Party is asleep, at both Federal and State levels. It is walking away from this disaster for our graziers, farmers and primary producers in general. The matter is urgent because the effect of the bill for the Murray-Darling electorate will be to suppress cotton and rice prices. Cotton prices will be suppressed in north-western New South Wales, and rice prices will be suppressed in southern New South Wales.

Mr SPEAKER: Order! The honourable member for Murray-Darling is debating the substance of the motion.

Mr BLACK: This matter is urgent because this House needs to discuss the failures of three senior National Party Ministers in this matter. It is urgent because we need to look at why Mark Vaile has failed, why Warren Truss has failed, and why been-and-gone John Anderson has failed.

Mr Armstrong: Point of order: My point of order is simply to support your ruling that the member is debating the matter.

Mr SPEAKER: Order! I uphold the point of order.

Mr BLACK: I salute the former Leader of the National Party. I am sure all members on this side of the House recognise that the National Party was in a far better state when he was leading it. Again, this matter is urgent.

Water Management Plans

Mr SOURIS (Upper Hunter—Leader of the National Party) [3.42 p.m.]: My motion is urgent because, as the Minister announced today during question time, he has advertised and provided for public exhibition 10 water management plans. This matter is urgent because the Minister is in breach of section 382 (b) of the Act. That section requires that water management plans be provided for public exhibition for 40 days. However, today the Minister announced an exhibition period much shorter than that. The advertisements appearing in the press today indicate that the Minister is clearly in breach of section 382 (b) of the Act, and that that would expose the Crown to legal action being taken against it, which would undoubtedly have a high likelihood of being successful.

My motion is urgent because it affects the future of local communities, particularly the Namoi Valley community. It is urgent that I correct the Minister's remarks to the House today during question time when he quoted percentage figures in relation to cuts. Mr Bob Smith, the Director-General of the Department of Land and Water Conservation, has told farmers on many occasions that individual cases in the Namoi Valley will experience cuts of up to 87 per cent, which would be an average of 57 per cent across the Namoi Basin. That is in stark contrast to the information that the Minister provided to the House during question time today.

The deadline for this process, imposed by the Government's own hand, is 30 June this year, which is very soon. That, in itself, expresses the urgency of my motion. Indeed, there is a great level of apprehension, particularly in the Namoi Valley, where a public rally will be held this Sunday. I am delighted that three representatives of the National Party will attend that public rally—my colleague the honourable member for Barwon, my colleague in the other place the Hon. Rick Colless and my colleague the honourable member for Tamworth.

I understand that neither the Premier nor the relevant Minister will attend the rally, notwithstanding the fact that it relates to a matter that is both urgent and crucial to the future survival of the Namoi Valley. The people of the Namoi Valley are so frustrated that they have resorted to holding a public meeting, which will be snubbed by the relevant Labor Party Minister, who today boasted about a process which itself breaches the Act. The residents of the Namoi Valley are apprehensive because they have made major investments and they see the deadline that the Government has imposed looming upon them.

The motion is urgent because staring at the Carr Labor Government is a plan with which it is possible to resolve the issue of overallocation. Whilst the Government uses the word "overallocation", it neglects to say that only half of the allocation is active and that the other half is inactive. It is therefore very obvious that the

solution lies in reducing the inactive licences that have been allocated and in offering compensation for the water rights that would be denied to those people. That is a recommendation of the task force appointed by the Carr Government. It reflects the requirement for the Carr Government to provide a \$40 million package in conjunction with the Federal Government's \$40 million package, which is already on the table, and the local industry's offer of \$40 million, which is also already on the table. The motion is urgent because within a matter of days the Carr Government will rob the people of the Namoi Valley of valuable property rights, completely denying the existence of property rights, and will do so without compensation. It is no wonder that the people of the north and north-west of the State are protesting against the Carr Government's gross, socialist, asset-robbing agenda.

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

UNITED STATES FARM BILL

Urgent Motion

Mr BLACK (Murray-Darling) [3.47 p.m.]: I move:

That this House:

- (1) supports the New South Wales beef export sector worth \$600 million a year and the 180,000 people who rely directly or indirectly on beef production for their livelihood;
- (2) notes the United States Farm Bill passed by Congress last week will add more than \$70 billion to local farm subsidies over the next 10 years;
- (3) further notes that the bill includes a mandatory country of origin labelling clause on all beef and farm produce that would give United States products an unfair advantage in their own markets; and
- (4) condemns Prime Minister Howard for his unsuccessful trade negotiations with President George W. Bush.

The Howard Government began discussions on a free trade agreement with the United States of America in mid-2001. The proposal is being driven by the Australian Ambassador in Washington, and by John Howard himself. Last month Mark Vaile stated that the United States-Australia free trade agreement was his number one bilateral trade policy priority. The Federal Government has assembled a high-profile group of Australian companies, including BHP Billiton, Bonlac, Southcorp, Visy and Telstra, and led by trade consultant Alan Oxley, to lobby for the United States-Australia free trade agreement.

Country Labor warned about the American bill as early as December 2000, just weeks after the election of George W. Bush. The Federal press gallery ran our stories—opinion pieces by Malcolm Farr and the like—and at the same time John Howard was saying what a great result this was for Australia because of his special relationship with President Bush. Mr Howard, I would hate to think what they might have done if we were an enemy. First it was Aussie lamb, then steel, and now the knockout blow: the United States Farm Bill, which increases subsidies by more than two-thirds, or 70 per cent, to \$ US17.3 billion or \$A32.2 billion.

Last week the United States Congress voted 280 to 141 to add \$US 7.3 billion a year for the next six years to the \$US10 billion the Government already shelves out to its own farmers. President Bush has already indicated that he will sign the bill into law after it clears both Houses of Congress. Most of the new money—US\$4.8 billion a year—will be directed to crop support. Ian Donges from the Farmers Federation has described the move as a blight on the world agricultural trade. The result will drive down prices, as I indicated earlier, for Australian farmers. It is as simple as that. I specifically make mention of cotton and rice.

Country Labor is committed to free trade. There is no question of the benefits that Australia has reaped from opening up its economy. Free trade is a proud legacy of previous Federal Labor governments. Today, one in five Australian jobs rely on exports, one in four in regional and rural areas. We do not deny that liberalisation is a difficult process but it is the proper role of governments to look after those worst affected by global forces and step in where markets fail. Labor governments modernise the Australian economy through an uncompromising commitment to global free trade rules. We did not just play by the book—we helped to write it.

Labor's foundation role in the Cairns group of agricultural exporters sets the standard for leadership in free trade. One-on-one trade deals can be good for Australia but no-one should automatically assume they will

be. Country Labor is not against preferential trade agreements, whether they be free trade agreements or in other forms; we simply need to be convinced that they are good for Australia. Country Labor wants clear evidence that Australians will get a good deal. That is our role and right, and the responsibility of this House. Spinning a web of bilateral trade deals must be carefully co-ordinated. Those deals must help support the momentum towards free trade in the region and within the new World Trade Organisation round.

There is absolutely no sign that the Howard Government has any strategy for trade bilateralism. The Federal Labor caucus will host a seminar on 24 June on free trade agreements, featuring speakers from business and academia. We are committed to ensuring that the parliamentary party can play an informed role in public debate on Australia's trade policy. Federal Labor will not allow the Howard Government to negotiate preferential trade agreements unscrutinised, and the same applies with Country Labor in New South Wales. I have heard the Premier refer in this House to his Stasi. I have my Stasi. Look at some of the press releases issued by senior National Party leaders on this matter. I start in 1996:

The Deputy Prime Minister and Minister for Trade, Tim Fischer, and the Minister for Primary Industries and Energy, John Anderson, today welcomed the progress of the US Farm Bill through the final legislative processes in America with its passage through the Joint House Senate Committee.

"Whether this progress translates into worthwhile change will be a matter for judgement," the Australian Ministers said.

"The final form and detail of the Bill will be carefully considered against the clear objective of the Australian Government and the world trade community to meaningful trade liberalisation."

I repeat, these are press releases by senior National Party Ministers. In 2001 the Department of Foreign Affairs and Trade released this press release:

Trade Minister Mark Vaile has welcomed the findings of an APEC Study Centre report today which finds Australia could reap wide-ranging benefits from the Free Trade Agreement ... with the United States.

Mr Vaile said the report *An Australia-USA Free Trade Agreement: Issues and Implications* by Monash University's APEC Study Centre confirmed that it made sense to pursue discussions with the US Administration on a possible FTA.

That was his position on 29 August 2001. On 11 September 2001 the department issued this press release:

Trade Minister Mark Vaile will discuss in coming weeks with these US counterpart, United States Trade Representative Bob Zoellick, how to progress the proposal for a Free Trade Agreement ... between Australia and the US.

"During their meeting in Washington, Prime Minister Howard and President Bush reaffirmed their commitment to enhance our close economic relationship, including the possibility of an FTA," Mr Vaile said.

What has Warren Truss been doing? On 28 August 2001 he wrote to the Prime Minister about raising the Farm Bill during his September 2001 visit to the United States. He wrote to the Hon. Ann Veneman, the United States Secretary of Agriculture, on 30 August 2001 with regard to the debate on future directions for farm policy in the United States and, in particular, the administration's approach to the Farm Bill. He met with Secretary Veneman in Washington on 10 December 2001, and he met Mr Charles Connor, Special Assistant to the President for Agricultural Trade and Food Assistance on 11 December.

Subsequently he wrote to Special Assistant Connor to follow up matters raised at the December meeting. The first concrete proposal for increased financial support for US farmers through a new Farm Bill occurred with the passage by the United States House of Representatives of its version of the bill on 5 October 2001. The Minister's office was advised of the passage of the bill in a cable dated 6 October 2001 from the Washington Embassy. A press release dated 18 December 2001 said:

Federal Agriculture Minister Warren Truss said today that the passage of the Trade Promotion Authority ... through the United States House of Representatives is a major step forward for freer trade and in giving the US Administration the authority to take a lead role in opening up international trade, including in agricultural products.

I can go on, but time does not permit. I come to the crunch. After endlessly saying how wonderful his visits to the United States were and that Australia's lobbying efforts were paying off, Mark Vaile put out a press release on 29 April this year, saying:

Trade Minister Mark Vaile today said the Australian government was very disappointed with the trade-distorting measures allowed for in the new US Farm Bill.

What an absolute change in stance. The press release went on:

"While details of the \$US 100 billion US Farm Bill are yet to be released, it is clear that the Farm Bill is not good news for Australian farmers," Mr Vaile said.

"The sheer size of the Farm Bill is a blow to efficient Australian agricultural producers.

This is a total admission of failure by the Federal Minister for Trade. I turn now to a media release by Warren Truss of 12 December 2001:

Elements of the Farm Bill currently being debated in the US Senate have the potential to damage deeply farmers in Australia and in many of parts of the world, the Federal Minister for Agriculture, Warren Truss, said in Washington today.

Mr Truss is in Washington with the delegation of Australian farm leaders to discuss with Members of Congress and the US Administration a range of concerns associated with legislation.

Again we note that action on the US Farm Bill has been too little too late. Two senior Federal National Party leaders have been issuing press releases consistently through 2001 about how wonderfully their discussions were progressing with the United States. This year, both these senior National Party Ministers, including been-and-gone John Anderson, are professing failure. [*Time expired.*]

Mr ARMSTRONG (Lachlan) [3.57 p.m.]: We have heard from the mover today a rhetorical recitation from a swag of press releases. I am not too sure—and I do not think anybody else is either—what the import of his message was. I note the four-part motion, and I will read the first part:

That this House;

- (1) supports the New South Wales beef export sector worth \$600 million a year and the 180,000 people who rely directly and indirectly on beef production for their livelihood;

That is quite correct and well put, and to that extent I wish to draw attention to a couple of facts, because the New South Wales Labor Government and its Country Labor members have done almost the opposite to that in recent years. This month the majority of abattoirs in New South Wales, be they at Dubbo, Inverell, Cootamundra, Goulburn, Junee, Griffith or various other places in the State, are eligible to pay payroll tax. Payroll tax in New South Wales is 6 per cent, with a threshold of \$600,000. Just over the border in Victoria it is 5.35 per cent, with a threshold of \$550,000, and in Queensland it is 4.75 per cent, with a threshold of \$850,000.

Mr Martin: Point of order: My point of order is to do with relevance. The motion relates to the American Farm Bill and its impact. It has nothing to with a comparison of the rates of payroll tax premiums in different States of Australia. I ask that you bring the honourable member back to the motion.

Mr SPEAKER: Order! There is no point of order. A fairly wide-ranging debate is always allowed on these matters.

Mr ARMSTRONG: Clearly, one factor inhibiting beef production is the indication from the New South Wales Government, through its performance on payroll tax, that it does not actively support the New South Wales beef export sector. The second point is that only a few months ago every member of Country Labor in this Parliament voted against a motion that would have seen a holiday on payroll tax for up to two years for new employees under the age of 25 in the beef processing sector.

To put it simply, there has been a lot of hypocrisy this afternoon from members of Country Labor and the Labor Party. During question time this afternoon the Minister for Agriculture's reply to a question about the Government's response to the Performance Audit Report brought down by the New South Wales Audit Office was predictable but astute. However, he did not read the Auditor's full report, because the Auditor said that the impact of animal diseases on our exports is not only significant but quite dramatic. For example, in the report the Auditor states:

Emergency animal diseases, like foot-and-mouth disease, can cause severe economic and social disruption. They affect processing industries, exports, tourism and general movements in the State. The foot-and-mouth disease in the UK during 2001 is a clear example of this occurring. As a consequence, Government preparedness is vital to controlling and limiting the effects of outbreaks.

The Auditor then makes a number of positive comments about how that management deficiency may be rectified. That would help us to address the State's unpreparedness for the effects of diseases such as foot and mouth on our exports, which is the subject of this motion. The Auditor found significant gaps in the State's ability to respond to and manage large-scale emergency animal disease outbreaks. He formed the opinion that while gaps remain in surveillance and response capabilities, New South Wales is exposed to various risks from an outbreak of foot and mouth disease. The Auditor said:

Actions by NSW Agriculture since the Newcastle disease emergency at Mangrove Mountain in 1999 have positioned the State to manage better emergency animal diseases. Many of these actions have been pursued within the context of national agreements and programs.

Issues requiring urgent attention include finalising a surveillance strategy, being able to trace the movements of affected animals, digital mapping of diseases, and destroying and safely disposing of large numbers of animals. I had hoped that the mover of the motion would tell us how his Government will give our overseas customers a guarantee that the State supports the New South Wales beef export sector, which is worth \$600 million a year, and how it will address the questions that will come from importers and our trade enemies throughout the world, who will use that report as a tool to counter Australian exports. It is a major trade political lever. We are exposed because of the Government's mismanagement of the State.

Mr Martin: Rubbish!

Mr ARMSTRONG: The honourable member for Bathurst says that is rubbish. The bottom line is that, because of its trade performance, Australia is now seen as one of the highest quality primary industry exporters in the world today. Australia's opponents who are trying to trade in the same markets as Australia—notably, North America and Asia—are using any lever available to suppress trade. No doubt the American Farm Bill will work negatively against many of our exports. There is a cliché that farming in America is mainly postbox farming these days: profits arrive in an envelope in the postbox; the farmers do not have to grow produce or raise animals to make a profit.

Mr Black: That is real American socialism.

Mr ARMSTRONG: It may well be, but the fact of life is that it will not help us at all. That is one reason why the Opposition will not oppose this motion. In principle, the motion has merit. However, the Government of the day must do its part by supporting export industries and the Federal Government's export drive, it must guarantee the management of its departments by providing proper health regulation and protection to our exports, and it must provide at least—

[*Interruption*]

All I am asking for is a level playing field so that abattoirs in New South Wales may compete with their interstate competition. Arguably, abattoirs such as those at Goulburn and Harden produce the best lamb in the world today for the American market. They should be able to go ahead without facing the prospect of a department putting the processing industries, exports, tourism and general movements in the State at risk. An important issue has been raised this afternoon, but I do not think it was addressed constructively by the mover of the motion or, indeed, the Government. The Government needs to clean up its own backyard before it starts to use a litany of press releases to make political points.

The importance of this issue cannot be denied. As I said, the mover of the motion was right to raise the issue. However, to ignore the points I have made would be a dereliction of duty by the Government, which has the responsibility of ensuring the good health of agriculture and, indeed, of supporting the export industries of Australia. Rather than supporting Minister Vaile, Minister Truss and others who are working on this issue, the Government should work with the Federal Government to overcome the inequality in international trade caused by America's decision to go back on the discussions about free trade between Australia and North America that have been taking place for probably nearly 30 years. As I said, the Opposition will not oppose this motion, but it unequivocally calls on the Government to get its act in order, particularly with regard to the management of health under the Department of Agriculture. The Government should at least provide a level playing field regarding payroll tax in this State; it should recognise the importance of jobs for young people in agricultural processing industries by reducing the payroll tax rate and accepting the Opposition's proposition.

Mr MARTIN (Bathurst) [4.07 p.m.]: First, I will expose the honourable member for Lachlan's hypocrisy about payroll tax. I remind honourable members that when the Coalition Government left office, New South Wales had an historically high payroll tax rate, introduced by the—

Mr Armstrong: Point of order: I remind honourable members that this Government has been in power for seven years now.

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

Mr MARTIN: When the Coalition Government left office, New South Wales had an historically high payroll tax rate of 8 per cent. Not only that; the Coalition Government raised the payroll tax threshold to trap small businesses. When the Coalition was in Government the previous Independent member for Tamworth

introduced a payroll tax bill, which the Coalition Government opposed and voted against. If members opposite want to sling mud they should cast their minds back to more than seven years ago. Since this Government has been in office it has progressively reduced payroll tax rate. That has been well mapped out by the Treasurer in his budget speeches.

When members opposite troll through those budget speeches they will see the Government's record on payroll tax. Members opposite have no credibility on payroll tax. As for the motion moved by the honourable member for Murray-Darling, in addition to the massive boost in support, the new Farm Bill has plenty of other stings in its tail. New mandatory country of origin labels and the revival of target prices are potentially the most damaging facets for Australian farmers. Country of origin labelling for meat, fish, vegetables, fruit and other farm produce will be voluntary at first but then compulsory after two years. No doubt this is in line with world trade regulations, but that does not seem to worry Mr Bush. This is a domestic political issue in America, where George Bush is trying to shore up his support for the forthcoming congressional elections. He has been spending \$A70 billion over ten years to do that.

The mandatory labels are designed to tell consumers from what country hamburgers and other meat, fish and produce come. In other words, they will give local United States products, which are usually inferior to those from Australia, particularly lamb and other meat products, a huge boost in the domestic market. The labelling system will not affect manufactured beef and cuts supplied to restaurants and fast food outlets; it only applies to the retail market. Eventually this could work against the Americans when they get a taste for, and know when they are eating, our product, because our lamb is far superior to that of America. Just last month Country Labor welcomed the news that McDonald's, the world's largest fast food restaurant, has agreed to trial Australian beef in its hamburgers in the United States. Australian beef will be used in 400 McDonald's United States outlets because of a shortage of local cattle. That is great news for our beef producers and their workers and a huge vote of confidence in the Australian industry.

The United States is the largest export market for Australian beef. In 2000, Australia exported \$3.2 billion worth of beef to all markets. New South Wales accounted for one-fifth, 21 per cent, with a total value of \$600 million. New South Wales beef production occurs mainly around the Northern Tablelands and the central slopes—Tamworth, Armidale, Orange, Bathurst, Moree, Grafton and Casino. About 50,000 people, including owners, work in beef production on the farm, and about 130,000 people work in related sectors such as processing, transport, meatworks and retail. Last year Australia filled its beef quota of 378,000 tonnes for the first time. It is expected to fill the quota even quicker this year, but it will substantially affect our growing pre-packaged grinding beef exports. That is now at risk, thanks to this bill. Hopefully we will be able to limit the damage if our beef can be labelled "Australian" rather than "imported" product.

The bill also has other wider implications for world commodity markets. Subsidised United States farmers are now insulated from price falls. Quite frankly, they could not care less. They will continue to grow over-supplied product to grab the subsidies on offer rather than switch to more profitable crops. Make no mistake, the farm bill legislation in the United States is a backward step. It is "back down the time-tunnel" stuff compared with the reforms that were introduced by President Clinton in 1996 that were meant to wean farmers off subsidies. Many people close to the Liberal Party, and to the National Party in particular, said at the time of the drawn-out final count for the presidential election that the election of George Bush would probably be the best option, and they would welcome him over the Democrat, Al Gore. I wonder whether they are now eating their words. Obviously the election of George W. Bush has been a disaster for Australian primary producers.

Mr GEORGE (Lismore) [4.12 p.m.]: I foreshadow an amendment to paragraph 4, to which I will refer shortly. Coming from Casino and representing the electorate of Lismore, I am proud of the meat industry in this State. Probably 20 per cent of the production is carried out in the north of the State. I remind honourable members that producers need the support of government, whether it is local, State or Federal. I also place on record that I support the honourable member for Lachlan in relation to the higher payroll tax and workers compensation that meat companies in this State pay compared with other States.

This matter has to be raised because I have continually said that New South Wales is at a disadvantage. I have highlighted that meat operators and companies in this State do not compete on a level playing field with other States. They have a great impost imposed on them by this Government. Recently the House debated stock theft and the identification of livestock. Sadly, the so-called Country Labor members did not contribute to the debate. Identification of livestock is needed in this industry if our exports are to compete with the products of other countries. We need a national livestock identification scheme. That would enable livestock to be traced for the whole of their lives and provide many other benefits to the livestock industries and producers, including disease control, residue monitoring, performance record keeping, and identification in ownership disputes.

Mr Hickey: What has this to do with the motion?

Mr GEORGE: The honourable member for Cessnock interjects and asks what that has to do with this debate. For us to provide a good, clean product to the export market we need to be able to identify livestock from the farm gate all the way to the export markets. That cannot be done in this State because the Carr Government has failed to get behind the national livestock identification scheme. I move:

That the motion be amended by leaving out paragraph (4) with a view to inserting the following:

- "(4) calls on the New South Wales Government to provide financial support for the immediate introduction of a national livestock identification scheme to assist our producers to compete in the United States of America market by guaranteeing a clean green alternative product."

That is essential if our producers are to continue to compete in the overseas market and provide such a product. At the moment we are delivering but cannot guarantee it unless we have a national livestock identification scheme. We will see where the Carr Government sits in this debate. We have got to get this scheme off the ground to enable the export industry in this State to continue to flourish. As I understand it, the country of origin labels for meat, fish, fruit and vegetables will be voluntary for two years, and become mandatory after that time. Although Australia opposed this provision it certainly may impact badly on our exports of manufacturing meat, which will impose costs on the industry and confer no actual benefit.

I appreciate that point of view. However, we need to be able to produce and provide a good clean, green product, which we have been able to do in this State. We are a major exporter to America and other markets in the world who require it. We need the national livestock identification scheme to be able to do that. Recently the Coalition had the pleasure of releasing its rural stock theft and rural crime policy at Dubbo, where there is a major sheepworks. Our policy includes financial support for the industry to get a national identification scheme. The Victorian Government has already got one, and I call on the Carr Government to follow that lead and to support the producers and offer financial support for a national livestock identification scheme. *[Time expired.]*

Mr HICKEY (Cessnock) [4.17 p.m.]: As a member of Country Labor I am appalled that the Prime Minister, John Howard, and the Minister for Trade, Mark Vaile, have made no progress in talks with the United States Government on the tariffs and subsidy debacle. Despite John Howard crowing about his so-called special relationship with George W. Bush, it has got us nowhere in this matter. All it provided was lovely photos of the Prime Minister that he will cherish for the rest of his life. The fact remains that Australia has gone backwards. New South Wales farmers need to compete on the world market on some sort of even keel, without the protectionist policies that have been recently signed off by George W. Bush.

In November last year my Country Labor colleague the honourable member for Bathurst expressed concern in this Chamber that the new farm bill that was before the United States Congress would affect Australian, and particularly New South Wales, primary producers. The honourable member for Bathurst moved a motion that called on the Prime Minister, John Howard, to demand that the United States President, George W. Bush, protect our farmers. What did the Prime Minister do? He took an ineffective Minister of Trade with him to the United States to meet with officialdom in America. He got his photograph taken and came back to Australia and told farmers that he had lost the case with Bush. During the November debate on this issue those opposite supported the motion on the books, but one must ask whether they told their masters.

Then the honourable member for Barwon informed this House "that Mark Vaile has earned a great reputation overseas as an active Minister". The honourable member should get on the plane immediately and try to convince America that putting all this money into agricultural subsidies simply will not work. We all know that Mark Vaile got on the plane that the honourable member for Barwon spoke of, but did the honourable member for Barwon give him the message? If so, it must have been a heavy message because Mark Vaile did not carry it off the plane; he forgot to relay it. He must not have taken any notice of the honourable member for Barwon. This is what President Bush said about the bill:

I am pleased that this farm bill provides a generous and reliable safety net for our nation's farmers and ranchers and is consistent with the principles I outlined...

... and are consistent with America's international trade obligations, which will strengthen our ability to open foreign markets for American farm products.

What are we going to do about these trade-distorting subsidies that would violate United States international commitments? The Federal Minister for Agriculture, Mr Mark Vaile, and Federal trade Minister Mr Warren

Truss said the Federal Government would monitor the situation and go to the World Trade Organisation, if necessary, if the American bill is not compliant with regulations. George W. Bush must be shaking in his boots! Remember the lamb tariff debacle and the years of speculation while New South Wales farmers were subjected to the pressure from the United States?

Mr Howard is quick to tell Australians about his special relationship with the United States, but he has proven that he is only a two-bit player dancing to the United States' commands. From the Country Labor perspective, and from feedback from grassroots rural producers, farmers want the Prime Minister and the Federal Government to stand up and fight for them. They do not expect a great deal—just someone to stand up for them. That is why it is essential to seal a bilateral free trade agreement with Japan. The Japanese Prime Minister met with the Premier, Mr Carr, who told him of his support for a free trade agreement with Japan. Australia's miners, farmers and fishers would be big winners under such a bilateral agreement.

Last year trade with Japan was worth \$24 billion, and Australia enjoyed a trade surplus with Japan of \$8 billion. Japan is New South Wales' largest single trading partner, accounting for 21.1 per cent of our exports. Mr Vaile could do worse than follow the lead set by our Premier. The honourable member for Lachlan spoke about payroll tax being at a high 6 per cent. Under the National-Liberal Coalition it was 8 per cent. What hypocrisy from the Opposition! In this House the Coalition opposed the bill put forward by the former member for Tamworth, Tony Windsor. That bill proposed a reduction in payroll tax. The Federal Coalition Government opposed the employment zone tax. The Institute of Chartered Accountants and the Farmers Federation put that before the Federal Government, but the National Party voted against it. More hypocrisy from the Coalition! *[Time expired.]*

Mr BLACK (Murray-Darling) [4.22 p.m.], in reply: I might say at the outset that it is good to see the real leader of the National Party in this Chamber in action. I note that the artificial leader is still skulking in his level 12 cave while this debate is proceeding. The issues raised by the honourable member for Lachlan are real issues, but some were not relevant to the motion before the House. The point that Government members are making as clearly as they can is that at least three senior Federal National Party Ministers are not standing up either to the Liberals or for Australia.

Mr Slack-Smith: What a lot of rubbish!

Mr BLACK: I acknowledge the interjection of the honourable member for Barwon. He was more than happy to support Country Labor in the debate on rice. Not long after the last record crop of 1.74 million tonnes of rice, as the honourable member for Barwon acknowledged at the time, we learned of the effect that a \$US262 per tonne subsidy to Californian rice growers had on the Japanese rice market. That subsidy led to a crash in rice prices in Japan from \$US400 a tonne to \$US200. Our farmers were getting \$US200 for growing rice when their Californian counterparts were getting \$US462 per tonne for growing rice. With the United States farm bill going through, the disparity will be even greater.

The point I was making about the comments made by the honourable member for Lachlan related to a media release by the Federal Minister for Trade, Mr Mark Vaile, of 15 February 2002 headed "Australia's Lobbying Efforts Paying Off" and saying how wonderful it would be for Australia when the United States farm bill went through. I now come to the two press releases that I wish to talk about. One is headed "Farm Bill Questions U.S. Commitments to Agricultural Trade Reform", put out by Mr Mark Vaile, and the other is headed "US Farm Bill will damage all of the world's farmers", and was issued by Mr Warren Truss.

With respect to other comments made by the honourable member for Lachlan and the honourable member for Cessnock, might I say I salute them. I am not quite sure about the comment made by the honourable member for Bathurst with respect to McDonald's. I have little time for McDonald's when they will not use Australian orange juice, but I do recognise that in the United States market McDonald's is now on its fourth cow. With respect to the overall debate, a press release of Senator Kerry O'Brien, shadow Minister for Primary Industries and Resources, said:

Australian farmers will pay the price for the Howard Government's failure to take quicker action to lobby the Bush Administration and the US Congress on the passage of the US Farm Bill, Senator Kerry O'Brien said today.

Senator O'Brien said the Howard government failed Australian farmers by refusing to take urgent action to lobby the Bush Administration and US Congress when it first became aware of the significant increase in funding for the Farm Bill.

As a result, lobbying in Washington on the package of subsidies was left exclusively in the hands of US farmers.

"This farm support package has been on the US agenda for some considerable time with the Farm Security Bill, which adds \$146 billion to the existing subsidy of \$190 billion..."

That passed through the House of Representatives on 5 October last year. I salute the comments made by the honourable member for Lismore with respect to a clean and green product. This is what Country Labor is about, of course. I remind the honourable member for Lismore that Country Labor is supporting people like Janie McClure in western New South Wales in going through West 2000 Plus and getting grants for accreditation and the labelling of that meat as organic. Remember, it was Warren Truss as Minister who opposed the extension of the West 2000 Plus program. He did not want it. But this is where the money is coming from for accreditation of that clean and green product to which the honourable member for Lismore referred. Finally, I comment on an article in the *Washington Post* of 5 May 2002 headed "US Farm Bill finds few fans abroad". This is what that newspaper said about the United State Government:

Of all the problems that plague the world's poor in the age of globalisation, few are so widely condemned as the subsidies that rich countries provide their farmers.

I commend the motion to the House.

Question—That the words stand—put.

The House divided.

Ayes, 51

Ms Allan	Mr Greene	Mrs Perry
Mr Amery	Mrs Grusovin	Mr Price
Ms Andrews	Ms Harrison	Dr Refshauge
Mr Aquilina	Mr Hickey	Ms Saliba
Mr Ashton	Mr Hunter	Mr Scully
Mr Barr	Mr Iemma	Mr W. D. Smith
Mr Bartlett	Mrs Lo Po'	Mr Stewart
Ms Beamer	Mr Lynch	Mr Tripodi
Mr Black	Mr Markham	Mr Watkins
Mr Brown	Mr Martin	Mr West
Miss Burton	Mr McManus	Mr Whelan
Mr Campbell	Ms Megarrity	Mr Woods
Mr Collier	Mr Mills	Mr Yeadon
Mr Crittenden	Mr Moss	
Mr Debus	Mr Newell	
Mr Face	Ms Nori	<i>Tellers,</i>
Mr Gaudry	Mr Orkopoulos	Mr Anderson
Mr Gibson	Mr E. T. Page	Mr Thompson

Noes, 35

Mr Armstrong	Mr Humpherson	Mrs Skinner
Mr Brogden	Dr Kernohan	Mr Slack-Smith
Mrs Chikarovski	Mr Kerr	Mr Souris
Mr Collins	Mr McGrane	Mr Stoner
Mr Cull	Mr Merton	Mr Tink
Mr Debnam	Ms Moore	Mr Torbay
Mr George	Mr O'Farrell	Mr J. H. Turner
Mr Glachan	Mr Oakeshott	Mr R. W. Turner
Mr Hartcher	Mr D. L. Page	Mr Webb
Mr Hazzard	Mr Piccoli	<i>Tellers,</i>
Ms Hodgkinson	Mr Richardson	Mr Fraser
Mrs Hopwood	Ms Seaton	Mr Maguire

Question resolved in the affirmative.

Amendment negatived.

Motion agreed to.

REGIONAL AIR SERVICES

Matter of Public Importance

Mr TORBAY (Northern Tablelands) [4.40 p.m.]: I welcome this opportunity to discuss the provision of air services in country areas. Honourable members would be aware of community concern about the lack of adequate air services in country communities—an issue that has often been debated in this place. Air services in New England, the Northern Tablelands and Tamworth have been lost. Impulse Airlines merged with Qantas and Hazelton Airlines withdrew from country areas, resulting in Qantas having a monopoly. Community concerns covering a range of issues have continued to flow into my office. Those concerns include the price of tickets, the provision of services, proposed schedules and the difficulties that members of the community are facing when trying to obtain flights through the frequent flyer scheme.

Members of the community often raise those difficulties with me. I refer in particular to the reduction of flights between Armidale and Brisbane from two to one without any community consultation. I found out about that reduction in services from members of the community. They contacted me and said, "We have just been told that that service is no longer available." When I contacted QantasLink to express concern about the removal of that service I was advised of its new schedule. When I said to the Qantas representative that the community had a right to be informed about these matters and that no publicity had been given to the change, I was advised that it was not a good news story. That is appalling for a number of reasons. It highlights where country people are in the pecking order when there is such a monopoly.

Obviously, given current circumstances, there are many demands on Qantas services. However, country people must be protected when such a situation arises. I read with interest an article in today's *Sydney Morning Herald* entitled "Qantas to be prosecuted for trying to cripple Virgin Blue". On metropolitan routes Qantas is trying to monopolise the marketplace and make it difficult for other competitors. In country areas there are no competitors. Earlier today the honourable member for Lachlan gave notice of a motion relating to regional air services—a motion with which I am sure most honourable members would agree. There is no competition in country areas and no regulations are in place to protect communities from what I consider to be cavalier practices.

I will refer to some recent newspaper headlines relating to this issue. The *Northern Daily Leader* of 24 April has an article entitled "QantasLink takes the 'region' out of regional air services." An article on the front page of the *Northern Daily Leader* of 24 April states, "Eastern to close office?" At that stage major threats had been made because Eastern Airlines employees who were based in Tamworth went public and called on the company to give them some sort of assurance about their jobs. What an appalling situation! Eastern Airlines employees had to go public because their employer did not communicate with them. They wrote to me and to a number of other members of Parliament—I am sure they wrote to the member representing the New England area and to the honourable member for Tamworth—crying out for some sort of job security. They wanted to know what was happening in relation to their jobs.

I cannot speak in glowing terms about a company that forces its employees down that path. The company published a one-line response in the media. Initially it did not hold any media interviews; it published a one-line response stating that the jobs of those employees were secure. I raise that issue in the context of what is also happening in the Inverell and Glen Innes communities. Impulse Airlines used to provide three services a day to Sydney. It also had a trial service and provided one flight a day to Tamworth. People had to leave at 5.00 a.m. and go via a few places before they changed planes in Tamworth. I am told that the full fare rate for that basic ticket increased by \$100. I am merely expressing grievances that have been expressed to me by members of the community.

The honourable member for Lachlan co-chaired a committee that inquired into the provision of airline services to country areas. I am pleased to be able to state that there was strong bipartisan support in relation to that issue. The Minister for Transport, and Minister for Roads was involved in that inquiry, which was co-chaired by the Minister for Regional Development, the Hon. Harry Woods. A number of good recommendations came out of that process challenging all three tiers of government—local, State and Federal. Those recommendations have not been implemented. Country areas used to have 11 regional airline operators. They now have one, which is not very regional. Those recommendations also suggested that 11 per cent of the operating costs of country airlines should be removed—costs that are being imposed by those three levels of government for fees, charges and taxes.

Country airline services are a necessity rather than a luxury. Those fees and charges must be removed and we must adopt the committee's recommendations. All three levels of government are involved in imposing

taxes and charges. Local government is responsible for imposing landing fees. The Minister for Transport made some concessions in New South Wales regarding these recommendations. The Federal Government has also made moves to alleviate this problem. However, all those recommendations must be adopted if we want to encourage airline operators to provide services in country areas. In the interim, the blind pursuit of competition policy has ensured that there is no competition.

Anyone in a smaller or more remote market is often not considered, because market forces tend not to be quite as strong in those areas, and services to those communities are lost in the process. I have referred these issues to the Australian Competition and Consumer Commission. I have asked it to widen its brief and to consider not just Qantas and Virgin Blue; I have asked it also to look at the behaviour of Qantas in regional areas where it has a monopoly. These concerns are being expressed far too often for there not to be a problem in the marketplace. I am sure that I will not be popular for raising this issue with Qantas or QantasLink, but something must be done to ensure that the community is protected.

Some sort of regulation must be implemented to protect the community while this monopoly exists and until the three levels of government get their act together and adopt the recommendations that have been put in place—recommendations that received bipartisan support but which, regrettably, were not fully implemented. That would make an enormous difference to a number of people who are looking to secure basic services in country communities. Air services are basic services. They provide many other flow-on services to country communities and they should be seen as basic services.

Mr BLACK (Murray-Darling) [4.49 p.m.]: On behalf of the Government I am pleased to support the two great Independents, the real Opposition in this Chamber. I salute the comment of the honourable member for Northern Tablelands—which, I have no doubt, will be reiterated by the honourable member for Dubbo—about the responsibilities of all three levels of government in this matter. It is something that I do not shy away from. However, it is worth noting that there are 18 former mayors on this side of the House, two former mayors on the crossbenches, and not one former mayor in the Opposition. That is an important matter to think about in this debate. As mayors, for years we have been involved in promoting and sustaining the Australian local ownership plan and seeking to sustain aviation in country New South Wales.

Having said that, I wish to refer to some of the background to this matter. In doing so, I follow the leadership shown in this debate by the honourable member for Northern Tablelands. Some might say that the crisis followed the collapse of Ansett last year. The real issue is that prior to the collapse of Ansett other regional airlines were going to the wall. Next Tuesday evening I shall dine with Mr Gary Baker, the owner-editor of the Deniliquin *Pastoral Times*. I have no doubt that one of the matters to be discussed on that evening will be the loss of country airline service connections to that region. One of the upshots of that loss was the relocation of a section of Greater Murray Health administration from Deniliquin to Wagga Wagga. Of course, that is good luck for Wagga Wagga but bad luck for Deniliquin.

I am sure the honourable member for Barwon would agree with me that it is a fact of life that top-end public or private medical specialists will only come to country areas by plane. The honourable member for Barwon nods his head in agreement. For example, in Broken Hill, my home town, following the collapse of Ansett there was a gap in Hazelton services. The Government provided Hazelton with a \$3 million loan to get the Broken Hill and Griffith services operating. Of course, subsequently other services began to operate, some of which were not sustainable. In recent times Hazelton cancelled the flights it formerly operated to Canberra, Wagga Wagga and Albury, which is a shame.

There was a period when Hazelton did not operate services to Broken Hill. More importantly, however, the evening service from Adelaide operated by Kendell Airlines is still not operating, and this has a tangible effect on Broken Hill. For example, a neurosurgeon used to come from Adelaide to Broken Hill daily, flying up in the morning and returning on the evening flight. I acknowledge that there are issues associated with insurance, and that there are other issues affecting other specialists. A renal specialist is another example. Those specialists are not coming to Broken Hill any longer, because the anecdotal evidence is that they are not prepared to stay overnight. The evening service has still not been restored, with the consequence that Broken Hill residents who want to attend the specialists' clinics now have to travel to Adelaide. A large number of New South Wales communities have lost air services, resulting in a diminution of the quality of life of those communities.

An argument has been put, foisted by the Opposition, that Government members, who have associates in local government, should be encouraging them to abolish landing fees. That is nonsense. Years ago a deal

was done with the Federal Government under the airport local ownership plan [ALOP] to allow councils to raise revenue to sustain the operation of airports without using ratepayers' funds, in return for the Federal Government shelving airports onto local government. I resisted the ALOP in Broken Hill for many years. However, the plan was finally established through legislation, and of course we now have landing charges in Broken Hill. Broken Hill council made a responsible decision to maintain those landing charges, instead of expecting taxpayers to foot the bill for the operation of the airport.

Deputy Prime Minister John Anderson—been-and-gone John, as he is known in the seat of Gwydir, in the great and mighty shire of Bourke—was aware last June that Ansett was going to collapse. There is no question about that; it is on the public record. Yet he did nothing about it, notwithstanding the fact that the Federal seat of Gwydir relies heavily upon aircraft. The New South Wales Government is responsible for licensing regional air routes in the State. To assist regional airlines, last year we removed licence fees on regional air routes with an annual passenger volume of less than 20,000. The State Government acted quickly to minimise service losses, including assistance to Hazelton Airlines, the removal of air licence fees, the conduct of the Air Transport Summit, and by lobbying the Federal Government directly and through the Australian Transport Council processes. As the honourable member for Northern Tablelands pointed out, local government was heavily involved in that process.

The Government acknowledges the vital role that air services play in the economies of rural and regional areas, as well as providing air transport across the State. The post-September 2001 reality in the New South Wales regional airline industry is that the future of two of the Ansett subsidies, Hazelton and Kendall, remains in the hands of the administrators. A preferred bidder, Australiawide Airlines Ltd, has been nominated, and it is hoped that this will lead to an expedient sale. Aeropelican was recently sold and is trading successfully. Only one other small operator, Air Link, remains, servicing from Dubbo centres such as Bourke, Cobar and Brewarrina.

Mr Souris: And Lightning Ridge.

Mr BLACK: And Lightning Ridge, of course. With the withdrawal of one small airline in 2000 and two others early in 2001, 11 towns lost air services to Sydney. Four other centres were abandoned in 2001, one by Qantas, another by Hazelton and two by Air Link. Expressions of interest were called for but were to no avail, in a climate where there were simply no alternative operators left in New South Wales with the required Federal Civil Aviation Safety Authority certification. Regional aviation is not only experiencing the patronage slides associated with the current Ansett debacle but is also caught in the longer-term decline of the general aviation sector. These problems will improve only when the aviation industry begins to rebuild, and it is a Federal Government responsibility to drive that process of recovery.

The State Government played a positive role in articulating these issues when it convened the Air Transport Summit last year. As I have said, State licence fees on the smaller routes were abolished. Federal navigation charges on certain regional aircraft were removed in January this year, but there is still a long way to go. There is a continuing need at the small end of the airline market for the Federal Government to take additional measures to address service losses. One of those measures may be getting back into the management of regional and rural airports. Those measures should include a reduction in the direct costs imposed on operations, including industry taxes and costs associated with compliance requirements, which have increased enormously in recent years. This affects not only regular public transport [RPT] aviation but also charter aviation.

New cost issues have emerged since the summit was held. There have been changes to Federal price regulation of airport services, which could see steep rises at Kingsford Smith airport for landing and terminal charges in the future. Also, the air passenger ticket levy introduced by the Federal Government on 1 October 2001 represents another new charge applying to travellers on regional airlines. The New South Wales Government is doing its best to assist regional airline operations, but there is a limit to what can be achieved and the whole aviation issue is for the Federal Government to resolve. I again salute the comments made and the leadership shown in this matter by the former chair of the Country Mayors Association, the honourable member for Northern Tablelands. I look forward to hearing the comments of the honourable member for Dubbo. We need to sustain not only RPT aviation but also charter aviation in regional New South Wales if we are to continue to enjoy our quality of life.

Mr SLACK-SMITH (Barwon) [4.59 p.m.]: I agree with the honourable member for Murray-Darling that the worst thing about New South Wales is that Sydney is so remote. Coming from the north-western part of the State, I tend to agree with him in that respect. The honourable member for Northern Tablelands spoke at

length about QantasLink. I think its prices are still too high but QantasLink is a business owned by shareholders and is servicing quite a large number of country centres. Twenty-three regional centres throughout Australia do not have regional airlines as they had before. I think everyone in this House hopes that the sale of Kendell and Hazelton airlines will go ahead. I hope that sale succeeds and air services return to regional centres. Air services are so important for several reasons. The first is the supply of doctors. Country areas do not have enough doctors and people have to go to Sydney for medical treatment. Second, Sydney is very remote but it happens to be one of the biggest business centres on the Pacific rim and many people have to travel to Sydney for business and commerce as well as for social reasons. If an air service is taken out of a community, that community suffers.

I congratulate the former shadow Minister for Regional Development, the honourable member for Lachlan, the honourable member for Wagga Wagga, the honourable member for Tamworth and the honourable member for Northern Tablelands, who has been very active in debate on this problem. QantasLink flies more than 76 aircraft, employs more than 2,000 workers and runs 2,500 flights per week. It is quite a big operation when all the subsidiaries are taken into consideration. The honourable member for Northern Tablelands mentioned the scare at Tamworth that some of the employees of QantasLink would lose their positions. It is good news for the north and north-west of New South Wales that those jobs are now secure.

The competition policy, which has been mentioned today, only comes into operation when an airport or the community it services has more than 25,000 passengers per year. Moree has more than 25,000 passengers per year and Narrabri has about 24,000 passengers. No other airline can go back to Narrabri, because QantasLink is already servicing that area. I put on record that the schedule and service from Narrabri and Moree to Sydney are good. The fares are exorbitant and that is one thing that the Australian Competition and Consumer Commission should look at. Many people are scared of flying because of the humungous cost of air transport. However, QantasLink is a business and is flying with new aircraft. I would prefer that QantasLink not hear this comment, but the service is most important and that is the price we have to pay for a vital communication.

Members of Parliament fly all the time and use many air services. These airlines must be kept in the air and servicing our regional centres. The honourable member for Murray-Darling pointed out—and it is true—that once an air service is taken away from a regional area, things become more difficult. People have to either relocate or travel vast distances to the medical and other professional services they previously reached by flying. In this age of information technology, professionals can more easily reach regional areas and do their work. I support the push to restore country airline services.

Mr McGRANE (Dubbo) [5.04 p.m.], by leave: I support the motion. Regional airline services are undergoing change and will never be exactly as they were before the demise of Ansett and its subsidiary airlines. Air services are vital for the existence and development of regional Australia. Honourable members have spoken about people in the country having to travel to capital cities, but health and other professionals and businesspeople come to Dubbo and from there serve areas west, north and south. Until now these key hubs in New South Wales have been serviced by two airlines. Deregulation a few years ago meant the beginning of the demise of those services. During the period of managed competition the Airport Council of New South Wales went around New South Wales and spoke to the councils involved, the owners of the airports, about the services those areas needed.

With deregulation of the airline industry we saw big changes both in capital cities and in key country centres. Communities that had two airlines suddenly had three, but the three airlines flying into those places faced financial decline. That was the beginning. The collapse of Ansett rubbed salt into the wound. These changes affect people wanting to fly to those places and people who had to fly to Sydney. It is a two-way street. Regional development depends on professional services and professional people being able to get to key regional places. Hopefully we will have a second airline in New South Wales. There was an announcement today regarding Kendell and Hazelton airlines. That means there will be some form of competition for Qantas and QantasLink. We need competition, because without it an airline can charge what it wants, fly when it wants to, and offer the service it wants to rather than what the community needs.

There should be a three-pronged approach, by the Federal Government, the State Government and local councils, to improve current services. I have done some figures with regard to the \$220 discount ticket to the city of Dubbo. Of that \$220 fare, \$70 is made up by GST, commission, airport charges, fees, and head taxes. One-third of the price of a ticket to anywhere in regional Australia goes in taxes, and some of those taxes could be reduced. We need competition in the airline industry for the development of regional New South Wales. If businesses are to relocate and develop in regional New South Wales, it is essential that their chief executives and the people engaged in the technology side of their industries have access by air to regional places. Although

Hazelton did not operate in our area for a short period, it is now operating again. However, ticket prices have gone up. Last year in the city of Dubbo there were 125,000 movements; this year the figure is down by 20 per cent. That shows that people are not flying, simply because it is too expensive.

Mr TORBAY (Northern Tablelands) [5.09 p.m.], in reply: I thank honourable members who contributed to this important debate about country air services. I congratulate the honourable member for Murray-Darling on his contribution. As a former mayor of Broken Hill, his contributions to local government conferences are legendary, and he has not lost any of his zeal since he entered this honourable House. I congratulate the honourable member for Dubbo, who strongly advocated the importance of air services to regional New South Wales. I think the honourable member for Barwon agreed with the substance of my motion, that is, the importance of regional air services. but he seemed to think that the contribution made by QantasLink was justified because it was merely business.

The honourable member missed my point about behavioural and cavalier attitudes to regional airlines in a monopoly situation. I urge him to reconsider the issues I raised in my original contribution to the debate, which sadly he did not mention. The first issue I raised was the report released in this place, which had bipartisan support. All three levels of government must implement the recommendations detailed in that report. The shadow Minister should have given a commitment to that process and perhaps to lobby the Federal Government, where most negative reactions to the recommendations have emanated. He should have challenged the State Government in terms of what other States have been doing to assist regional airlines. That would have been a much more constructive contribution to the dialogue. However, I agree with the honourable member's comment that air fares are exorbitant. They are absolutely outrageous.

Using prices as a mechanism is another way of dampening the marketplace and of telling country communities that no-one is using an airline. The fact that it costs \$500 or more to use the airline should come into the equation. That issue also needs to be considered. When there is no competition, a range of factors needs to be considered. Firstly, let us reconsider the recommendations in a bipartisan way. They are good recommendations, and I hope they will be reconsidered by all three levels of government, because not enough has been done about them. Secondly, and importantly, protection mechanisms must be put in place when no competition exists; otherwise, it will be a self-fulfilling prophecy. Services will be downgraded or removed, and prices will be used as the mechanism to do so.

All speakers in this debate commented on the price of air tickets. The air fare includes the basic cost as well as the many taxes and charges that flow on when one takes a flight. I hope that this debate will result in all three levels of government making a commitment to look realistically at how to return competition to the airwaves by adopting the recommendations, and that in the interim they will continue to force the Australian Competition and Consumer Commission and other entities to consider regulations to protect the community in this regard. I reinforce my disappointment that the shadow Minister did not refer to the behaviour of QantasLink in relation to the jobs in Tamworth, although he was pleased that the company had given a guarantee.

We need to consider what the staff went through when they thought their jobs would not continue. When QantasLink refused to comment on the guarantee, the staff and their friends, families, partners and commitments were placed under a cloud for a considerable period. I had hoped that Opposition members would express a compassionate view in that regard, given that the company did not comment until it was pressured to do so. That is no way to treat staff. I agree that the commitment was welcomed, but it should not have been given in the first place. It is an indictment on QantasLink and all the things that are happening in country air services.

Discussion concluded.

Pursuant to sessional orders business interrupted.

PRIVATE MEMBERS' STATEMENTS

CRONULLA ELECTORATE CAR PARKING

Mr KERR (Cronulla) [5.15 p.m.]: I draw the attention of honourable members to public facilities in my electorate of Cronulla generally and traffic and parking in particular. I welcome the fact that the NRMA will

hold a seminar on traffic and parking on 6 June, and I urge full public participation in that seminar. Sutherland Shire Council has issued a Cronulla Centre Development Control Plan. Paragraph 2.8 refers to car parking and states:

Development, open spaces and facilities should be provided with sufficient and reasonable car parking and servicing facilities at a level appropriate to achieving the Plan objectives.

Paragraph 2.8.2 states:

- Council shall seek and entertain contributions in lieu of on site car parking in accordance with the adopted Contribution Plan for Cronulla Centre and the Head of Gunnamatta Bay in the areas highlighted in Plan No.8b and where development involves the retention of a heritage building identified in Part 2.9.

Paragraph 2.8.2 provides that additional public car parking shall be accommodated in the following locations:

- an additional level on the existing Croydon Street car park with an amount of 70 public car spaces;
- an amount of 70 spaces either as a northern extension of the existing multi storey car park over the existing at grade car park or as part of a redevelopment of the Franklins supermarket site incorporating Council's existing car parking land and facilities with a minimum amount of 70 car spaces. (plus 61 public car spaces to accommodate those existing spaces lost in development) and the required number of car parking spaces to service new development;
- an additional 31 spaces to those that already exist to the rear of development along Surf lane through the granting of an easement to Council for the construction of public car parking.

I mention again the need for a footbridge from Regis Hotel to an apartment block, for which provision has been made. I note that it is some time since the mayor and Councillor Spencer were reported in the *St George and Sutherland Shire Leader* as saying that a footbridge was imminent. On 16 April 2002 the mayor wrote to the Minister for Transport asking for a meeting with him, and I have written to the Minister on her behalf requesting a meeting. A large number of transport issues would benefit from a meeting with the transport Minister.

MURWILLUMBAH BYPASS

Mr NEWELL (Tweed) [5.20 p.m.]: Many rural communities face a challenge when a town is bypassed by a new highway. This will occur shortly in the electorate of Tweed with the completion of the Chillingham to Eungella motorway. That will mean that the Murwillumbah township is bypassed. This matter has been on the agenda for a number of years and people should be well aware of it. Indeed, the local Chamber of Commerce and others have been working to assist the town to find an identity and a niche in the market for visitors and local residents to ensure that the prosperity of Murwillumbah township continues into the future. The motorway is being constructed away from the highway that goes through south Murwillumbah but the irony is that some events recently held as part of the town's revitalisation program involved bringing cars back into the township of Murwillumbah.

Last weekend a vintage car rally was held and 120 cars were exhibited on Saturday in the main street, and casual and relaxed events were held on Saturday afternoon and Sunday morning. Notwithstanding the inclement and sometimes unpleasant wet weather they were a great success. I enjoyed looking at the older vintage cars in the main street. I am not sure why, but a 1928 Plymouth stuck in my mind, and I saw various vintage Austins. In an earlier discussion with me the honourable member for Wollongong indicated an interest in a 1970-something Ford GTH0 V8 that I saw there. I have no doubt that he and other honourable members would have regarded that car as outstanding in the early 1970s. It is a little frightening that a car driven by the honourable member for Wollongong in his days, some 30 years ago, is now a vintage car. The car belongs to two very dedicated and astute collectors of cars in Murwillumbah, Robbie and Lorraine Ross, who are members of the Murwillumbah Car Club, very proudly presented that car on the day.

Another function involving motor cars in the revitalisation of the township of Murwillumbah is a vintage car rally. Tomorrow there will be a soft launch of a vintage car rally known as Speed on the Tweed to be held in late September. Tomorrow the organiser, Reg Carter, and others and Murwillumbah Rotary will be working very hard to give publicity to Speed on the Tweed by holding a wine tasting at the Green Hills Reception Centre and enjoying the company of some of the visitors to the town. They will not be driving their cars at that time but Jack Brabham, a well-known car racing personality, will be in Murwillumbah to drive his old racing car around a course on the streets of Murwillumbah.

In relation to the revitalisation of towns that have been bypassed, certainly Murwillumbah is facing up to the challenge with work done through the main streets program, the local council and the Department of State

and Regional Development, which have contributed towards beautifying the streetscape and making it more user and shopper friendly. The revitalisation of towns is something which this Government is able to assist with its main street program and other programs it offers to the local community. I commend those programs to other honourable members to assist their local areas to gain some development and further economic benefits. *[Time expired.]*

Mr MARKHAM (Wollongong—Parliamentary Secretary) [5.25 p.m.]: The honourable member for Tweed has brought another good event to the attention of honourable members. Main street committees operate in various locations through New South Wales and are proactive in trying to improve towns and cities. The honourable member for Tweed mentioned a 1970 Ford, a model which I remember. He also indicated that it was a vintage car. I can inform the honourable member for Tweed that the first vehicle I owned was the famous 1956 FJ Holden panel van.

BOORAL PUBLIC SCHOOL

Mr J. H. TURNER (Myall Lakes—Deputy Leader of the National Party) [5.26 p.m.]: I received a letter from Maree Hart, Chairperson of the Booral Public School Council and Secretary of the parents and citizens association, concerning monetary assistance for the provision of a walkway for the Booral Public School. Unfortunately, because of a decision by the Department of Education and Training, all the hard work done by the parents and citizens has been thwarted, so it is not simply a matter of getting funding. The school is set in a rural community in my electorate. It has 97 students and a strong parents and citizens association that tries to benefit the school. The school has four classrooms, two permanents and two demountables, and one demountable library. The classrooms are spread away from the main schools buildings and there is no covered walkway for the students to get to them. Obviously in wet weather it makes for very unhappy students and teachers.

About two years ago the parents and citizens decided to do something about this problem and set about fundraising to erect a covered walkway. At the end of last year they had enough money to cover materials but not the labour, and several hardworking fathers and mothers gave up their own time on many weekends to widen the existing cement path and erect the timber frame. Everything was done as per the appropriate specifications. However, the walkway has come to a standstill. It still has no roof to cover the children because the Department of Education and Training has told the school that it will have to move the walkway 900 millimetres away from the classrooms because of a recent judgment involving a student from another school who died after falling off the roof of a classroom he had climbed onto via a covered walkway. I am not sure that 900 millimetres would be a great deterrent to a person climbing on a covered walkway in any event, but that is the problem that is faced by the school at the moment.

The principal sought assistance from the Department of Education and Training to help with the cost of again widening the cement that was already laid, and the cost of more drainage work associated with the need to move the walkway. Unfortunately the school was told no funds were available. The parents and citizens association is extremely disappointed and wonder why they have to be responsible, in any event, for the comfort of the students in relation to the erection of the walkway. However, they accepted the fact, as country people do, that the department would not put up the walkway and they set about doing it themselves. But now they have to raise even more money to move it to comply with the new judgment. In the meantime, the children are suffering. Hence the letter to me asking if I could assist. I ask the Minister for Education and Training, with whom I will shortly correspond, if he could look sympathetically at helping this very small school.

As a measure of the school community's contribution, bearing in mind there are only 97 students at the school, five working bees have been held since they started to erect the walkway in April 2001, involving 20 volunteers and two additional parents doing the planning and setting up of the walkway. The first job was to widen the existing concrete path and put in metal stirrups to support the posts, which took 15 volunteers and cost \$2,000, which was raised by the parents and citizens. If the walkway has to be moved as a result of this judgment, they will need to again widen the path at an estimated cost of \$2,500, and hold two additional working bees.

In addition, from the proceeds of fundraising events—I remember they sold cakes on election day—the school parents and citizens purchased timber for the framework at a cost of \$2,200, although, thankfully as happens in country areas, the timber mill donated \$1,000 back to the school; and two more working bees have been held to erect it. The timber has been nailed, and if it has to be moved there will be a lot of extra work, involving at least one additional working bee. That is as far as the walkway has progressed; the roof has not

been purchased. They have been trying to work out an alternative to moving the walkway. I reiterate that any assistance the Minister could give to this project would be welcomed. This is a small country school—not doing it tough by any stretch of the imagination, but a lovely school that is having difficulty raising hard-fought funds. If the Minister can help and perhaps have the Properties Department help the school with the design so as to minimise costs, that would be greatly appreciated by the community. [*Time expired.*]

EAST HILLS ELECTORATE SPORTING EVENTS

Mr ASHTON (East Hills) [5.31 p.m.]: All members of this Parliament from time to time get the advantage, the thrill if you like, of going to various functions, sporting events, swimming presentations, Rotary meetings and the like. Private members' statements, though giving the opportunity to raise some of the more serious matters affecting our electorates, also provide an opportunity to make appreciative comments about people doing good work in our electorates. On 6 April this year the Bankstown City Netball Association began its competition for this year. That competition has been held in Bankstown for more than 40 years, and considerable effort goes into the organisation of the competition, which takes place on Saturdays at Deverall Park or Condell Park. The tragic accident last weekend at Bankstown airport, in the suburb of Revesby, brought to mind that aeroplanes fly over the 30 or 40 basketball courts at Deverall Park. I pondered what might have happened if the aeroplane had crashed there.

The president of the association, Mrs Betty Moore, has been an outstanding contributor to the Bankstown City Netball Association for many years, as have Vice-President Mrs Chris Byng, Secretary Mrs Jackie Booth and Treasurer Lynette Ross, along with many other ladies who give up their time. I believe that netball is still the most widely played sport in Australia. However, it does not get the coverage that it should. I know it is broadcast nationally on the ABC—except when the station cuts to what seems to them to be something a little more important. But many girls and women play netball.

This is a quite interesting sport for someone like me. When I first went to matches I would get involved from the sideline, saying, "Do this, go there, run!" I was the typical parent that no-one wants to see on the sideline. I did not know that netball was very much a sporting event to be seen and played but whose spectators should not be heard from. I was brought up more on rugby league, Aussie rules and other sports in which spectators were allowed to wander up and down the sideline giving encouragement. Having said that, I was never warned off. Perhaps that is fortunate for a State member of Parliament.

The netball competition continues, with clubs from all over Bankstown, including Allum Park, Bankstown Blues, Bankstown RSL, Bankstown Sports, Birrong, Chipping Norton, Classics, Comets, Condell Park Wattles, Crest, East Hills, High Flyers, Linx, the North Bankstown club, Revesby Workers Club, which my daughter plays for, and a few others that time does not permit to mention. The competition is promoted and sponsored by the Bankstown City Credit Union, Bankstown District Sports Club, Revesby Workers Club and PDR Sports Apparel.

This year a team called Spears entered the competition for the first time. This is a team of Muslim girls who play in dress appropriate to their culture. That is quite a great breakthrough in netball, which normally calls for the wearing of the traditional short dresses, socks of a certain length and so on. It is to their great credit that the netball association is moving ahead and has included in the competition a team of young Muslim ladies wearing traditional dress.

Last Sunday I attended, the Padstow RSL Youth Swim Club presentation day. I congratulate President Barry Simmons, Vice-President Dennis McKee and Secretary Melissa Simmons on not only their outstanding efforts on that day in presenting many trophies to so many swimmers but on the efforts they have put in during the whole of the year. In a way, swimming is our national sport. If we were not really good swimmers, many of us might not be here. But it is very important that young people know how to swim. My generation took it for granted that we all had to get in and learn how to swim. That attitude is not as common as it used to be. The efforts of the executive and members of the Padstow RSL Youth Swim Club are really appreciated by me and others in our community who recognise that we are giving our young people something positive to do, so they cannot say they have nothing to do to keep them entertained. [*Time expired.*]

PUBLIC LIBRARY INTERNET PORNOGRAPHY ACCESS

Mr COLLINS (Willoughby) [5.36 p.m.]: I want to draw to the attention of the House a matter of concern not only to my electorate but perhaps to the electorates of all honourable members of this House. I refer

to children being able to access pornographic material on public library web sites. This matter was brought to my attention by a constituent whose child visited Willoughby library, which I understand to be the second-busiest public library in the State. This is not an attack on that library or indeed any other public library in the State, all of which perform a vital and valuable educational and cultural function.

This child had, inadvertently or otherwise, accessed a graphically pornographic web site on the Internet in a public library. A number of other children, wanting to know what the fuss was all about, went over to the computer terminal where this child was accessing the pornographic material. That highlights a problem. I think most honourable members of this Parliament, from both sides of the House, agree that it is for adults to determine what they read, watch and listen to. Consenting adults accessing books, visual material, films and television programs of their choice in private is one thing; I think we would concede the right of adults to make that choice.

But, when it comes to children, we correctly protect our children. We have a uniform film censorship regime agreed to across Australia to protect young people. Yet children who go to our public libraries—despite the best efforts of library staff, who are of course trying to deal with myriad inquiries from book borrowers and those who want to access the Internet—are able to access blatantly pornographic material on web sites in those libraries, where they are less likely to have parental supervision. Their parents probably think they are entrusted to the public library, that they have gone there to do research for school projects and the like.

I have raised this matter with Willoughby City Council. The mayor and the general manager have indicated that the council is already looking at the issue. They too are perplexed. They query, as I guess all representatives in local government and all librarians do, just what successive Federal governments have done to try to tackle this issue. Policing the Internet of course is not an easy issue. It may be exceptionally difficult to screen out this sort of material. But I would have thought that the librarians and legal officers around this country would occupy at least some of their time trying to block this material from access by children in the public libraries of this or any other State.

This matter will require, I believe, a uniform national approach. But I believe that New South Wales can be in the vanguard of this movement to provide protection for Australian children against the exploitative material so freely available on the Internet. It is one thing for adults to access this material; it is an entirely different matter for children to access it—often, as I said, without parental supervision because parents believe they are in, if you like, the temporary care of a public library. This issue concerns every member of Parliament, irrespective of political party policy, and it is an issue that will require a forthright and determined approach by all levels of government in Australia. Local government will have to implement any policy that is adopted and the Federal Government and State governments will play a key role in developing a uniform national policy. I trust that this matter will be considered urgently by the New South Wales Government. [*Time expired.*]

Mr MARKHAM (Wollongong—Parliamentary Secretary) [5.41 p.m.]: I support what the honourable member for Willoughby has said. It is distressing to learn that young children can obtain access to pornographic material in a public library. I agree that library staff should not be accused of encouraging that type of activity; I have no doubt that that is far from the case. In fact, I believe the contrary to be true. This is a national problem, and I am sure that the honourable member for Willoughby will take up the matter with his Federal counterparts. I will ensure that the New South Wales Government is aware of the importance of this matter. Something needs to be done about the serious matters raised by the honourable member.

However, I do not know whether action can be put in train readily. I imagine that intensive screening will be necessary to avoid penalising adults. There needs to be greater supervision, or at least a better system of children obtaining access to information through public libraries without inadvertently stumbling across horrendous pornographic material. I believe that such material causes problems for the young children who stumble across it. Tomorrow I will draw the attention of the Minister for Education and Training and perhaps the Minister for Local Government to the serious matters raised by the honourable member.

LITHGOW BUSINESS AWARDS

Mr MARTIN (Bathurst) [5.43 p.m.]: I draw the attention of the House to a significant event that was held in Lithgow on 11 April. On that date, I had the pleasure of attending the 2002 Lithgow Business Awards ceremony, which was held in the Civic Ballroom and attended by a crowd of more than 400 people. The event, which was organised by the Lithgow Chamber of Commerce with assistance from a professional event organisation team, was a slick and polished affair that did a great deal to bring together the Lithgow and district

business communities in a celebration of the best of the best among Lithgow businesses. The event comprised 16 categories. The Business Person of the Year Award was won by Ross and Phyllis Mason, who operate Wallerawang Village Meats—a butcher shop which I frequent. The Contribution to the Community by a Business Award was won by the Portland Pharmacy. Portland is a town just outside Lithgow with a population of approximately 2,000. Ray Dreves, the operator of the business, accepted the award.

The Contribution to the Community by a Community Group Award was won by a committee named Celebrate Lithgow. The Celebrate Lithgow event is organised annually in November. Access to the main street is closed and businesses are permitted to operate on a Sunday. The event creates a carnival atmosphere and is organised by the local chamber of commerce. Janelle Johnstone has contributed a great deal of time and work to the successful organisation of that event. The event went on to win the State Chamber of Commerce Award for Event Management of the Year, which is quite a prestigious award. The Contribution to the Community by an Individual Award was won by Janelle Johnstone, who has been the mainstay of commerce and business for some time. She is the owner and operator of the Lithgow Valley Florist. Janelle and her husband, Ross, have a number of business interests in Lithgow. Janelle has dedicated a huge amount of her time and effort to helping the business community and the committee of Lithgow generally. Her award was an honour that was warmly endorsed by those in attendance.

The Education and Children's Services Award was won by the Special Education Unit of Lithgow Public School and the award was accepted by the director of the unit, Penny Hudson. The unit does a wonderful job in development and education of young handicapped children, especially in preparing them to enter the mainstream education system. The Employee of the Year Award was won by Peter Ludlow of the Home Centre at Lithgow. Although a relative newcomer to Lithgow, Peter is a worthy recipient of the award. The Home Based Business Award was won by Wealth Dynamics International Pty Ltd, which is operated by Hans Jacobi and family. The business is located on a rural property just outside Portland. The Personal Service Award was won by Maree's Hair and Beauty Salon. The salon's proprietor, Maree Statham, is well known throughout the business community for her wonderful work. The Professional Service Award was won by the Lithgow Veterinary Hospital. The prize was awarded to Andrew Gough and staff of the hospital for the outstanding contribution they make to the efficiency of the hospital.

The Restaurant and Cafe Award was won by CJ's Modern Australian Restaurant. Cheryl Warren runs the restaurant and Chris Warren is the chef. The restaurant enjoys a great reputation. The Retail Business Award was won by the local Angus and Robertson Book Store and was accepted by local franchisees Trevor and Margaret Sheaves. The Specialised Business Award was won by C & W Printing, a business that is now managed by Darren Willis, who is probably better known as a first-grade footballer for the Penrith Football Club in Sydney's western suburbs than for business operations. Darren has come back to Lithgow to take over his father's business, which won not only the Retail Business Award but also the Business of the Year Award.

The awards reflect great credit on Barry Willis for the work he has done to build up the business which is now being managed by his son Darren. The Trades Award was won by D & M Cleaning Services, a Portland-based business which recently began trading in Lithgow. The Travel and Tourism Award was won by Estbank House, which takes its name from a mansion that was built in 1842. The property is now run by the Lithgow Historical Society under the management of Margaret Jones. The Young Employee of the Year Award was won by Connie Edwards from Century 21 Real Estate. The focus of attention during the evening was on presentation of the Business of the Year Award, which was won by C & W Printing, as I mentioned earlier. The real benefit of such occasions is that they draw business people together. In recent years, Lithgow businesses have had some problems, but members of the business community are picking themselves up. They are excited about the announcement that the silicon smelter will go ahead.

Mr George: Thanks to the Federal Government.

Mr MARTIN: The State Government has made a major investment in the Lithgow area and I would like to think that the Coalition will not persist with its opposition to the project. The State Government has made a \$10 million commitment to the district by moving the Office of State Revenue to the Lithgow area and that will provide a major boost through capital investment. Things are on the up and up, and businesses in Lithgow are celebrating. They will do well because a boom time is coming. [*Time expired.*]

RIDE FOR YOUTH

Mr WEBB (Monaro) [5.48 p.m.]: I inform the House of a wonderful contribution that is about to be made by a Cooma lady, Gitta Seidal, who will participate for charity in the Ride for Youth from Darwin to

Adelaide. The ride will celebrate and commemorate the wonderful contribution and achievements of explorers, early settlers, pioneering women and Aboriginal stockmen in the settlement of Australia. Proceeds from the ride will be donated to the Isolated Children's Parents Association. The association is a voluntary organisation which engages all outback communities and is well known to many honourable members. Significantly, the ride will take place in the Year of the Outback. Gitta Seidal is a generous and thoughtful woman. As a local volunteer, she has given a lifetime of service. She has inspired many people in the community. In 1997, she travelled by mule and buggy across the Nullabor to raise money for the Royal Flying Doctor Service. That 1,700-kilometre ride took her approximately three months.

In the challenge before Gitta, she will not only represent the Monaro and the Snowy Mountains areas but also New South Wales and the Australian Capital Territory, because she is the only core rider from these areas. In doing so, she will be an outstanding ambassador for this State. In the International Year of the Mountains, it is rather apt that someone from the Snowy Mountains region will represent the State in an event that pays tribute to the Year of the Outback. Gitta will ride a brumby that has been broken in and trained in the Snowy Mountains. She is one of the region's unsung heroes and her willingness to give her utmost in the best interests of the community is outstanding. I wish her every success in this challenge. During the Year of the Outback, the Ride for Youth is being sponsored by a number of organisations. Gitta will pay a fee to participate in this ride and the money will go to the Isolated Children's Parents Association.

The mission of the ride from Darwin to Adelaide, some 3,340 kilometres, is to raise awareness of past, present and future outback youth. Gitta must first make her way with her horse and supplies to Darwin to commence the ride. Tourism New South Wales should get behind this ride. It is a wonderful way to promote the Year of the Outback, the Year of the Mountains, tourism, Australia generally and the recipients of these fundraising moneys. The ride, which will start on 7 July at the National Polocrosse Championships and finish in Adelaide on 10 August, will take some five weeks. Gitta has an impressive record for doing this sort of thing all over the world. She embarked on a similar ride in 1981 in Germany and Switzerland; in 1982 in Cape Passero, Italy, Norway and other areas in Europe; in 1984 in Italy; in 1988 across Sardinia; and in 1988 in Australia, when she rode the bicentennial horse trail from Melbourne, Victoria, to Cooktown, Queensland—a distance of 5,300 kilometres which took her one year and eight months.

In 1997 she rode across the Nullarbor Plain with a mule and buggy—a fundraiser for the Royal Flying Doctor Service. In 2000 she was a non-riding participant in the Spring Valley heritage horse ride—an 8,000 kilometre ride from Broome in Western Australia to Sydney. She accompanied the ride as the official photographer and press liaison officer. In the year 2002 Gitta will represent New South Wales and the mountains in this Year of the Outback Ride for Youth. Gitta is a much acclaimed photographer with an impressive list of accomplishments and publications. Gitta has worked for many people.

I have been informed that, because of Gitta's accomplishments she should be in the *Guinness Book of Records*. Gitta received a certificate for participating in the Heritage Horseride, which finished in Sydney. On 13 August 2000 she was presented with a certificate which was signed by the Speaker and by the honourable member for Lachlan, the Hon. Ian Armstrong, for participating in a world record-breaking 16,000 kilometre ride representing "The Spirit That Built A Nation." People in every community should support rides such as this. I have a great deal of pleasure in supporting Gitta. I wish her every success in her admirable endeavours and hope that she has a safe journey to Adelaide.

NRMA DEMUTUALISATION

Mr E. T. PAGE (Coogee) [5.53 p.m.]: Two years ago, in order to woo NRMA members into voting in favour of demutualisation, directors and managers who were the demutualisation cheerleaders assured members that the demutualisation would leave the association in a stronger financial position and that management accountability would improve. Instead, the NRMA is losing money, it is spending more money than ever on litigation—none of which is approved by the full board—and it is paying its senior employees record salaries. In 1994, when the complete demutualisation of the NRMA was proposed—that is, both the road service and the insurance arm—the NRMA management was headed by a chief executive officer who was in charge of both the road service and the insurance group. He was paid \$440,000 a year and his salary was set by the board. Reporting to him were two financial officers who were each paid about \$300,000 a year.

There was a joint company secretary for both the road service and the insurance arms and that person was paid \$175,000 a year. This is what it cost members for the top management to run a multibillion dollar combined road and general insurance operation just a few years ago. Let us fast forward to 2000. Suddenly there

are two chief executives, one paid \$1.2 million a year plus options and shares to head up the insurance company, and the other currently being paid \$1 million, including long-term and short-term bonuses. Today the management structure of the NRMA, which basically fixes up cars that break down on the road, is costing members \$5 million a year, or the equivalent of over 50 road patrolmen jobs. The road service now has a chief executive who was recently rewarded with a bonus for racking up the largest operational loss in the history of the road service group. It also has six general managers earning between \$250,000 and \$500,000.

It has its own chief financial officer earning over \$500,000 a year, even though the road service does not handle its own funds. Under the terms of the demutualisation agreement, NRMA insurance collects all the money as it owns all the branches. Perhaps a better logo for the NRMA would be Oliver with his bowl. It has its own general manager, information services, on about \$500,000 a year, even though all the computer network is owned by the insurance company, for which the road service has to pay the insurer's cost plus 5 per cent. The road service has its own public relations department with its head earning \$350,000, with bonuses. This propaganda unit sends out several press releases a day publicising the chief executive officer. A separate person is employed to publish *Open Road* and now the board has also hired another highly paid external public relations firm, paid for by members, whose job it is to assist the board and its chairman with their image and communications.

Then there is the company secretary and a legal counsel on about \$400,000 a year who has initiated court proceedings against a group of minority directors and media outlets costing hundreds of thousands of dollars of members' funds and aimed at gagging directors from speaking publicly about important issues discussed in the boardroom. All those remuneration packages are made by an exclusive committee of the board comprised solely of the majority members' first faction of the board headed by Nick Whitlam. This is the same road service management that ran the road service at a \$14 million loss last year and it is planning to inflict another record multimillion loss on NRMA's two million members this year. Things are so bad that, at the last board meeting, the NRMA's three-year budget was scrapped because, in the words of one of the board's first directors, "it was unsustainable due to rising losses."

But the legal actions against some directors and media organisations continue unabated. At last count there were three actions against three directors and Fairfax publications and one against Channel 9. NRMA is also paying the legal costs of its Chairman, Nick Whitlam, who is defending a civil action brought by the Australian Securities and Investments Commission. Members have been told nothing about why the NRMA is funding this action, and they have not been told how much it is likely to cost them. Despite some directors asking management to account for these costs, they have been denied that information. Today NRMA Ltd it is just a road service provider employing 700 staff but with management salaries at a level more befitting an organisation with 10 times that number.

Under the terms of the demutualisation it cannot provide financial services, products or insurance. It does not even provide a travel service now that its franchisee, Traveland, has gone bust. NRMA members were never told that, post-demutualisation, their funds would be spent like this, feather-bedding a group of executives with ludicrously high salaries for such a small organisation and with expense accounts. What is happening behind the scenes at the NRMA is a public scandal. I call on the Australian Securities and Investments Commission to investigate the campaign of intimidation and oppression of some of the NRMA's democratically elected directors by a group of bullying directors and executives who are desperately trying to keep a stranglehold on office in a bid to line their own pockets.

SOUTHERN HIGHLANDS ELECTORATE AUTISM SATELLITE CLASS

Ms SEATON (Southern Highlands) [5.58 p.m.]: I am sure that many honourable members have families in their communities who have children who suffer from autism. I know that all honourable members would want to have the best possible educational facilities made available to those children. Many children with autism can be helped if they get the right sort of additional educational opportunities at an early age. Last year I met with a group of parents in my area—we met at the office of the surveyor general in Berrima—who get together about once every month. That group comprises people from all over my electorate who have one thing in common: they have family members with autism. Those people support one other and find better ways of doing things. They also assist one another in accessing resources that they would otherwise struggle to find.

Those people have made a couple of observations to me, one of which is that often parents find it hard, when a child is born with autism, to get any sort of co-ordinated help to find the resources they need in the child's early years of life. Many of them have also stated how much they would appreciate having access to a

satellite class, which I know is available from the Autism Association of New South Wales. The Southern Highlands does not yet have such a facility. At that meeting one of the issues that parents raised was the high cost of teaching resources, which, on a per student basis, adds up to a great deal of money. I refer specifically to prepared materials which I believe are made available to students. This group was trying to find some way of accessing those resources and sharing them. Children use those resources, grow out of them and need resources designed for the next stage of their development.

I recently received a letter from Leanne Dole, who lives in my electorate and whose 4½-year-old son Blake is autistic. Lyn and Geoff Carey have a daughter who is also autistic, and they facilitate a group that meets regularly to help parents and carers with autistic children. Recent calculations by Lyn and Leanne reveal that possibly as many as 10 primary school aged children in the Southern Highlands are autistic and would benefit from a satellite class. The Autism Association has funding from both State and Federal governments, and the Department of Education and Training pays the teachers' salaries. The association also charges fees of approximately \$1,400 a year, which is a great deal of money but it does a lot of fundraising. There are 29 satellite classes across New South Wales and six base schools. They are located in the Illawarra, Newcastle, south-east Sydney, Terrigal, Richmond and Wetherill Park.

It is preferred that the satellite classes are within easy access of the base school, so that they are able to offer effective support. The satellite classes are located within a mainstream school, which requires the school to have an available classroom or the education department to locate a classroom at an appropriate school. The usual process is for children to attend a base school, then go on to a satellite class, although obviously children who live some distance from a base school would not be expected to attend. Programs begin when children are three years of age, because it is generally thought that early intervention benefits autistic children the most. There is generally one teacher for every four or five students, with one teacher's aide employed for every two classes. The classes provide flexible pathways to meet the needs of each child and aim to introduce the students into mainstream schools or to help them integrate into special schools.

Leanne Dole is desperate to find help for her son Blake. He currently attends Tangara Special School, which is an excellent school in Mittagong in my electorate. However, Leanne believes that he requires more individual attention that can focus on his specific needs. Leanne becomes upset when she tries to deal with Blake's behaviour, as do many parents with autistic children. Blake often becomes distressed. Leanne wants him to receive the assistance he needs, and she believes that assistance would be provided by a satellite class.

This week my office also spoke to Dr Jackie Roberts, the Director of Services at the Autism Association of New South Wales. Dr Roberts believes it would be possible to set up a class in the Southern Highlands, and she is keen to work with me and the parents of autistic children in my area to see what can be done. She is keen to help promote the idea of setting up a satellite class. With 10 children in the Southern Highlands area perhaps being able to benefit from these classes, it would be wonderful if we could provide such a service locally. I bring this matter to the attention of the House and the Minister for Education and Training in the hope that we will be able to advance this proposal. I also hope that when I put to the Minister a more solid recommendation he will consider it favourably.

TRIBUTE TO PROFESSOR WILLIAM McCARTHY, AM

Mr MARKHAM (Wollongong—Parliamentary Secretary) [6.03 p.m.]: Professor William (Bill) McCarthy, AM, is a Professor of Surgery in Melanoma and Skin Oncology at the University of Sydney, the Director of the Melanoma and Skin Cancer Research Institute and the Deputy Director of the Sydney Melanoma Unit. He has been involved in the clinical management of people with melanoma for 30 years, and he directed the Sydney Melanoma Unit for 15 years until 1999. He was instrumental in the formation of the Melanoma and Skin Cancer Research Institute by bringing together the melanoma and skin cancer research activity of a variety of units within the University of Sydney, Royal Prince Alfred Hospital, the Newcastle Melanoma Unit and the Westmead Melanoma Genetics Unit.

Bill was awarded the Order of Australia for his work in melanoma education, general medical education and melanoma surgery. He has served on the committee structure of the Australian Cancer Society, the Australian Cancer Network, the Clinical Oncological Society of Australia and the New South Wales Cancer Council. He was the convener of the Fourth World Conference on Melanoma in 1997, and was on the committee for the fifth world conference in Venice in 2001. Bill has convened 12 major meetings on medical education and has participated as a speaker or chairman in more than 30 major melanoma and/or educational meetings.

In February 2001 Professor William McCarthy was the recipient of a special World Health Organisation award for a lifetime devoted to melanoma research. One of Bill's legacies is the Melanoma Foundation, which was established in 1984 to foster the prevention and treatment of melanoma and related skin conditions and research into those conditions. Its work involves public education on the dangers of melanoma and the prevention measures that can be taken. The Melanoma Foundation is a charitable foundation of the University of Sydney. The foundation played a major role in the development of the first institute in Australia devoted to research into melanoma and skin cancer.

The mission of the Melanoma and Skin Cancer Research Institute is to reduce the impact on people of melanoma and skin cancer through excellence in research into causes, control and care. Funds raised by the foundation are primarily used to support the many facets of research, including improving our knowledge of skin tumour biology, methods for prevention and cure, and new techniques for early diagnosis. The foundation also conducts the training of general practitioners and educational programs for schools and the wider community. The foundation supports the work of the Sydney Melanoma Unit, the world's largest melanoma treatment centre. The Sydney Melanoma Unit sees 1,200 new melanoma patients each year and in total receives 11,000 patient visits per annum. The Sydney Melanoma Unit has an international reputation for high-quality patient care and research into melanoma; it is a member of the World Health Organisation's melanoma program.

Bill McCarthy, who retired as the academic director on 25 February this year, and his wife, Mavis, were guests at the Illawarra Melanoma Cup race day held at Kembla Grange on 27 April. The Minister for Health, the Hon. Craig Knowles, was also a special guest. I know that the Minister is impressed with the work that Bill does and his dedication to his work. Bill finds his work rewarding, not in monetary terms but in terms of saving human lives. The Minister for Gaming and Racing, the Hon. Richard Face, also attended the Kembla Grange race meeting, which was a fantastic event. Professor John Thompson, Professor Fred Stephens and Jacquie Stratford from the Melanoma Institute, which is based at Royal Prince Alfred Hospital, also attended. The master of ceremonies was Dasha Winnell, who does an incredible job and has been master of ceremonies for seven of the nine years that the Melanoma Cup race day has been held at Kembla Grange.

Daphne and Ron Carey have worked for nine years to ensure that the race day is a great success. Over the nine years we have raised in excess of \$170,000, which has been donated to the Melanoma Institute at the Royal Prince Alfred Hospital. The fact that the Minister for Health took the time to come down to Kembla Grange to attend the race meeting shows the respect he has not only for Bill McCarthy but for the work done by the melanoma committee in the Illawarra. I also commend Mr Neil Bayo and Dr Harry Mitchell, the Chief Executive Officer and Vice-President of the Warilla Bowling Club, who kick-started the melanoma fundraising day with a donation of \$10,000 to the Illawarra Melanoma Foundation Committee. I appreciate the work of all the people I have referred to.

Mr KNOWLES (Macquarie Fields—Minister for Health) [6.08 p.m.]: It is indeed an honour to join my colleague the honourable member for Wollongong in paying tribute to Bill McCarthy, one of the great men in medicine. Bill not only leads a magnificent team here in Sydney but is highly regarded internationally, as the honourable member for Wollongong has said. Bill is truly adored by his patients. When one thinks about him running the largest melanoma unit in the world, that is saying something: it is critical life-saving activity by a man who is full of love and compassion as well as having a brain the size of the planet. When we talk about Victor Chang, Fred Hollows and Professor Beverley Raphael, to whom I paid tribute in this place yesterday, we must also refer to Bill McCarthy. Without qualification, he earns his place and our respect.

I also place on record my great appreciation to the honourable member for Wollongong and his wife, Melissa. Whilst the honourable member has paid tribute to the terrific people who have organised the Kembla Grange Melanoma Cup over the past nine years, particularly Daphne Carey, the event would not be the success it is today if it were not for the efforts of the honourable member and his wife. The only sour note on the day was that I did my dough. Other than that, it was a terrific day. It is great to celebrate, in good fun and good spirits and with terrific company, the success of people like Bill McCarthy and to emphasise the importance of beating a disease such as melanoma. It was one of the most pleasurable afternoons I have experienced. I place on record my thanks to Col and Melissa for their kind invitation.

REGIONAL TAXATION INCENTIVES

Mr McGRANE (Dubbo) [6.10 p.m.]: Tonight I bring before the House what I consider to be the very important issue of zonal taxation or enterprise zones. One might say that this is a Federal issue. It is, but it has great ramifications for every State in Australia, especially New South Wales. We have had a number of debates

in this place about zonal taxation. The issue has been brought forward of late by the Local Government and Shires Associations, the Institute of Chartered Accountants of Australia, the National Farmers Federation and New South Wales Farmers. Prior to the last Federal election these bodies put forward a joint submission to the Federal Government and the Federal Opposition. It was unfortunate that neither of the major parties took on board the thrust of these submissions by these eminent groups and organisations.

The tenor behind the submissions to the Federal Government is that we need incentives for regional development in Australia. We in this place and in other places talk a lot about regionalisation and decentralisation. There have been a number of different approaches to get industries into regional Australia. I suggest that none of them has worked successfully, because there has not been a financial incentive for businesses to relocate. There have been some incentives in regard to prices of land and dispensation of rates, et cetera, but at the end of the day there must be a monetary incentive for businesses to relocate to country areas of Australia, particularly to regional areas of New South Wales. For existing businesses in these areas that want to develop there should be some type of monetary incentive. The only fair way for this to happen is through taxation.

The Federal member for New England, Mr Tony Windsor, is seeking to raise this topic for debate in Federal Parliament next week, with the view of ending the recycling of the issue. The purpose behind his introduction of the matter into the Federal House is to set up a working party to consider and implement the recommendations made by the various organisations I mentioned earlier. That working party must include all parties and must find a solution to enable development of regional Australia. We all know that regional Australia has a diminishing population. I have mentioned many times as mayor of the city of Dubbo, and do so now as the member for Dubbo, that the regional population in Australia is less than 10 per cent of the total population. In fact, it is something like 9 per cent.

When I say regional Australia, I mean that area of land that is away from the coastal fringe. The coastal fringe is within 40 kilometres of the coast from Adelaide to Cairns, and 91 per cent of the population of Australia lives in that small zone on the eastern side of Australia. Where 91 per cent of the population lives, 91 per cent of the politicians come from. Yet, regional Australia, particularly regional New South Wales, is the engine room in the creation of wealth. The mineral industry and the farming industry play a vital role in earning export dollars for Australia. However, not enough value adding is done to these products in regional Australia. The value adding needs to be done there to create jobs. Regional New South Wales and Australia will always lose jobs unless there is some type of incentive by the Federal Government and I suggest that zonal taxation is one means of providing that incentive. Until we create jobs in regional Australia the population will continue to diminish in those areas.

Private members' statements noted.

[Mr Deputy-Speaker left the chair at 6.15 p.m. The House resumed at 7.30 p.m.]

ENVIRONMENT PROTECTION LEGISLATION AMENDMENT BILL

In Committee

Consideration of the Legislative Council's amendment.

Schedule of the amendment referred to in message of 7 May

Page 12, Schedule 2. Insert after line 9:

[26] Section 227 Penalty payable

Omit "\$1,500 nor" from section 227 (2).

Legislative Council's amendment agreed to on motion by Mr Whelan.

Resolution reported from Committee and report adopted.

Message sent to the Legislative Council advising it of the resolution.

RACING LEGISLATION AMENDMENT (BOOKMAKERS) BILL

In Committee

Consideration of the Legislative Council's amendments.

Schedule of the amendments referred to in message of 7 May

No. 1 Page 3, Schedule 1, line 30. Insert at the end of the line:

, and
(f) subject to the regulations, no person (other than a shareholder) has any interest in the shares or assets of the company.

No. 2 Page 7, Schedule 2, line 30. Insert at the end of the line:

, and
(f) subject to the regulations, no person (other than a shareholder) has any interest in the shares or assets of the company.

No. 3 Page 11, Schedule 3, line 29. Insert at the end of the line:

, and
(f) subject to the regulations, no person (other than a shareholder) has any interest in the shares or assets of the company.

Legislative Council's amendments agreed to on motion by Mr Whelan.

Resolution reported from Committee and report adopted.

Message sent to the Legislative Council advising it of the resolution.

DRUG SUMMIT LEGISLATIVE RESPONSE AMENDMENT (TRIAL PERIOD EXTENSION) BILL

Bill introduced and read a first time.

Second Reading

Mr WHELAN (Strathfield—Parliamentary Secretary), on behalf of Mr Aquilina [7.34 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill. The purpose of the bill is to extend the trial period of the medically supervised injecting centre operated by Uniting Care, a ministry of the Uniting Church, in Kings Cross. The effect of the change is that the trial becomes a 30-month trial rather than an 18-month trial. The trial will now conclude on 31 October 2003. Consequential amendments in the bill ensure that the current licence, the terms and conditions for operating the centre and all other aspects relating to the licence and the trial remain unchanged for the additional period. The 12-month extension is required to allow the centre to remain operating until the final report of the independent Evaluation Committee is delivered. The extension period will provide for a period of community consultation and parliamentary debate. The Government has made this decision based on advice from the New South Wales Expert Advisory Group on Drugs in February 2002 that:

... consideration be given to extending the trial of the medically supervised injecting centre to allow the government of the day to receive the report from the evaluation committee and sufficient time for consideration of the policy implications of all of the findings.

It is logical and commonsense to leave the centre operating while we wait for the independent evaluation of the trial. Such a course is also consistent with this Government's evidence-based approach to drug policy. Closing the doors without waiting for the scientific evaluation results would be pre-emptive. The Government has funded a very comprehensive and independent evaluation. The evaluation is being undertaken pursuant to an agreed and published protocol primarily developed by the National Drug and Alcohol Research Centre. The evaluation protocol was published on 30 April 2001. The Evaluation Committee comprises Professor John Kaldor from the National Centre for HIV Epidemiology and Clinical Research; Professor Richard Mattick, Executive Director of the National Drug and Alcohol Research Centre; Dr Don Weatherburn, Director of the Bureau of Crime Statistics and Research; and Ms Helen Lapsley, formerly a senior lecturer in health economics at the University of New South Wales.

There are three components to the evaluation: first, the process evaluation of the centre's operations and service delivery; second, the impact evaluation of the centre, which is assessing five areas, namely, the public health impact, the impact on treatment uptake and client health, the public amenity impact, and the impacts on drug dealing and other crime, and on community attitudes; and, third, an economic evaluation. This evaluation analysis will cover a period of 18 months—that is, from May 2000, when the centre opened, to October 2002. The evaluation team is providing regular reports on the first component of the evaluation, that is, the process or operational aspects of the medically supervised injecting centre trial. Three-monthly process reports have been received by the Government and publicly released by the evaluators. The two other components of the evaluation—the impact evaluation and the economic evaluation—are long-term studies. These are to be reported on after the conclusion of the 18-month period.

Some data associated with the evaluation cannot be collected until the end of or after the period under review. That data must then be properly and scientifically processed and written up. The Government has been advised that the final report of the evaluators, which will include findings on all three components of the evaluation, will be completed and available for consideration by the end of April 2003. I can advise the House that the 12-month process report on the operations of the centre is expected to be available by 27 May 2002. It will be made available to all members of Parliament. The New South Wales Government views as encouraging the process and operational results in the process reports and other information to hand. There is evidence that lives have potentially been saved, and that people at most risk have been helped towards treatment, health and social services.

The centre's management has indicated that a large number of the visitors to the medically supervised injecting centre are people who have no other contact with the health system. Overdose deaths have dropped in New South Wales. Ambulance call-out rates to non-fatal overdoses have been falling in Kings Cross and nearby Darlinghurst for over 12 months and have continued to fall during the period of the trial. Notwithstanding these observations, the New South Wales Government will continue to view all results with caution. That is why we will wait for the evaluators to submit their final report before making judgements.

I turn now to the major provisions in the bill. This bill amends the Drug Misuse and Trafficking Act 1985. Part 2A of the Drug Misuse and Trafficking Act 1985 currently permits the operation and use, under licence, of a single medically supervised injecting centre, but restricts the period during which such a licence can have effect to a trial period of 18 months. For the reasons I have outlined, amendments are necessary so as to extend the trial from 18 months to 30 months. These amendments are contained in schedule 1 to the bill. Section 36A is amended to omit "18 months" and insert instead "30 months" for the trial period for which a licence is issued under part 2A of the Drug Misuse and Trafficking Act 1985. An identical amendment is made to the definition of the "trial period" in section 36D to ensure that it is now defined as a period of 30 months. These two amendments implement the main object of the bill, which is to extend the period of the trial from October 2002 to October 2003. A number of consequential amendments have also been made.

Section 36B is amended so as to ensure that the period for which a review must be conducted into the operation and use of the licensed injecting centre remains the current trial period of 18 months, and not the extended trial period of 30 months. The original legislation which established the trial requires the responsible authorities, that is the Commissioner of Police and the Director-General of the Department of Health, to arrange for a review of the operation and use of the centre, part 2A of the Drug Misuse and Trafficking Act 1985 and any regulations which may be made. This review by the Commissioner of Police and the Director-General of New South Wales Health, is separate from the comprehensive independent evaluation commissioned by the Government. It is concerned with the operational aspects of the centre and the legislative provisions that govern these operations.

However, for consistency the review should cover the same period as the evaluation, that is, the first 18 months of the trial, and will be informed by the published data of the evaluation. The review will be available for consideration during the period allowed for consultation and parliamentary scrutiny after April 2003. I should also point out that while the review and the formal evaluation will cover the 18 month period of the trial, process and operational data will continue to be collected from the centre up to October 2003. Section 36G, which relates to the duration of the licence, is amended so as to extend to 30 months the period for which the current licence is in force.

A new section 36T is inserted into the Drug Misuse and Trafficking Act 1985 to provide that the licence currently in force be extended for the whole of the new trial period of 30 months. This section also provides that the extension of the licence may not be challenged in the courts. Honourable members should be quite clear.

This bill does not change the current licence holder or any of the licence conditions under which the current trial is operating, except for the length of the trial. Finally, for avoidance of doubt, section 36T also provides that section 36Q, which covers the application of the Environmental Planning and Assessment Act 1979, applies with respect to the whole of the extended trial period. This is a trial with national and international significance. Let us not rush to judgment but wait until the evidence is collected and we can all carefully consider the findings. I commend the bill to the House.

Debate adjourned on motion by Mr Tink.

LOCAL GOVERNMENT AMENDMENT (GRAFFITI) BILL

Second Reading

Debate called on, and adjourned on motion by Mr Whelan.

LICENSING AND REGISTRATION (UNIFORM PROCEDURES) BILL

Bill introduced and read a first time.

Second Reading

Mr YEADON (Granville—Minister for Information Technology, Minister for Energy, Minister for Forestry, and Minister for Western Sydney) [7.50 p.m.]: I move:

That this bill be now read a second time.

The Licensing and Registration (Uniform Procedures) Bill arises from the establishment of the New South Wales Government Licensing Project in July 2001. This major Government initiative aims to provide a single IT system to administer licensing processes across New South Wales government agencies. A survey of licensing agencies conducted in 2000 found there are some 200 different types of licences issued in New South Wales. These are currently administered by 28 separate licensing authorities in New South Wales using in excess of 70 different IT systems. Many of these systems are nearing the end of their economic life and the cost to replace or enhance them individually would be prohibitive. Instead, providing a single IT system across all agencies is expected to save the people of New South Wales up to \$70 million in system replacement and enhancement costs.

This project is an important contribution to the Government's commitment to provide the people of New South Wales with the option of conducting their business with Government agencies electronically, if they so choose. The New South Wales Government Licensing System will augment existing mail and counter services for licensees with Internet access to apply for and renew licences. It will also assist in consumer protection by allowing consumers to access public registers of licensees online. This will give consumers very ready access to information to confirm whether any person claiming to hold a particular licence actually does so.

The system will provide citizens and businesses of New South Wales with a consistent face of government in their dealings with New South Wales licensing agencies by applying uniform processes to the administration of licences. The system will initially be implemented in the Department of Fair Trading, the WorkCover Authority, the National Parks and Wildlife Service and the Department of Gaming and Racing. It will apply to a diverse range of business, occupational and other licences issued by these agencies such as building contractors licences, authorities to conduct charitable fundraising events and registration of items of plant and equipment.

The licensing system will subsequently be implemented in the remaining licensing agencies following an analysis of their functional requirements against the system. The licences, which are to be administered using the licensing system, are issued under a range of licensing Acts that have differing provisions for very similar processes such as application and renewal. A more uniform legislative framework for these procedures is required to reduce the complexity and cost of the new system.

The bill aims to remove any barriers to on-line transactions that may be inherent in existing licensing legislation, provide a consistent legislative framework to enable the development of a generic IT solution that will provide improvements and consistency in customer service across government, and facilitate future changes—for example, the administrative procedures and system will already be in place for new licensing

schemes. The bill has been drafted in close collaboration with the four initial agencies and the Department of Health. The remaining 24 identified licensing agencies were also included as part of a broad consultation process involving stakeholders across the broad range of licence types covered by the bill. Overall, there has been very strong stakeholder support for the bill.

The bill provides a standard set of uniform procedures to be used by agencies when assessing and issuing licences or registrations, clarification that certain provisions of the Electronic Transactions Act apply to licensing transactions under the proposed legislation, and, importantly, the creation of an offence under the Crimes Act for the provision of false information in relation to a licensing transaction. The bill provides the uniform procedures in three separate parts, each part applying specifically to licensing schemes, registration schemes generally and to the registration of health professionals. The provisions of each of these parts essentially mirror each other, with some changes in language to reflect the differences between a licensing and a registration system. For the sake of simplicity, in any further comment on this bill I will refer to a licence as a generic term that includes both a licence and a registration.

The uniform provisions of the bill replace the procedural provisions of each licensing or registration Act with a common procedural framework for all licences, that are to be administered using the New South Wales Government Licensing System. The bill does not make any changes to the policy issues relating to licences, such as the authority that is given to a licence holder, the eligibility requirements for holding a licence, or the disciplinary procedures for a licensee who acts in breach of the licence. These are matters which are quite rightly left for the principal licensing Acts to deal with.

Under the bill's uniform provisions, applications can be made to the relevant licensing authority by any individual, partnership or corporation that satisfies the requirements of the relevant licensing legislation. Applications cover new licences or an amendment, transfer, renewal or restoration of an existing licence. The bill provides for a licensee to apply to have a licence amended at any time while the licence is in force. Where the relevant licensing legislation allows for a licence to be transferred, an application for transfer may be lodged at any time while the licence is in force. Such an application must be submitted jointly by the licence holder and the transferee.

An application for renewal of a licence may be made within a specified period before the licence expires. The specified period depends upon the original period of the licence. The application must also specify the term of licence sought if this is applicable to the type of licence in question. A licence that has not been renewed prior to its expiry date may be restored provided that the application is lodged within three months of the date of expiry—or such other period as is set by the relevant licensing Act—and payment of a restoration fee is made. An application for the replacement of a licence may be made if the licence is lost, damaged or destroyed.

To enable licensing transactions to be conducted on line, this bill specifically provides for applications to be lodged either in writing or electronically. Written applications must be signed by the applicant and, for a transfer of licence, by the transferee. Electronic applications must be authenticated in a manner approved by the relevant licensing agency. This could be by use of a pin number or a digital signature certificate.

The level of fees will continue to be set by the primary licensing Act. The bill does, however, require agencies to identify that portion of an application that is a processing fee, separate from the annual licence fee. It also provides for the processing fee to be retained by the agency if the application is cancelled. Agencies currently have different practices in relation to the refund of application fees. This provision provides applicants with consistent expectations about the refund of fees. For some licence types, there may be a reduction in application fees when the application is lodged electronically. The fee reduction is aimed at encouraging the uptake of the electronic option and to reflect any resulting reduction in data entry costs for licensing agencies.

The agency may request in writing any additional information that it may require to make a decision on the application. If the applicant fails to provide the information within 14 days after the request—or such other period as is set by the primary licensing Act—the agency may choose to refuse the application. In this case the licence fee—but not the processing fee—would be refunded and the applicant would have no right of review regarding the refusal of the application.

Where the primary licensing legislation requires an application to be advertised by the agency or the applicant, this must be in at least one daily newspaper circulating throughout New South Wales. The notice must indicate that any person may make a written submission on the application and indicate the procedure for doing

so. The closing date must be between 14 and 28 days from the date the notice is published. The applicant may withdraw an application before a decision is made. The application fees—except processing fees—are to be refunded in these circumstances.

For the purposes of lodging an appeal, where the agency has not made a decision on the application within 14 days of lodgment—or such other period as is set by the licensing legislation—the application is deemed to have been refused. The agency is not prevented from continuing to assess the application after this time. A stop the clock mechanism exists during any period where additional information is requested from the applicant, there is an advertised period for making objections, or the agency is required to refer to a third party for consideration of some part of the application or for assessment. Notice of the decision on an application must be provided to the applicant and any objector within 14 days of the decision—or such other period as is set by the licensing legislation. Where an application is refused, the applicant or an objector may request written reasons for the decision.

Licences will be issued in a form approved by the principal officer of the agency and will contain specified particulars. Licences may be issued for a fixed period or as a continuing licence. Agencies will have the flexibility to determine the specific periods which may be offered in relation to a type of licence or for a specific licensee. Where the application is refused, the application fee, except for the processing fee, will be refunded. Where the primary licensing legislation provides a right of review in relation to a licensing decision, this policy will continue to apply. Where no review mechanism currently exists, a right of review by the Administrative Decisions Tribunal will be available. The right of review extends to an applicant for any licensing process, or for an objector in relation to an advertised application who is aggrieved by the licensing decision.

Licence holders will be required to notify any changes to their licence particulars within 14 days of the change occurring, or such other period as set by the licensing legislation. In the past it has been difficult for agencies to determine the currency of information held about continuing licences. These licences are issued once and remain valid for the lifetime of the person or the piece of plant and equipment to which they relate. Holders of continuing licences will be required to provide a periodic return confirming that licence particulars have not changed. Licensing agencies will be able to determine how frequently such returns should be completed. This requirement ensures that licensing databases relating to continuing licences remain current. A periodic administration fee will be paid by holders of continuing licences. An evidentiary certificate issued by the licensing agency, stating the status of a licence on any particular date or period, will be admissible as evidence in legal proceedings.

Uniform requirements for legal service of notices relating to the licence process will apply. These reflect current practice for the service of notices and also incorporate new mechanisms for the applicant or licensee to elect to receive these electronically. Facsimile applications will have the same legal effect as an original. The licensing agency will have the power, if it so chooses, to recover unpaid licensing fees as a debt in any court of the appropriate jurisdiction. The principal officer of the licensing agency may authorise another person to exercise his or her authority in relation to licensing procedures under the bill.

The bill confirms that the methods specified by the Electronic Transactions Act for verification of the sending and receiving of a document electronically will apply to licensing transactions. The bill includes amendments to the Business Names Act so that the date, place of birth and residential address of the person who registers the business name do not form part of the public register. This protects the privacy of this personal information and allows their use as part of the procedures to verify the identity of the person when conducting subsequent transactions in relation to the registration of their business name.

The bill also amends the Business Names Act to remove any barriers to conducting transactions online. The business names registration system will not be replaced by the government licensing system in the initial phases of the project. Rather, these amendments to the Act will enable an online capacity to be attached to the existing business names system. The bill also proposes the removal of any requirements for information to be provided in the form of statutory declarations as these would constitute a barrier to electronic transactions. To support this change a new penalty for the provision of false information in relation to licensing is proposed under the Crimes Act 1900. The maximum penalty for this offence will be two years imprisonment or a fine of \$22,000, or both. These increased penalties are more in line with the type of penalties applicable under the Oaths Act in relation to the provision of false information in a statutory declaration.

In summary, the bill will facilitate a consistent legislative framework for the procedural aspects of licensing schemes without impacting on the policy issues that the licensing schemes were established to address.

The changes will provide some consistency of procedures to make system design viable across a broad range of licence and registration types without having significant impacts on licence holders. Most importantly, the bill will enable licensing transactions to be conducted online in New South Wales—yet another example of this Government's commitment to the innovative use of information technology to enhance the economic and social wellbeing of the State. I commend the bill to the House.

Debate adjourned on motion by Mr Fraser.

LOCAL GOVERNMENT AMENDMENT (GRAFFITI) BILL

Second Reading

Debate resumed from an earlier hour.

Mr WOODS (Clarence—Minister for Local Government, Minister for Regional Development, and Minister for Rural Affairs) [8.05 p.m.], in reply: I thank honourable members who participated in this debate. I am pleased that the Opposition has offered bipartisan support for this bill. This is an important issue and I know that honourable members are keen to ensure that we address the problem of graffiti. Graffiti costs the Australian community up to \$100 million a year. Experts agree that the best way to prevent graffiti is to remove the offending material as quickly as possible. This legislation will enable that to happen. Councils will be able to remove the graffiti without the constraints of red tape. While many property owners readily enter into agreements for the removal of graffiti, there are a number of situations in which there can be undue delay. This legislative action will give councils a new power—a power that they themselves have asked for.

However, with that power comes a responsibility in that councils will be liable for any damage that may arise from the removal of graffiti. Councils will be able to use this power only in cases where the graffiti is visible from a public place and it can be removed from a public place. The community will benefit from the speedy removal of illegal graffiti which would otherwise detract physically from the area and affect property values and civic pride. Under these provisions, councils will be able to remove graffiti from property which is particularly susceptible to illegal graffiti and highly visible from public places—such as roads, bridges, wharves, and parks—in a timely manner. Following graffiti removal, a council will be required to notify affected owners or occupiers of its action. This will inform owners or occupiers of the work that has been undertaken to their property and will provide an opportunity for them to raise any concerns about damage, if applicable.

As councils will not need to notify or obtain the prior consent of the owner or occupier, particular care will be required to ensure that the means used to remove the graffiti do not cause damage to the surface bearing the graffiti. While a council should endeavour to leave the affected surface in a condition similar to its condition prior to being the subject of graffiti, that will not always be possible. For instance, painted surfaces may prove difficult to restore because it will not always be possible to match the colour of the surface.

In these situations the owner or occupier may wish to repaint the surface when the council has removed the graffiti. This is considered to be reasonable, given that the costs associated with removal of the graffiti will be borne by a council. Furthermore, councils will be liable for any damage caused as a result of activities to remove graffiti, such as damage to the property which is the subject of the removal activity, and any other property. This is to provide some protection for owners and occupiers, given that their prior consent to removal may not have been given.

As I informed the House recently, the State Government has introduced a variety of programs and new initiatives to combat this problem. The State Government already spends up to \$60 million a year on the removal of graffiti from trains and railway corridors and repairing the damage caused by vandalism. We have provided a graffiti blaster worth \$25,000 for each of 13 local government areas—Auburn, Bankstown, Blacktown, Blue Mountains, Campbelltown, Gosford, Hornsby, Hurstville, Lake Macquarie, Penrith, Ryde, Sutherland and Wollongong. I saw the graffiti blaster working in Auburn. Jenny Coppock, the Auburn place manager, is certainly ensuring that great efforts are being made in the Auburn Council area and in surrounding council areas.

Through the Department of Juvenile Justice we provide clean-up crews to assist councils in graffiti removal. From July to December last year clean-up crews spent 16,000 community service order hours removing graffiti. There is also the \$900,000 Beat Graffiti program covering legal graffiti art, the development of graffiti prevention plans, and the removal of graffiti from business and residential property. Some 42 councils have received funding under that program. I believe that this bill will prove another invaluable weapon in the ongoing fight against graffiti.

I would like to address some of the views expressed in debate about unfunded mandates. I again state that these new provisions are there for councils to utilise if graffiti is a problem in the area. It is not an obligation. It is up to individual councils to spend their resources in the most appropriate way for their communities. Graffiti might not be as big an issue for one council as it is for another. It is clearly appropriate that councils determine their priorities in consultation with the ratepayers who elect them. I note that the legislation has been received favourably by local government and by the community. I have a letter dated 29 April from Ms Janet Turner, the Executive Director of the Australian Retailers Association, which states:

I am writing to congratulate you for introducing the Local Government Amendment (Graffiti) Bill 2002 into Parliament.

Graffiti is a community issue. It is an issue which not only needs a broader understanding, but one that requires a better co-ordinated approach at all levels of the government and the community.

This bill contributes towards achieving that goal. Measures which concentrate on the perpetrators of graffiti are more likely to have a much stronger impact on reducing the level of graffiti, with evidence showing that the quick removal of graffiti is one of the best deterrents. The Australian Retailers Association of New South Wales supports this bill. I welcome the support of retailers as well as all honourable members for this bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

OPTOMETRISTS BILL

Bill introduced and read a first time.

Second Reading

Mr McMANUS (Heathcote—Parliamentary Secretary), on behalf of Mr Knowles [8.13 p.m.]: I move:

That this bill be now read a second time.

I have pleasure in introducing the Optometrists Bill 2002. This bill is a reintroduction of the Optometrists Bill 2001, which lapsed upon the proroguing of Parliament, with the addition of a small number of important amendments to the provisions dealing with the ownership of optometry practices and the use of therapeutic drugs in the practice of optometry. The Optometrists Bill will protect the health and safety of the public in New South Wales by providing for the effective regulation of the optometry profession and by ensuring that optometrists are fit to practice. This bill repeals the Optometrists Act 1930, which was last substantively amended in 1969.

The new legislation is appropriately updated so as to strengthen and improve the regulation of optometrists in a similar fashion to improvements that have recently been made to the regulatory systems for other health professionals, such as medical practitioners, dentists, chiropractors, physiotherapists and osteopaths. This bill is the result of a thorough review process that involved exhaustive consultation with all relevant stakeholders and in particular the optometry and medical professions. Over the course of both this review and previous reviews, dating back to 1988, a number of draft bills have been produced for consideration. However, this legislation will see the conclusion of that review process and allow the optometry profession to develop in a manner appropriate for the role it fills in the health care system and in a fashion similar to developments in other jurisdictions both in Australia and overseas.

The issue that has been the primary cause for the number and length of the various reviews is the optometrists' access to therapeutic drugs. The current Act allows optometrists to use diagnostic drugs in professional practice but prevents the use of therapeutic drugs. In the course of the current review a clinical issues working party was established to examine a number of matters relating to clinical optometry, including the use of therapeutic drugs, to achieve a consensus among stakeholders on this matter. The working party recommended that restrictions on the use of therapeutic drugs be removed from the Optometrists Act and that the matter be dealt with by the Poisons and Therapeutic Goods Act. This is the approach that is taken to regulate the access of other professions, including the medical profession, to restricted medications, and the Government has agreed that it is the approach that should be taken for access by optometrists.

The human eyes and visual system are extremely complex and delicate and any damage to those systems or loss of sight is a very serious matter that is of great concern to the public. It is therefore entirely appropriate to take a very cautious approach when approving any expansion of the role of optometrists into the

treatment of ocular conditions by the use of therapeutic drugs. Any reforms that are contemplated must be based on verifiable competencies. The current bill therefore provides that the Optometrists Board may issue a registered optometrist with a drug authority and that there may be different classes of optometrist drug authority which relate to different therapeutic substances.

In the interests of ensuring that there is an appropriately high level of clinical governance in the approving of therapeutic substances for use by optometrists, the bill will amend the Poisons and Therapeutic Goods Act to establish an expert committee to determine the classes of optometrist drug authority that may be issued by the Optometrists Board; the poisons and restricted substances that are to be covered by each class of optometrists drug authority; the competency standards an optometrist must meet in order to be granted an optometrist drug authority of a particular class; the criteria to be used to ascertain whether an optometrist meets those competency standards, including criteria as to necessary education, training and experience; the maximum period for which an optometrists drug authority may be granted; and the ocular conditions that an optometrist who holds a particular class of optometrists drug authority is authorised to treat.

The committee will be established by the Director-General of Health and will comprise the Chief Health Officer of the Department of Health, who will be the chair of the committee, a registered optometrist nominated by the Optometrists Registration Board, an ophthalmologist nominated by the Royal Australian and New Zealand College of Ophthalmologists, a physician nominated by the Royal Australasian College of Physicians, and a clinical pharmacologist chosen by the director-general. Therefore there will be appropriate safeguards to ensure that only competent optometrists can access restricted drugs.

I emphasise for the benefit of honourable members that optometrists will not be able to sell restricted medications and that the only way optometrists will be able to supply such medications is by way of clinical sample. The Royal Australian and New Zealand College of Ophthalmologists was extensively consulted during the development of these provisions and has agreed that the process for optometrists to access therapeutic drugs as set out in the Optometrists Bill is appropriate. The provisions will require the involvement of both the medical and optometry professions in the development of competency standards and in determining the therapeutic substances that optometrists will be approved to use and the ocular conditions that optometrists will be approved to treat.

The college has been concerned to ensure that the public health is protected, and I take this opportunity to place on record the Government's appreciation of its efforts and contribution to the development of this legislation. Honourable members are aware that the Government supports the continuation of restrictions on the ownership of optometry practices. However, a number of non-optometrist owners currently enjoy rights under the Optometrists Act 1930. These non-optometrist owners are to continue to enjoy those rights. Therefore the existing provisions of the Optometrists Act 1930 by which those non-optometrist owners are entitled to operate an optometry business are carried forward by reference in this bill. The result is to preserve the status quo and all existing rights.

The bill includes a regulation-making power that provides that regulations may be made prescribing a person or class of persons as allowed to operate an optometry business. That power is intended to be used to allow organisations such as universities, public health organisations and Aboriginal medical services to employ optometrists to provide optometry services. I emphasise that this provision will not allow non-optometrists to undertake optometry practice but will merely allow certain prescribed organisations or persons to employ optometrists to provide optometry services. Recent health professional Acts passed by the Parliament amended the Public Health Act to define and restrict certain health care practices to particular registered professions. Restrictions have been placed in the Public Health Act in order to underpin the fact that those restrictions are enacted to protect public health rather than to protect the professional turf of particular professions.

This bill takes the same approach to the prescribing of optical appliances with that practice being restricted to registered medical practitioners and registered optometrists. The term "optical appliance" means contact lenses, spectacle lenses or any other appliance designed to correct, remedy or relieve any refractive abnormality or defect of sight. The bill will not affect the manufacture, fitting and supply of optical appliances as this is controlled by the Optical Dispensers Licensing Act and there will be no restriction on the manufacture and sale of so-called ready-made glasses which are merely magnifiers and are freely available from a number of retail outlets including community pharmacies.

I turn now to the specific provisions of the bill. To ensure that the welfare of patients is the paramount consideration in administering the Act, clause 3 of the bill states that the objective of the legislation is to protect

the health and safety of the public by providing mechanisms to ensure that optometrists are fit to practise. The bill will achieve this objective through a number of initiatives. The first initiative is to provide that the board may refuse to register a person, or register him or her subject to conditions, where it is not satisfied that he or she is competent to practise. For the first time, it will be an express requirement that applicants for registration must be competent to practise. As part of the requirement for competence, clause 14 of the bill provides that the Optometrists Registration Board will have the power to conduct an inquiry into a person's competence. If, following an inquiry, the board is not satisfied as to the applicant's competence, it will be able to grant registration subject to conditions or refuse registration. The power to conduct an inquiry will also apply when a person applies to have his or her registration restored.

The second initiative within the bill, to ensure that optometrists maintain their competence, is the introduction of a more robust annual renewal process. This process will require practitioners to submit annual declarations to the board on renewal of registration. Clause 24 of the bill provides that the annual declaration will cover criminal convictions and findings, ongoing good character, the refusal by another jurisdiction to register the person, the details of any suspension or cancellation of registration or the imposition of conditions in another jurisdiction or by another health registration board in New South Wales, whether the practitioner is registered with another health registration board in New South Wales, significant physical or mental illness that is likely to affect an optometrist's ability to practise, and continuing professional education activities.

In addition to practitioners being required to provide the board with an annual declaration detailing any criminal findings, clauses 25 and 26 of the bill also provide for the board to be notified about practitioners who are the subject of criminal findings. Under these provisions courts will be required to notify the board of practitioners who have been convicted of an offence or made the subject of a criminal finding in respect of a sex or violence offence. Essentially, a criminal finding is one where an offence has been proven but a conviction has not been recorded. A sex or violence offence is an offence involving sexual activity, acts of indecency, child pornography, physical violence or the threat of physical violence. Practitioners will be required to notify the board within seven days if they have been convicted of an offence of a type that courts are required to report, if they have sustained a criminal finding in relation to a sex or violence offence, or if they are facing criminal proceedings for a sex or violence offence where the allegations relate to conduct occurring in the course of practice or involving minors.

The third significant initiative is part 4 of the bill, which introduces a new disciplinary system. Clauses 28 and 29 provide for a two-tier definition of "misconduct" based on the definitions in the Nurses Act. The adoption of the two-tier definition, which includes both unsatisfactory professional conduct and professional misconduct, will allow the board to deal with both serious and less serious complaints in the most appropriate manner. Clause 30 of the bill provides the grounds for a complaint about a practitioner. The grounds for complaint have been drafted to be consistent with the grounds for complaint in the Health Care Complaints Act, the changes in the grounds for refusing a person registration, the introduction of the two-tier definition of "misconduct" and the introduction of an impaired practitioners system.

The bill introduces an Optometrists Tribunal, which will deal with complaints that practitioners are guilty of professional misconduct. The tribunal will be chaired by a legal practitioner with at least seven years experience and will include two optometrists and a consumer selected by the board. The tribunal will hear the more serious complaints about practitioners and the board will, where appropriate, conduct inquiries into complaints that are less serious. The bill also introduces the Optometry Care Advisory Committee. The committee will be used by the board as an expeditious and expert mechanism to inquire into complaints about optometry services, which the Health Care Complaints Commission does not propose to investigate. Those complaints will generally be at the lesser end of the spectrum of seriousness.

The committee will comprise four members, being three optometrists and a consumer. The committee chair will be an optometrist nominated by the board and the other two optometrists will be selected by the Minister from a panel of practitioners put forward by the board. Due to the importance of ensuring that the committee is both independent and is perceived as independent, board members will not be eligible to be appointed to the committee. Precluding board members from sitting on the committee will ensure that the same individuals do not consider complaints in different capacities and forums. Members of the committee will be appointed for a fixed term of four years.

The committee will investigate complaints and make recommendations to the board for their resolution. Included as part of the committee's investigatory powers will be the power to require a practitioner who is the subject of a complaint to undergo skills testing. Skills testing will assist the board in dealing with complaints

about professional standards and in ensuring that practitioners maintain appropriate standards. The committee will not have the power to determine complaints, but it can facilitate the patient and the practitioner reaching an appropriate agreement between themselves.

Should the committee, during its investigations, reach the view that a complaint raises an issue of unsatisfactory conduct that requires referral for a disciplinary inquiry, the board will be obliged to follow this recommendation. In such cases the board will either conduct an inquiry into the complaint or, for the most serious matters, refer the complaint to the tribunal for a hearing. Honourable members will be aware of the valuable role that the Health Care Complaints Commission performs in investigating complaints about health service providers and, in appropriate cases, instituting disciplinary action against practitioners. I emphasise that under the new disciplinary provisions the Health Care Complaints Commission will continue to play an important role in the investigation and prosecution of complaints. As part of the board's powers to protect the public it will be able to impose conditions on a practitioner's registration or suspend that registration when it is necessary to do so to protect the life or the physical or mental health of any person.

This leads me to part 5 of the bill, which introduces a system for the board to manage impaired practitioners. The provisions of part 5 are modelled on provisions in the Medical Practice Act which have operated successfully for a number of years. The rationale for such a system is that practitioners whose ability to practise is impaired by factors such as physical or mental illness, or drug and alcohol abuse, can be managed and assisted before those problems develop to such an extent that patients are placed at risk. Following the impairment process the board will be able to place conditions on a practitioner's registration or suspend that registration when it is satisfied that the practitioner has agreed. Where the practitioner does not agree to the recommendations of an impaired registrants panel, the board will have the option of lodging a complaint about the practitioner and having that complaint dealt with by the tribunal or at a board inquiry.

The bill includes comprehensive appeal mechanisms to ensure that there are appropriate checks and balances in the disciplinary system. When the board hears a complaint there is a right to appeal to the tribunal, and for that appeal to be by way of a fresh hearing. There is also an avenue for a practitioner to appeal to the tribunal on a point of law. Where the tribunal hears a complaint there is a right to appeal to the Supreme Court. However such an appeal may only be made on a point of law or in respect of the sanction that is imposed by the tribunal.

In the interests of administrative effectiveness and efficiency the board will have the power to delegate certain of its functions and to establish committees. The establishment of committees will allow the board to obtain outside expertise from both the optometry profession and other professions, such as the medical profession, for specific matters such as the development of competency standards for the use of drugs in the practice of optometry. The provisions of this bill will help to ensure that the public can continue to have confidence in optometrists and to expect the highest standards of competence and conduct from the profession. I commend the bill to the House.

Debate adjourned on motion by Mr Fraser.

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL

SUMMARY OFFENCES AMENDMENT (PLACES OF DETENTION) BILL

Bills introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt—Minister for Agriculture, and Minister for Corrective Services) [8.33 p.m.]: I move:

That these bills be now read a second time.

These two cognate bills make miscellaneous amendments to existing Acts of Parliament. The Crimes (Administration of Sentences) Act 1999 is the principal Act that governs the administration of sentences by the Department of Corrective Services. A number of minor deficiencies in the Act have come to light. The Crimes (Administration of Sentences) Amendment Bill will rectify those deficiencies and make other changes in order to facilitate the administration of justice and the effective and secure operation of the correctional system.

I shall now outline the more important changes being made. Section 39 of the Crimes (Administration of Sentences) Act governs the process by which an inmate who has escaped from custody is returned to custody upon arrest. The amendment to section 39 will make the section consistent with section 352AA of the Crimes Act 1900, which relates to the power of a constable to arrest prisoners unlawfully at large other than by means of escaping and the process of returning them to custody after arrest. The amendment to section 39 will also rectify a deficiency which contributed to the erroneous release of Paul Etienne, an offender who escaped from Central Local Court on 15 November 2001 by crashing through a glass door. Since Etienne escaped before his court matter had been disposed of, the court did not issue a warrant of adjournment, bail refused, as it would have done had he not escaped.

One of the contributing factors to the erroneous release of Etienne was the fact that the police who recaptured him took him straight back to prison, as the Act currently requires. Unfortunately, their action in taking him there, instead of first taking him before a court and charging him with escape, resulted in the Department of Corrective Services not having any authority to hold him in respect of the charges he was facing when he escaped. Corrective Services received and held him under a warrant issued when he was sentenced for a previous offence. When that sentence expired, Corrective Services had no further warrant with which to hold him. If the police had first taken Etienne before a court and charged him with escape, the court would have remanded him in custody and, as a result, Corrective Services would have had authority to keep him in prison pending charges when his previous sentence expired.

The amendment to section 39 will require police to take an escaped inmate before a court before returning the inmate to prison. This amendment to section 39 is one of a number of steps being taken by the Government to reduce the likelihood of another erroneous release. Already, administrative procedures relating to the discharge of inmates from custody have been revised, particularly in relation to inmates who have pending court appearances. Procedures have also been strengthened to ensure that an inmate's warrant file clearly documents that all sentence administration details have been properly investigated and verified prior to an inmate's release.

Under the new procedures, a senior commissioned correctional officer will have ultimate responsibility for authorising an inmate's release. In addition, when an inmate's file contains an order requiring a court appearance subsequent to his date of release, the relevant court will be contacted at the earliest possible opportunity—and no later than the day before the scheduled discharge. The court will be advised of the inmate's impending release and asked if it is intended that the court issue an order which authorises the inmate's continued detention beyond his or her date of release.

The amendment to section 78 of the Crimes (Administration of Sentences) Act 1999 is a minor technical amendment. Section 78 makes provision for the use of dogs in the maintenance of security and good order within correctional centres and complexes. The proposed amendments to the Summary Offences Act 1988, which I will speak about presently, will clarify the use of dogs by correctional officers in searching visitors to correctional centres to detect illegal drugs and other contraband. The amendment to section 78 of the Crimes (Administration of Sentences) Act 1999 makes it clear that nothing in the section limits the power of a correctional officer to use a dog under the Summary Offences Act 1988. So the Summary Offences Act 1998 will enable the expanded use of dogs to within the vicinity of a correctional centre or complex when trying to prevent contraband entering the centres.

Section 79 of the Crimes (Administration of Sentences) Act governs matters that can be the subject of regulations made under part 2 of the Act. The amendment to section 79 will enable the Department of Corrective Services not only to confiscate property unlawfully brought into a correctional centre but also to seize and dispose of such property. For example, if a person consistently tried to bring a camera into a correctional centre, officers would ultimately be able to seize and destroy the camera. Disposal of the camera would deter future attempts to bring a camera into a correctional centre without authority.

Of course, visitors are not allowed to take photographs or record video or audio tapes in a correctional centre without the prior permission of the governor of the relevant correctional centre. Photographs and tapes can constitute a grave security risk and could assist in an escape. Correctional officers would not unnecessarily seize or dispose of a camera or other property inadvertently brought into a correctional centre. But where a person persistently tried to bring a camera into a correctional centre knowing that it was against the law, and one day actually succeeded, then mere confiscation of the film and banning the person from future visits would not be a sufficient deterrent.

The amendments to sections 147 and 190 of the Crimes (Administration of Sentences) Act will give to a victim of a serious offender a statutory right to make an oral submission to the Parole Board when it considers

making a parole order concerning the serious offender. Currently, such a person may only make an oral submission if the Parole Board gives its approval. This is an important change that will benefit the victims of serious offenders. As I said in the House on 13 March this year in response to a question without notice from the honourable member for Georges River, I believe that victims will welcome this change. Often, victims prefer to make a personal approach at a parole hearing to explain their personal circumstances and concerns. Making a personal approach can often demonstrate a victim's concerns far more clearly than a written submission.

The change will, therefore, allow a victim to have a personal say regarding the offender, whose crime may still affect the victim long after it was actually committed. The word "victim" is defined quite broadly in section 256 (5) of the Crimes (Administration of Sentences) Act 1999. It means a victim of an offence for which the offender has been sentenced or the victim of any offence which is taken into account during the sentencing process, or even a family representative of such a victim if the victim is dead or in any way incapacitated. For the record, the Department of Corrective Services also maintains the Victims Register under the Crimes (Administration of Sentences) Act. I am advised that 1,156 victims had registered with the Victims Register by 31 December 2001.

At that date there were 617 active registered victims in relation to offenders in custody on that date. About 200 registered victims per year are advised of an offender's external leave or parole consideration, and about two-thirds of them express a wish to make some form of submission to the Parole Board or the Serious Offenders Review Council. I acknowledge the work done in this area by Martha Jabour from the Homicide Victims Support Group. I met Ms Jabour in my Liverpool Street office on Tuesday 19 February to discuss how we could improve the representation of victims of homicide when they addressed the Parole Board. Our meeting and many of her group's proposals are constructively included in these proposed new amendments.

For the record, the Government will also establish a new part-time position of Victims Support Officer. This will occur once all the relevant grading and advertising procedures are put in place. This officer will develop and run information sessions for victims of crimes to help them understand the process and procedures involved in the victims rights and parole considerations. The amendments to section 263 of the Crimes (Administration of Sentences) Act are minor technical amendments. Section 263 currently excludes personal liability for acts and omissions done in good faith in the administration and execution of the Act. Correctional officers also carry out functions under the Summary Offences Act 1988. In particular, a correctional officer has the power to arrest a person who attempts to bring contraband into a correctional centre. Amendments to section 263 of the Crimes (Administration of Sentences) Act will extend the exclusion of personal liability for acts and omissions done in good faith by correctional officers and departmental officers.

I now turn to proposed amendments to the Summary Offences Act. The Summary Offences Act deals with offences in public places and other places to which the public has access. Part 4A of the Act relates to offences committed by visitors at places of detention, which are defined as correctional centres, correctional complexes and periodic detention centres. The Department of Corrective Services wages a constant war against contraband in correctional centres, and in recent times it has been particularly successful in detecting a wide variety of contraband which visitors have attempted to smuggle into correctional centres.

The Government is committed to the prevention of illegal drug use and the harm caused by illegal drugs in correctional centres. Illegal drugs in correctional centres debilitate the health of inmate drug users, who become unable to participate effectively in inmate development programs. They can also potentially lead to standover tactics, inmate power structures, an underground economy, needle-stick injuries, assaults and corruption. However, contraband is not restricted to illegal drugs. It also includes syringes and other implements of drug use, offensive weapons, alcohol, and money. Contraband also includes other unauthorised items such as mobile phones, which can be used by inmates to further their criminal activities. Mobile phones are being intercepted in increasing numbers.

The circumstances in which contraband can be trafficked into correctional centres are not limited to people visiting inmates. Contraband can be hidden inside tennis balls or other items and thrown over perimeter walls. Contraband can also be left hidden in areas near correctional centres—for example, in car parks or under bushes—for later collection by inmates engaged in ground maintenance. Despite the best efforts and vigilance of correctional officers in detecting contraband, some contraband still gets through to inmates. Therefore, the existing powers of correctional officers to detect contraband need to be increased. The bill will give a correctional officer a clear power to stop, detain and search a person whom the officer reasonably suspects may be attempting to smuggle contraband into a correctional complex or correctional centre, or whom the officer reasonably suspects may be carrying out or about to carry out some other unlawful activity.

Apart from inmates and staff, there are three categories of people who may be present at a correctional complex or correctional centre: people wishing to visit inmates; people visiting as part of their employment, such as delivery drivers, tradesmen effecting repairs or academics doing research; and people seeking to carry out some unlawful purpose, such as introducing contraband or intending to aid and abet an escape. The Crimes (Administration of Sentences) Act applies primarily to inmates and does not cover offences which may be committed by these other categories of people. Existing sections 27B to 27D of the Summary Offences Act already give a correctional officer the power to arrest a person trafficking contraband into a correctional centre or other place of detention. And correctional officers do use this power. As recently as 27 April this year correctional officers arrested two people outside Silverwater Correctional Centre after one of them was seen to step out of a car and throw a tennis ball over the fence. The tennis ball was retrieved and found to contain 8 grams of green vegetable matter.

The Summary Offences Act does not give a correctional officer the power to stop, detain and search a person who may be attempting to smuggle contraband into a correctional centre. Only police officers currently have that power. Authorised correctional officers can scan visitors with a scanning device, such as a walk-through metal detector. They can require visitors to empty the contents of their pockets and personal possessions, such as bags, and they can require a visitor to submit to screening by a drug detector dog. If a person refuses to comply, or if the drug detector dog gives a positive reaction, the officer may refuse to allow the person to enter the correctional centre. However, the officer cannot force the visitor to remain until a police officer is called to conduct a search. Yet sometimes grounds for arrest may only arise after a search.

Similarly, existing section 27E of the Summary Offences Act already gives a correctional officer the power to arrest a person who is loitering about or near any correctional centre or other place of detention without a lawful excuse, but the correctional officer cannot search such a person. The officer can ask a loitering person whether they have any lawful excuse to do so, but the officer does not have the power to force the person to demonstrate a lawful excuse or to stop and detain the person while police are called to question them. New section 27F will therefore give a correctional officer new powers to stop, detain and search a person and a person's vehicle in or near a correctional centre or other place of detention. The officer can do this if he or she reasonably suspects that the person possesses contraband and intends to introduce it into the place of detention or intends to carry out some other unlawful act. So the amendment to section 27F strengthens the current powers whereby a correctional officer can only ask a person to empty bags or pockets, or be screened by a metal detector or a drug detector dog, and deny them entry to the centre.

New section 27F also gives a correctional officer the power to seize items of contraband found in any search. The power to stop, detain and search a person or a person's vehicle or personal possessions is an intrusive power. Accordingly, the bill requires that a correctional officer may only exercise this power in circumstances when the officer has reasonably formed the view that a person has committed, is committing or has demonstrated an intention to commit, an offence. The Government appreciates that some members of the community may view this section as an attack on civil liberties. But new section 27G responds to such concerns. This section sets out in detail the way in which a search by a correctional officer is to be conducted.

A search conducted by a correctional officer must be conducted with due regard to dignity and self-respect, and by an officer of the same sex as the person being searched. In particular, a correctional officer will not be permitted to conduct a "frisk-search" or a "strip-search" of a person, or direct a person to remove any item of clothing other than a hat, gloves, coat, jacket or shoes. The current requirement that a "frisk-search" or a "strip-search" can only be conducted by a police officer is maintained under the amendments. Additionally, a search of a child or a mentally incapacitated person must be conducted in the presence of an adult who accompanied that child or mentally incapacitated person to the place of detention. Or, in rare cases, where no adult accompanied them, the search must be in the presence of a non-custodial staff member who will act as an observer.

Honourable members may question why children or mentally incapacitated persons need to be searched at all when visiting a correctional centre. Unfortunately, the ingenuity of people who attempt to smuggle contraband into correctional centres does not stop at confining contraband to their own persons or personal effects. Concealing contraband in babies' nappies, children's clothes, prams and strollers is one of the more common ways of attempting to smuggle contraband into correctional centres—particularly illegal drugs which can be easily concealed in such places. Correctional officers therefore do need this search power. The use of babies and children's items is a reprehensible situation—but an unfortunate reminder of the lengths to which some criminals will go to introduce contraband into correctional centres.

New section 27H authorises a correctional officer to use a dog to conduct any search under the amendments. Under this section, a correctional officer using a dog to conduct a search must take all reasonable

precautions to prevent the dog touching a person, and must keep the dog under control. However, new section 27I provides that a correctional officer may use such force as is reasonably necessary to exercise the function under part 4A. To further answer any possible objections to the new powers of correctional officers, the new section 27J provides for additional safeguards. Under this section, a correctional officer using the power to detain and search a person or vehicle must not detain the person or vehicle any longer than is reasonably necessary, and in any event for no longer than four hours. The correctional officer must also clearly identify himself or herself, if not in uniform, as a correctional officer and must provide the reason for the exercise of the power and a warning that failure or refusal to comply with a request or direction is an offence.

New section 27K also creates the following offences: failing or refusing to comply with a request made or a direction given by a correctional officer with respect to the new powers to stop, detain and search persons and vehicles; failing or refusing to produce anything detected in a search; and resisting or impeding a search of a person or vehicle. In relation to the second point about failing to produce anything detected in a search, I can provide the House with an example of what we mean. A correctional officer may direct a person to take off his shoes as part of a search. If, after the shoes are removed, the officer detects an unusual lump in the person's sock, for example, the officer may reasonably assume that the lump could be contraband. The officer may then order the person to produce the item from the sock. Under this provision he cannot touch the person. If a person refuses, they commit an offence. This and the other new offences are subject to a maximum penalty of 10 penalty units, which is currently \$1,100. This maximum penalty is less than the maximum penalties for actually introducing contraband but is equal to the maximum penalty for knowingly providing false identity or residence details while visiting correctional centres.

New section 27L provides that none of the proposed amendments limits any other powers or functions of a correctional officer or a police officer under this or other Acts. New section 27M provides that evidence is not inadmissible if an item which is discovered in a search is different in nature from the reason the search was carried out. For example, if a search is carried out in response to the reaction of a drug detector dog, and it revealed weapons instead of drugs, the weapons would still be admissible as evidence in proceedings which are taken against the person concerned. Finally, new section 27N provides that a search conducted by a person under the direction of a correctional officer does not subject that person to any personal liability, action, claim or demand. In conclusion, the proposed amendments to the Summary Offences Act 1988 will provide correctional officers with the legal powers they need to reduce the supply of illegal drugs and other contraband into correctional complexes and correctional centres, without undermining the civil liberties of persons visiting those places. The amendments are a valuable weapon in the Government's fight to keep contraband out of correctional centres and prevent illegal drug use within correctional centres. I commend the bills to the House.

Debate adjourned on motion by Mr Fraser.

BUSINESS OF THE HOUSE

Bill: Suspension of Standing and Sessional Orders

Motion by Mr Aquilina agreed to:

That standing and sessional orders be suspended to allow the resumption of the adjourned second reading debate on the Home Building Amendment (Insurance) Bill forthwith.

HOME BUILDING AMENDMENT (INSURANCE) BILL

Second Reading

Debate resumed from 7 May.

Mr DEBNAM (Vaucluse) [8.55 p.m.]: I lead for the Opposition on the Home Building Amendment (Insurance) Bill. As I indicated to the Minister a few minutes ago, the Opposition does not oppose this bill. I will not say I am pleased to speak on this bill because it has been a sorry saga for five years, but I want to make a few points at the outset. We understand the Government wants to get this so-called rescue package through the Legislative Assembly and into the Legislative Council. The Opposition does not have the numbers to stop it from doing that anyway so it will act in a sense of co-operation, but will make a number of points. My colleagues in the Legislative Council will obviously make a number of further points on the legislation and on the past five years.

I will say at the outset that this bill probably does not look at even one half of the problem. It looks simply at the insurance side and at retaining the insurance market. The Government has done nothing to date to actually remedy the quality assurance side of the industry and that has been the fundamental problem for five years. In reviewing the bill I will make reference to a number of historic events over the past five years and the number of Ministers who have had their fingers in the pie during that period of time before presenting us with this sorry saga. Last month I took on the role of Opposition spokesperson on insurance and, within a few days, on 11 April I issued a press release after Dexta announced that it would not provide any further cover. I said:

The Carr Government is under attack for denying the crisis in home building insurance, even after insurer Dexta stopped providing cover yesterday.

NSW's scheme is fundamentally flawed and tens of thousands of people are suffering while the Minister is still in denial.

The point I was trying to make to the Minister for Fair Trading was that he was saying nothing publicly at that time. We were well aware that the Carr Government and the Victorian Government had been in crisis talks with insurers since, I think, December. I do not know how many meetings they had in that period of time but a number of press releases were issued in March, to which I will refer shortly. What the people of New South Wales wanted to know was the detail of what was happening and they were left in the dark. We have done everything possible during the past month to try to make the point to the Carr Government that half its job is to get out there and explain the detail and give some certainty in response to where the devil we are going with the problems with this industry. The Minister failed to do that. In my address tonight I am not going to blame the Minister for Fair Trading for everything. He has taken his fair share of blame for this Government over the past 12 months, especially in the previous portfolio. However, I am sure he is looking forward to his retirement, and we wish him well in it. I said in this press release of 11 April:

Home building insurance has been in crisis for months and the seeds were sown when Bob Carr privatised home building insurance five years ago. A series of Carr Government Ministers have added to the problems in the five years since Bob Carr privatised the scheme.

I will run through the contributions of each of those Ministers in that five-year period because that is the issue tonight. The issue that the Minister wants to get through quickly tonight is simply buying off the insurers. That is what it comes down to. The insurers have got the Carr Government over a barrel. And they have had the Carr Government over a barrel since the Government privatised this insurance scheme with a speech delivered by the former Minister for Fair Trading, Faye Lo Po', in 1996, and made effective in 1997. It has been a major problem in New South Wales, and it is all coming home to roost now. I said in that press release:

The longer the Minister delays fundamental reform, the greater the heartache will be for consumers, builders and insurers.

My understanding is that Minister Aquilina, in writing a blank cheque for the insurers, is trying to get himself through to 30 June. This is an interesting proposition. The taxpayers of New South Wales will be fascinated to know how much this blank cheque will cost, for it basically underwrites insurers. It is an attempt to cover up five years of maladministration in New South Wales. Shuffling the issue from one Minister to the next to some extent has covered it up, but I am going to run through the history. Again in this press release of 11 April I said that, sure, the insurers were pulling the plug, but while builders were laying off staff and consumers were screaming for help the Minister still remained silent.

Understandably, some builders who were unable to get insurance were screaming out for help, saying, "I've either got to lay off staff or proceed with the work." I do not know how one could quantify the number of builders who may have proceeded with uninsured work, but I have no doubt there were some—and they were put in that position by this Government. They were put in that position by a speech made on 30 October 1996 by Minister Faye Lo Po'. That Minister has now moved on to other disasters, but the first disaster in the Carr Government started with this statement in a second reading speech:

It is with great pleasure that I introduce this bill. The legislation before the House delivers a package of reforms aimed at establishing the right conditions for fair trading between consumers and contractors and the home building industry. For almost a quarter of a century successive New South Wales governments have struggled to find a workable and permanent solution ...

Lo and behold, here we are five years later and the next New South Wales Government is still struggling to find a workable and permanent solution. Minister Aquilina referred in his second reading speech last night to the fact that this is a short-term solution and that he is still working on the longer-term solution. So nothing has changed in five years. That is because Minister Lo Po' did not do her homework. In 1996 Minister Lo Po' did not get back to basics; she did not have a look at this issue from the point of view of first principles, she was not prudent, she was not an experienced Minister, she was brand-new in government, and she launched into this

privatisation because the Premier thought it was a good idea. The people of New South Wales need to understand that every mistake that this Government has made over seven years goes back to the Premier. The Premier runs the show, whether it is the Cecil Hills guns unfair, which Minister Aquilina took the blame for, or whether it is any other mistake in Parliament this week or last year. It goes back to the Premier. Nobody else runs this show.

Mr Brown: Where is Walt when you don't need him?

Mr DEBNAM: Sorry. It is run by the Premier and Walt. Far too often Minister Aquilina has taken the blame for the Premier's mistakes. I think the Minister ought to do the right thing and say to say to the Premier, "Look, I'm going to go to the back bench in protest at the fact that you made me wear the blame." I return to Minister Lo Po's speech on 30 October 1996. A few minutes into that speech she said:

Most importantly, I am committed to inspections during various stages of the building process as an essential consumer protection mechanism. The recent Crawford report stressed the importance of the inspection process.

Faye Lo Po' mentioned that a number of times in her speech on 30 October 1996, and I intend to mention it a number of times not only when quoting from her speech but when making a number of other points. It is a critical part of this whole issue. The insurance side of this is simply a buy-off for the insurers. The insurers came to the Government and said, "Look, we're going to withdraw from the market. The Government has made insurance compulsory." The Government, because it probably had nowhere else to go when dealing with the insurers, turned around and said, "All right, how much money do you want?" In other words, the taxpayers of New South Wales can pay for the incompetence of the Carr Government over the past five years. That is half of it. The insurers said, "Okay, you can underwrite this bit, but we also want to trade off consumer protection, so we want a number of amendments made." Interestingly, some of the advice from insurers on the negotiations they had with the Government indicates that the insurers asked, and the insurers got. That is what this measure is all about. Consumers and taxpayers have paid. Faye Lo Po' went on to say:

Hence it will be compulsory for home builders to have insurance cover. The beneficiary will be their client, the consumer.

What an extraordinary statement to make—and what a lovely statement to read five years on! The consumer is the one paying today. Many builders cannot work because they cannot get insurance. Many insurers are happy tonight because the bill has finally got into the Parliament and the Government has rolled over for them. As I said, the real source of the problem with the Government was that, having looked at compulsory/voluntary insurance and other options, it said on 30 October 1996 that home building insurance would be compulsory. From that moment on the insurers had the Carr Government over a barrel. The insurers knew that they could dictate the terms—and they did, and they have and they will while the Carr Government is in office, which will not be for long. Faye Lo Po' then went on to say:

As I mentioned before, another important area is the inspection of work during the construction process. I believe the level of consumer protection could be significantly raised—

My goodness yes!

through the introduction of quality inspection services and I am having ongoing discussions with other Ministers on this important issue.

That is a critical point. I will refer to a number of other Ministers' speeches, but Minister Faye Lo Po' said:

I am having ongoing discussions with other Ministers on this important issue.

That issue was the whole of the quality insurance side. The Minister had an inkling at that time that there were two fundamental planks to this legislation and to this industry in New South Wales. One was that she wanted to privatise insurance, and she went ahead and did that with gusto. The other one, as she said time and again in her speech, was about the quality assurance side and instituting appropriate regulation, builders licensing and quality assurance education. The Minister said that other Ministers were looking at the issue. She said, "I'm having ongoing discussions with other Ministers." Obviously, they were not talking to her because they did nothing. Later in that speech the Minister said:

So that insurance is only provided by sound and reputable companies, the Minister will approve insurers who operate.

That is an interesting point. Obviously, this is in 1997, a few years before the HIH Insurance collapse, but later on I will refer to some of the annual reports and statements made in them about monitoring insurance

companies, monitoring claims and monitoring administration. "Trust us"—that is what Bob Carr has said for seven years—"We're running the show here. Trust us. We'll take care of you." Bob Carr has done just the opposite for seven years. Tonight we have further evidence that taxpayers and consumers will pay for the seven years of maladministration of the Carr Government. I will conclude by quoting this sentence from the last paragraph of the speech of Minister Faye Lo Po':

The taxpayers of New South Wales will no longer bear the risk of having to underwrite a government-run scheme.

Here we are in 2002 and the Government is underwriting the insurers for an amount of money that we are not sure of. However, if you look at the budget papers for the past couple of years and at the references to the guaranteed funds and everything else, there is \$600 million sitting in the HIH rainy-day fund, save the world fund, or whatever you want to call it.

Mr Anderson: You do not want to help the builders?

Mr DEBNAM: The honourable member suggests that the Coalition does not want to help the builders. It is obvious that he has not read the bill.

Mr Brown: I have read it.

Mr DEBNAM: The honourable member for Londonderry came in late, and the honourable member for Kiama came in later. The bill does just two things. It trades off consumer rights to keep insurers in the market, and it provides the mechanism to get a blank cheque to insurers. This bill will not help builders. We are giving Minister Aquilina the benefit of the doubt because yet again he has been sold the dummy by the Premier—next portfolio, next dummy! Wheel in the next portfolio and the next dummy! Tonight the Opposition is giving the Minister at the table, the Minister for Fair Trading, the benefit of the doubt by allowing him to rush this legislation through the lower House. In the other place the legislation will again be subjected to scrutiny and at that stage the Opposition may well suggest some amendments, but this bill will not help builders.

Mr Brown: Are you going to vote for it?

Mr DEBNAM: I can repeat the sequence of this sad and sorry saga all night, if that is what members opposite want. This bill is a window on the maladministration of the Carr Government because the history of this issue goes back five years even though maladministration by the Carr Government goes back seven years. I will be delighted to take members opposite through the history because I have been a member of this House since day one of the Carr Government in office, and I watched the Carr Government implement a scorched earth policy in 1995. The honourable member for Kiama was not a member of this House at that stage, nor was the honourable member for Murray-Darling, and I do not know where the honourable member for Londonderry was at that time. The Carr Government ran a scorched earth campaign in 1995 to be elected to office. After two weeks of vote counting, the Carr Opposition was elected to office. The Premier did not know what to do.

Mr Brown: He won by a landslide.

Mr DEBNAM: Not in 1995.

Mr Anderson: He did in 1999.

Mr DEBNAM: In 1995, Premier Bob Carr issued a directive to his Ministers.

Mr ACTING-SPEAKER (Mr Lynch): Order! Government members will come to order.

Mr DEBNAM: The Premier, Bob Carr, directed his Ministers in 1995 not to do anything for 100 days, and he did so for the very good reason that in 1995 his Ministers were incompetent. They may have been good local members and may have been successful in being elected but they were inexperienced and incompetent Ministers, and the Premier's statement was probably a good one. The bureaucracy told the Premier not to worry about it because there were reforms in the pipeline. They said that they would turn on the tap and provide the Premier with some good ideas. Those good ideas ran out in September 1996 and it was interesting to watch the Carr Government again demonstrate its incompetence when it tried to launch a few other initiatives. Members opposite should speak to the previous Minister for Transport about how pleasurable it was to be in government in 1996 in New South Wales.

At that time, one of the incompetent Ministers was the former Minister for Fair Trading, Faye Lo Po'. In September 1996, when the pipeline had run dry, she introduced a bill to privatise insurance and the Carr Government decided that it had better do something. A bill to privatise insurance was one of the beauties

introduced by the Carr Government in 1996. The Minister did not know what to do, but what she did she did with gusto. We ended up with a problem six years after her speech was made but five years after the legislation was implemented. The honourable member for Myall Lakes responded to the Minister's speech in 1996 and I will refer to a number of points he made. He stated that the Opposition would not oppose the Building Services Legislation Amendment Bill and went on to indicate a number of concerns. He outlined those concerns in great detail time and time again over the ensuing years because this Government continued to put its foot in the mess. He indicated that the Building Services Corporation adopted a bureaucratic approach to the handling of some disputes.

At that time we all hoped that the new arrangements would lead to a better outcome for everybody involved. He made the point that "large private insurers can be as bureaucratic as the Building Services Corporation and other Government departments", and there is certainly evidence of that. There is no doubt that the Building Services Corporation has used its power against some of the small builders. Every single member of this House would have received delegations from builders expressing concerns about how the insurers have dealt with them. I am sure that many of the concerns and representations were based on real merit, but this bill will not fix the problems. At the time the shadow Minister and honourable member for Myall Lakes emphasised that the proposals for reform should not produce the same results as the flawed system in operation at that time, and he expressed the hope that the Government would actually do what Faye Lo Po' had said, namely, look at the administration side in terms of quality assurance and make the world different. But, of course, she did not do that. The honourable member for Myall Lakes also stated:

If the Opposition is not satisfied that a fair and equitable system is in place and operating effectively and efficiently, it will reserve the right to seek future intervention to ensure that that occurs.

On a number of occasions over the years, the Opposition has certainly done that and will continue to do that during the remaining 10 months of the Carr Government's administration of this State. If the Opposition sees an opportunity to improve the system and move forward, proposals will certainly be announced. All that occurred in 1996 when debate on the Building Services Corporation Legislation Amendment Bill took place. I now move forward to 1997 and to a situation in which the Minister, Faye Lo Po', moved an urgency motion to raise the whole issue of building insurance as a crisis. At that time, she stated in the motion:

That this House condemns members of the Opposition and certain industry associations for misleading consumers and contractors about the state of building insurance in New South Wales ...

During the debate that occurred five years ago this week, Minister Lo Po' proceeded to simply say that there was no problem and how dare the Opposition do what it said the previous year it was going to do, namely, continue to raise concerns that were brought to the Opposition's attention. We did exactly that. On a number of occasions the Coalition raised concerns with the Minister and in the House. On 6 May 1997, Minister Lo Po' chose an urgency motion as a circuit-breaker, but all she did was once again highlight the major problems associated with the industry.

In a speech made by the Minister in 1996 in which she referred to talking to other Ministers to get some action, she referred to quality assurance measures such as licensing and regulation of the building industry to ensure that the industry was put in order, properly administered and properly regulated. One of the pieces of legislation that the Minister was hoping would come forward was the Environmental Planning and Assessment Amendment Bill. That legislation was introduced a year later, in October 1997, and was introduced by that friend of the consumers, the former Minister for Urban Affairs and Planning, Mr Knowles. Throughout his entire second reading speech he referred to the introduction of a number of very contentious changes in a planning system which to this day remains a very complex system. The former Minister's efforts did not help at all in making the system less complex.

However, throughout his entire speech, no mention was made of home warranty at all, yet this was the speech that the entire world, including the Government, the Coalition, and the consumers, the builders and insurers, was waiting for. Everyone hoped that the Minister would make sure that the other half of the arrangements were put in place but that did not happen. We can dismiss the 1997 legislation because it made no mention whatsoever of home building insurance and left many people in the lurch. To clear up an issue, I will move forward to the annual report of the Department of Fair Trading for 1999-2000. Under the heading of "Home warranty insurance monitored", the report states:

... the Home Building Act made in 1997 established a Home Warranty Insurance Scheme that replaced the government operated schemes. The following five companies or their agents were approved by the Minister for Fair Trading to offer Home warranty insurance.

The first one was HIH. A number of times in this Parliament the point has been made that, in that Government department's annual report for 1999-2000, HIH is the first insurance company listed. At a later stage I will examine some of the concerns expressed by the shadow Minister over the way in which the Minister rushed through the approval of insurance companies but later denied that the Government had any monitoring role. The Minister also tried to reject the suggestion that the department had actually approved the insurance companies as credible insurance companies on the basis that the department would monitor them. That was the original arrangement, and that was the arrangement that the Minister who took over the role thereafter denied was in existence. In May 2001, there was a new Minister and a new problem. The legislation was the Home Building Legislation Amendment Bill and the Minister for Fair Trading was the honourable member for Ryde, John Watkins. He stated in May 2001:

I am extremely pleased to be able to introduce this important consumer protection legislation into the House today. It is the culmination of more than 18 months of work to improve the regulation of home building in New South Wales.

The bill did nothing, and the problems continued. As recently as 31 May 2001, there was a new Minister, a new problem, a new bill, but it was the same crisis. The situation has been the same since 1997 and probably was in existence as early as the time when Faye Lo Po' made her speech in 1996. The legislation added nothing to consumer protection. Mr Watkins stated:

The current system of consumer protection from the home building industry was established in May 1997.

Minister Watkins stated that the reforms introduced in May 1997 represented a new era for the industry, with major changes to a system that previously had operated for 25 years. In actual fact the only change that occurred at that time was that the Government privatised insurance. It did absolutely zilch to clean up the administration and regulation or to build up the licensing and quality assurance schemes in the industry. This has been a total disaster ever since Minister Faye Lo Po' put her hands on it. Minister Watkins continued in May last year:

While the fundamental components of the regulatory framework—namely, licensing, insurance, dispute resolution and discipline—are still seen as essential and have widespread support, it has become patently clear—

and this is the Minister talking and not members of the Opposition—

as I said earlier, that the system needs to operate more fairly and effectively. Consumers and builders alike have expressed dissatisfaction with aspects of the current legislative regime.

What an extraordinary understatement by the Minister. This industry has been in increasing crisis for five years. At this time a year ago real problems were evident to everybody. This was the system used by the Carr Government for four years. The Government had not fixed the system when Minister Watkins made the extraordinary understatement:

Consumers and builders alike have expressed dissatisfaction with aspects of the current legislative regime.

He went on to state:

Complaints received range from delays in having matters heard in the tribunal, delays in having insurance claims finalised, the lack of a clear path for consumers with building problems, and the absence of expert guidance and assistance.

That is a good summary of the disasters that occurred in the time of Minister Faye Lo Po' and succeeding Ministers. Minister Watkins said further:

Since the introduction of the Home Warranty Insurance Scheme four years ago a number of concerns have been raised about the scheme's operation.

That is another understatement from the master of understatement, Minister Watkins. A year ago he said in relation to this bill:

The various reforms contained in this bill which I have outlined will address many of the complaints about the current system for consumers protection. However, they are only part of the Government's overall reform package.

That is classic Bob Carr. I get the feeling that the Premier does not read books in his office. Rather, he writes speeches for each of his Ministers. In all of these speeches the Premier's hand can be seen, saying, "Trust us. This is part of an overall package." I remind honourable members that this speech was made a year ago, but this overall reform package has been ongoing for four years. If we go back to the first speech made on this issue we

find that this overall reform package has been ongoing for five years—since the original speech made by Minister Faye Lo Po'. We again see the hand of the Premier in this speech. He said, "Trust us. This bill"—which did nothing for the consumers, builders or insurers of New South Wales—"is just one part of the overall reform package." The Premier obviously works in decades. He is in there for the big picture, on whichever bill is being debated.

Mr Aquilina: He is in there for the long term.

Mr DEBNAM: He is not in there for the long term. Trust me, the community, the builders and the consumers. The Premier is no longer there for the long term. He has been saying for seven years, "Trust me. Everything I do is part of the overall reform package." Well, it is not. Minister Watkins went on to state:

In addition to these legislative changes a number of regulatory and administrative actions are proposed.

In actual fact, that statement, in a different dialect, is the same sentence that Minister Faye Lo Po' used four years earlier. However, Minister Watkins did not say, "I have been talking to my fellow Ministers." Perhaps he had not been talking to them. I turn from the debate on that bill to the response of the shadow Minister, the honourable member for Myall Lakes, on 7 June 2001 to the Home Building Legislation Amendment Bill. The shadow Minister again did a fantastic job for the consumers of New South Wales. Time and again over a number of years he has raised issues of concern for the people of New South Wales and he has held this Government to account.

As I said earlier, the shadow Minister must be congratulated on his statement. From day one he indicated to the Carr Government that it would have major problems. Year after year the shadow Minister explained where the Government was going wrong. He did that in a speech on 7 June 2001 when he again referred to the original problem. I am giving the Minister for Fair Trading, who is in the Chamber, the benefit of the doubt as I believe he is out of his depth on this issue. This problem was created five years ago when the Carr Government privatised insurers. This Minister, who was left with a mess, probably did not have very many options. At that time the shadow Minister referred to the HIH collapse and said:

Their lack of proper prudential oversight of companies such as HIH has led to this sorry mess.

It was not just HIH that led to that sorry mess; that is not the implication in that sentence. However, that is a good indication of the care that this Government took. It took no care at all. I turn now to my address at that time. I think I summarised the position well in about four pages. I said:

This bill can be described overall as an admission of the failure of regulation in New South Wales. I will refer later to some of the failures of this Minister—

whoever it was at the time—

and his predecessors. The Minister's second reading speech points out time and time again that previous legislation enacted by the Carr Government did not work. It did not work in some very obvious areas, simply because the Government did not do its homework.

That is a point that Opposition members will make time and again every single day until the election next year, especially in the electorate of the honourable member for Kiama. I will forgo reading the remainder of my speech on that day, even though it makes interesting reading. I turn now to the 2001 annual report of the Department of Fair Trading, which makes reference to the Builders Insurance Guarantee Fund. The annual report states:

The Fund is designed to minimise the impact of similar future events.

Reference was made in that report to the HIH collapse. I suppose that was a major earthquake, and we now have had some mini earthquakes. Sure enough, that statement was prophetic. The Government has had to resort to using that arrangement and it is now included in this bill. I make the point that the Minister has not explained either in this House or publicly what those words mean in the bill, in the second reading speech, in his press releases or anywhere else. This Minister has failed in any forum to spell out what he is doing with the guarantee fund. I ask him to do that tonight. The annual report also states:

It was a priority for us to work to work with industry associations and other insurers to ensure insurance applications were processed as quickly as possible.

I am reading from last year's annual report of the Department of Fair Trading. That has not happened. In some instances builders have been crucified when attempting to submit their applications for insurance. Those problems remain today. I refer now to the comments that have been made by the honourable member for Wagga Wagga, who is unable to take part in this debate tonight as he is attending a function with the Prime Minister. I have four of his speeches in which he raised concerns about home warranty insurance over a number of months. I again congratulate him on keeping the pressure on the Carr Government. He raised these issues after receiving representations from consumers and builders. He has done a good job in spelling it all out in a number of speeches.

With any luck, the honourable member for Wagga Wagga was responsible for embarrassing the Carr Government and forcing it to think about alternatives. He finally got the Carr Government to do something—albeit that what it is doing tonight will not really help builders and consumers, though it will help insurers. I refer now to a media release issued by Dexta on 10 April in which it stated that it has been forced to suspend its involvement in the Australian home warranty insurance market. That was the trigger that made the Minister for Land and Water Conservation say something. He knew that was coming. He had been working with the Victorian Government in desperation to try to put forward a couple of proposals. The Victorian Government issued a media release on 13 March. We have gone over those media releases time and again.

Since that time we have asked the Minister to explain the detail of those media releases. We have asked him to state what they mean and to show us how they will impact on consumers and builders. The Minister has refused to do so. He just issued the press releases and decided not to spell out the detail. The Minister then issued further press releases in April to try to shore up this issue. He again refused to provide further detail about those press releases. We then reached a point where everybody understood his refusal to mean that this matter concerned the issue to which I referred when I commenced my speech. Insurers have the Government over a barrel. They are going to withdraw from the market.

The Carr Government made home warranty insurance compulsory and insurers threatened to withdraw from the market and they wanted to know what the Carr Government was prepared to do for them. The Carr Government has given insurers a blank cheque and it has traded off consumer rights. That is why we now have this legislation before us. The objects of the bill are clearly set out and I will not go through the bill in detail. However, my colleagues in this place and in the upper House will go through it in detail. I summarise this legislation by stating that it is a blank cheque for insurers in the short term and it will cost taxpayers millions and millions of dollars. My understanding from talk in the industry is that this legislation is designed to get the Minister through to 30 June and then the Government has a further problem. We do not know how much it will cost taxpayers before then. I think that at one stage the Treasurer was forced by the media to suggest that he had hoped it was less than \$10 million. We do not know. But we know that there is \$600 million that the Government can play with, and we hope it does not.

The Minister's second reading speech will go down in history as being one of those extremely brief speeches. Despite the fact that this has been an ongoing crisis for the Government for five years, the Minister has provided very little detail in his second reading speech. He tried to include a little rhetoric, and I suppose that filled out the speech a little. He referred to viable consumer protection. Again, it is typical of the Carr Government that it takes an axe to consumer protection and then tells everyone that all it is doing is slightly reshaping it to make it viable.

The Minister also said that the outcome is a sustainable home warranty scheme. Obviously one person wrote the first page of the speech and someone else wrote the last page of it, because later in the speech the Minister says that this is only a short-term solution, that it is still working on the long-term solution. But that does not matter. The Carr Government puts in whatever words it sees fit. The well-trained Bob Carr is a sophist extraordinaire. It does not matter; he just put the words in. The Minister also said in his second reading speech:

These arrangements will operate in the short term. The Government is continuing to work towards a longer-term solution.

We know that now. We do not know what the implications are for taxpayers or consumers, but we think they are bad. The bill amends both the Home Building Act and the regulation. It moves through on a last-resort basis. It states that loss resulting from the non-completion of work because of the insolvency, death or disappearance of the contractor will be covered. One of the previous Ministers spoke about the trauma involved for consumers having to pursue builders through the courts. That does not matter to the Carr Government. It says that this is very much a last-resort basis and it is up to consumers to do their best. In his second reading speech the Minister said that in a claim for non-completion of work the insurance contract may limit liability to 20 per cent of the contract price of the job. The Opposition will seriously consider the implications of that provision. I am sure a number of people will be very concerned about its implications, and the Opposition will monitor the situation as the bill passes through the other place.

The bill also makes provisions for alternative indemnity schemes. We do not know what secret negotiations have taken place between the Carr Government and the insurers. The Minister will obviously not tell us, and the Carr Government will not tell the public. I suspect that some other surprise rescue package will simply be launched into the market place. Clearly, this is the part of a bill that is designed to allow the Minister to do that, and he has given himself the power to approve alternative home building indemnity schemes or similar arrangements. The Minister needs to spell out in more detail exactly what the mechanism is, what his intention is, and what are the implications of the use of the building insurers' guarantee fund in the bill. People want to know what the Minister is going to do with that fund, how he is going to make it work, and who is going to make it work. Where are those people? Are they operating in the Department of Fair Trading, which has a very bad reputation on this issue? Are they operating in the Premier's Office? Are they operating somewhere else in Sydney? We would like some detail on that.

I have no idea whom the Government consulted on this bill. The issue is one of real public concern. While this House has been debating the bill, a flood of people who are concerned about it have come into the public gallery. I am sure that many of them would be consumers who are interested in home warranty insurance, and that many of them would be builders or aspiring builders. Those people are very concerned about what the Carr Government has been doing on this issue. I return to an email that is part of the consultation process for the bill. The email indicates that some people are very happy with the bill—that is the insurers. It indicates that the insurers put their hands up and said, "We want", and they got. Labor's home warranty bill enshrines a backroom deal with insurers and leaves serious questions for the Minister. It leaves consumers and good builders swinging in the breeze, and it simply confirms that a short-term, secret, backroom deal was done in the last few months to keep insurers in the market.

The Carr Government has simply written a blank cheque for insurers and traded away consumer protection. Whatever decisions it has made—and we are still unsure what decisions it has made—it has made them with a complete lack of basic information about the home warranty insurance market. If the department, the Minister or the Premier have that solid research on the home warranty insurance market, they should put it on the table and let everyone see what the market is all about. I bet they do not have it, because the insurers have had the Government over a barrel; they did not have to give that information to the Government.

With this bill the Premier has sought to simply take care of insurers, but in doing so he has failed to clean up his own backyard in terms of building regulations, licensing dispute resolution and quality assurance. Insurers may well be very happy with the outcome tonight. If the bill passes through the other place they will be very happy with it. But consumers and builders are the forgotten people in this entire issue, as they have been for five years. As I said earlier, the Minister has failed to spell out the details, and I ask him to put on the table tonight as much detail as possible on this proposal and to also address his proposals on the quality assurance side of the industry.

A summary of the past five years is that there has been a fundamental failure of government responsibility since the Premier privatised home warranty insurance, and the Opposition will continue to pursue the issue in the upper House. Builders remain very concerned about financial hurdles imposed upon them by insurers, including some builders who actually have to put their homes on the line simply to go about their business. The Minister does not have to do that simply to earn his living every day, but the Government has set up a system that requires some builders to put their assets on the line before they can earn a living.

The relationship between insurers and builders and their financial hurdles is critical to the survival of many builders and it needs urgent review. The Minister needs to simply follow Victoria's lead on audit inspection dispute resolution and dodgy builder enforcement. He has not done that. His backflip on the high-rise proposals needs a little more explanation. In March the Minister said one thing, in April he said another, and now he has issued a blank cheque. The Minister needs to explain his proposal and how it affects high-rise builders, especially those who are in limbo between the Minister's first and second press releases. The Government needs to address the problem of rogue builders. Clearly, rogue builders need to be actively discouraged. I think the Minister could engage in a little more consultation with people other than insurers. I believe that the Select Committee on Building Quality will inquire into all these issues. However, the shame of it is that the committee will not report before July. Goodness knows when the Government will do something about the committee's recommendations, though I am sure it will move on them in due course.

The other point that came out of the select committee in the past few days was that there has been no audit or inspection in New South Wales under this system. The evidence was that they had not been doing it, they cannot do it and they will not do it, and they withdrew from that area. The Minister for Planning issued a

statement the same day saying that the Government was going to take them out of it anyway. In summary, this bill delivers for insurers because the Carr Government was outflanked five years ago when it privatised insurance. In the past year insurers came back saying that they had the Government over a barrel and they wanted a blank cheque and to trade-off consumer rights, and that is exactly what this Government has done.

Mr BROWN (Kiama) [9.40 p.m.]: I am pleased to support the Government's Home Building Amendment (Insurance) Bill. They do not call politics a marathon sport for nothing. I sat through the shadow Treasurer's speech for the best part of the past hour and I wonder why he had to speak so long. I have often caught the train from my home town of Kiama to Wollongong mall and taken out my saxophone and started busking in the mall. After a while some people probably decided that I needed more practice, so they gave me some money and asked me to move along. It is unfortunate that we cannot do that in Parliament and had to sit politely through the shadow Treasurer's speech. The unfortunate thing about his speech is not only that it was not entertaining but that it added nothing to the debate.

On behalf of the Opposition the shadow Treasurer said all these bad things about the bill without making one positive or substantive amendment to it. I find it amazing that the Opposition is so lacklustre in this House that its members waffle on and say the same thing for almost an hour, saying nothing, and then inform the House and the public—and the good people of North Sydney Rotary Club—that the Opposition will produce its amendments when the bill goes into the upper House. This is the people's House, and it always has been. If the Opposition is serious about forming an alternative government in this State it should concentrate on some real amendments to the laws that we are putting forward here rather than agreeing with our laws but seeking to amend them in the upper House.

Many honourable members have had people see them about shoddy workmanship that has been performed on their buildings and about real problems they are facing. If people are experiencing such problems it is up to the shadow Treasurer and the Opposition to act like an alternative government and put forward amendments to make the bill more workable. But no, he talks about his constituents having problems with the bill, which he says will not work, but says he will vote in favour of it. I find that amazing. That epitomises the Opposition. It has a lot to say but it has no substance and no ideas to make sure that life is fairer for the average building consumer in this great State.

The Opposition might want to have a chat with its Federal colleagues, who have proved to be totally unsatisfactory in regulating the insurance industry. As members of the public would know, the Australian Prudential Regulatory Authority—a Federal authority—regulates the insurance industry. The crisis that builders and homeowners in this State are facing is not a result of State Government law; it is a result of the inadequacy of the Conservative Federal Government in regulating the insurance industry. That crisis, following the collapse of HIH, was exacerbated by September 11 and by reinsurers throughout the world saying they would not reinsure insurance companies in this country, let alone in New South Wales.

This mob opposite is suggesting that State Parliament will fix the insurance industry throughout the world. I wish we were that powerful and significant. But we have to do the best we can to make sure the marketplace in New South Wales looks after consumers and builders, so that builders can earn an honest living and consumers can look forward to a Labor government that continually respects their rights. It was not until Gough Whitlam brought in the Trade Practices Act that consumer rights received appropriate attention in this country. Later the States brought in their Fair Trading Act equivalents—and about time too!

The home warranty insurance scheme provides vital protection for the State's homeowners and purchasers of dwellings. The reforms previously announced by the Government, which are now contained in this bill, will help ensure the future viability of the scheme and enable consumers to recover loss arising from faulty or defective work. Honourable members will be well aware of the difficulties that continue to be experienced across the nation with a range of insurance products. The problems faced by the medical profession, solicitors and others in relation to professional indemnity cover have been widely publicised. Honourable members will also be aware of the growing concern of councils, community groups and businesses about public liability cover. These significant developments highlight the need for governments to take action to ensure a viable insurance market.

That is why I am proud to be a member of the Carr Government. It was our Treasurer and our Premier who went to the Federal summit with a 14-point plan, and they continue to lead the nation not only in insurance issues but in every other issue. We are the leaders of this nation. While John Howard waits to see what New South Wales does and while the Leader of the Opposition and his Opposition wait to see the leadership of this Government, I am proud that I am part of the Government and can contribute to making sure this State keeps moving forward and to ensuring that we remain the premier State of the nation.

Home warranty insurance has been similarly affected by the global forces impacting on insurance. Rising insurance premiums as well as the withdrawal of reinsurers' support for certain approved insurers has thrown the survival of the scheme into doubt. The shadow Treasurer talks about us negotiating with insurers. It might come as some surprise to him that insurers are absolutely essential for this scheme to work. The shadow Treasurer asked whom we have negotiated with, because he does not know. He does not know because he does not open his eyes.

The Government has negotiated with consumer groups first and foremost, with building associations such as the Master Builders Association, and with insurance councils. Congratulations to the Minister and his staff on doing that. The shadow Treasurer might want to talk to some of these groups. They will no doubt tell them that the Government has already spoken with them and that it has drafted a bill. He might want to look at that bill and come up with some real amendments rather than hope that his mates in the upper House can deal with the amendments. After all, he is only the shadow Treasurer!

Swift action was called for, and I commend the Minister for the successful outcome of the joint negotiations with the Victorian Labor Government and the major players in the home warranty insurance market. The proposed structural reforms to the scheme are a sensible and realistic response to the forces threatening the scheme. The revised scheme will protect consumers against the financial failure of their builder during the course of the job. It will also protect them when they are unable to recover compensation from the builder or have the builder rectify or complete work because the builder has died, disappeared or become insolvent. The shadow Treasurer either refused to acknowledge or did not know about those key factors when he was addressing the contents of this bill, which looks after consumers in this State.

The bill introduces new provisions relating to the level of cover. Structural defects will be covered for six years from completion of the work, and other loss will be covered for two years. These periods appear adequate for the vast majority of cases and are in line with schemes operating elsewhere in Australia. The bill provides for a cap on completion claims equal to 20 per cent of the contract price, including any agreed variations. That is consistent with the cover that has applied under the Victorian scheme for some time, and again it should be adequate for the majority of claimants. We are looking at the long term. We understand the pressures created by the collapse of Dexta. In early April the signal from Dexta that it may collapse triggered this Minister to act. He knew that Dexta was one of the main insurers in this field. The Minister was one of the first people to jump on the issue to ensure that it was properly resolved.

The shadow Treasurer claimed that the New South Wales Premier tries to run the show. If the Leader of the Opposition wanted to run the show on the other side of the Chamber he probably would not put up the shadow Treasurer to debate this bill. I am pleased that the Premier is trying to run the show by using one of his best Ministers to ensure that consumers and builders in this State are afforded the best protection possible. Recently the Government acted to support the insurance scheme by putting in place reinsurance arrangements so that insurance cover, including cover for high-rise developments, is available for all insurers. These reforms are further evidence of the Government's commitment to consumer protection in the home building industry.

In the Kiama electorate there are many new housing developments. I see the problems and I talk to builders on a daily basis. Indeed, I speak to builders much more often than the shadow Treasurer, whose electorate is fairly well built out. He does not have to deal with the same builders and urban housing environment I deal with. For him to claim some credibility on the issue is an insult to the Opposition. The Opposition should wake up to itself and either properly support the bill or put forward amendments. This bill is a good step forward, and I commend it to the House.

Mr BROGDEN (Pittwater—Leader of the Opposition) [9.53 p.m.]: I join with the honourable member for Vacluse, the shadow Minister for Insurance Regulation, to indicate that the Coalition will not oppose this bill. However, it has serious concerns about the short-term nature of the legislation. This bill does nothing more than legislate for the 20 March agreement between the New South Wales Government and the Victorian Government. It does absolutely nothing to give consumers and builders confidence that the home building industry will get back on track.

With this legislation, the Minister and the Government have failed the test for providing certainty to builders. In my office I have had builders who were almost in tears because they could not get insurance without putting their houses on the line. The Minister and the Labor Government are forcing builders to put their homes on the line to get insurance to enable them to work to put food on their table. The Minister does not care about the situation, and the bill will do nothing to fix it. People who have worked hard all their lives to buy their

family home, pay the mortgage—in some cases they have worked six days or seven days a week to build homes for other people in New South Wales—are now faced with the crisis of having to go home, in many cases in the traditional small building company, to their wife or partner and say, "The only way I can work is if you sign this document and we put our house on the line."

That is shameful. How can the Minister allow that appalling situation to continue? Builders across New South Wales have not worked for weeks or months because they will not put their homes on the line. And we say, "Nor should they". Builders should not be required to put their homes on the line. They should be able to return to the situation that existed some years ago, when they could get insurance, sometimes within 48 hours, and go to work building and renovating homes for other people, which enabled them to put food on the table. The end result was that they built new homes for other families.

The Government has failed dismally. This legislation does nothing more than give legal standing to what has been on the public record for more than six weeks now. Where do the Minister and the Government stand on the regulation and licensing of the industry? What is the Minister doing to put inspectors back on building sites to give consumers protection? What is he doing to get the shonks and those who rot the system out of the game? Nothing! The Victorian Government has moved ahead in that area. As the honourable member for Vacluse highlighted in some detail and at length, the Victorian Government has adopted tough licensing and regulation to improve the industry.

In contrast, the New South Wales Minister has done none of that. He has provided a large band-aid at public expense, a cheque without a dollar amount on it, that he hopes will tide over the industry and the insurers. There is nothing new for consumers in this bill. There is no surety for consumers. And there is nothing new for the builders either. At present there are three insurers in the game: Reward out of Victoria, whose book is effectively closed to New South Wales; Royal and Sun Alliance; and Dexta, which is being propped up by the Government. At the end of this debate the Minister will have to tell not only the Opposition but the people of New South Wales whether there is any surety that there will be new players in the market down the track.

Will this legislation result in new insurers entering the market to ease the market and provide a better climate? It is a sad day for the Parliament that this legislation, which the Opposition has been waiting for since 20 March, does not offer anything new. Indeed, it trades off more consumer protections but does not add any tougher licensing or regulatory protections to keep dodgy builders out. It makes home building insurance the last resort, only to be claimed if all other avenues are exhausted. The Minister claimed that this bill will enable Dexta to remain in the market by using funds from the Building Guarantee Fund that was established after the collapse of HIH. Another important feature of the bill, which the honourable member for Vacluse highlighted with some skill, is that the money for this is coming from the HIH bail-out fund. It is a honey pot but it is unlimited. We know that the fund has about \$600 million, but we do not know how much money the Government will need to cover Dexta. If the situation has not improved by 30 June, will the Government continue to dip into that fund?

In this bill the Government has failed to fix the gaps in the regulatory side of the industry, although it is the Minister's responsibility to fix those gaps. The inane contribution of the honourable member for Kiama, who tried to sheet this back to the Federal Government, demonstrated his embarrassing lack of understanding of home warranty insurance in New South Wales and the Government's failures. The Minister is responsible for home warranty insurance in New South Wales and he has done nothing to improve it with this bill. Until the Minister can look builders and their families in the face and tell them he has fixed the scheme he has failed. The bill fails to adopt a more flexible, holistic approach to establishing builders' salaries. Whenever builders have got to put their homes on the line, the Minister has failed dismally.

With great reluctance the Coalition will not oppose this legislation, but we demand a great deal more and we demand it soon. The bill is not a long-term solution. It is not even a medium-term solution: it is a short-term band-aid to a real insurance crisis. I assure the Minister that this crisis will pursue the Government to the end of its term in office on 22 March next year. Last week as part of the Pollies Work in a Small Business program run by the State Chamber of Commerce, I spent a morning on a work site in Caringbah. Those builders have had to inject thousands of dollars of capital into their business to get insurance. They told me that four years ago they could get insurance within 48 hours. The Minister does not understand that if one builder in a small country town can get insurance and others cannot, that has a devastating effect on the town. One builder has to travel around the whole region because he is the only one who is able to work. The other builders cannot work or put food on the table. Most important, they cannot employ subcontractors or anyone else.

The flow-on effect of the Minister's handling of this problem has put an industry in crisis and it will continue to remain so. Two external factors will help to worsen the crisis. One is the increase in interest rates

announced today by the Reserve Bank, which will in some way slow the housing market. The other is the end of the first home owners scheme on 30 June. Those two factors will make the housing market tighter. At a time when builders need an active market with more opportunities, those two external factors will slow the market down. But the Minister can do nothing to confirm to builders that the Government is doing its bit. The only people who will win are the insurers because the Minister has signed a blank cheque for Dexta. The Minister's second reading speech was pathetic. As the honourable member for Southern Highlands said, there have been longer private members' statements. The Minister has not contributed to this debate and he is an embarrassment to the people of New South Wales.

The Minister and the Government have given no indication as to where the insurance market is heading. Are there any other insurers? Answer me now! The Minister's silence damns him. There are no new insurers coming into the market. The Minister needs to fix that. The Opposition will not oppose this legislation but we want more. When will the regulatory improvements and licensing be introduced? How will the benefits of the previous scheme be used to fix this problem? They do not referred to in the bill and the Minister gave no indication in his second reaching speech yesterday that he has them planned in the short term, the medium term or the long-term. There are no plans to solve the crisis in the building industry, so it goes on. A tired, bored and arrogant Minister, representing a tired, bored and arrogant Government, could not care less about builders, about the people they employ, about the investments they make and about the families for whom they build homes. The Minister just does not care.

This is a sad day. There are builders in this State who simply cannot go to work because they will not put their homes on the line, and nor should they have to. There are good builders whose reputations are besmirched by bad builders. The Minister is doing nothing to get those bad builders out of the market. In many ways the entire building industry is given a bad building tag by some unkind people. But there are good, honest builders who work hard. They want to build good homes and good extensions for the people of New South Wales, but they will not be helped by this bill.

Mr Hazzard: Young people don't even get a start.

Mr BROGDEN: The honourable member for Wakehurst makes a good point about young builders. The Minister knows that to start work a builder needs insurance and, under the Minister's system, to get insurance he needs capital. Young builders cannot get a start. Some months ago I held a public meeting in my community. The room was full of mostly older builders who had been in the game for 20 or 30 years. However, one young guy who had just finished his apprenticeship said, "I don't know why I have wasted four years of my life. I can't build because I can't get insurance." I had to look him in face and say, "We will do what we can do but this Government doesn't care." The Minister has had a long time to fix this problem. We had great hopes for this legislation, but we are bitterly disappointed. The building industry and the people of New South Wales are also disappointed that it offers so little.

The Opposition will not oppose the legislation, but we put the Minister on notice that we demand and expect from him in the short term before 30 June—that is, when Parliament resumes after its next break in a few weeks' time—some certainty that they can get insurance and go back to work the short term. The builders in the gallery who are guests of the honourable member for Murrumbidgee feel the same way. The Minister does not understand that builders will pay what they regard as a fair premium, but they should not be expected to put their homes on the line or inject cash into their businesses. The Minister is putting people out of business; he is destroying businesses and families. Ultimately the Minister's incompetence will cost families more because they will have to wait longer to get their homes or extensions built. I gave the Minister the opportunity to indicate whether any more players are about to come into the insurance market, and he sat there silently. That is very sad.

Mr Aquilina: You will get my answer in reply. You know the procedure.

Mr BROGDEN: So the Minister is going back to the procedure. That is just wonderful: the Minister is hiding behind procedure. I have one minute and 25 seconds remaining; the Minister can tell me now who the other players are who are about to come into the market.

Mr Aquilina: You will get my answer in reply.

Mr BROGDEN: I am not in your classroom. That is the arrogant attitude the Minister has shown to the builders of New South Wales. He has said to the builders, "I'll give you my answer when I'm ready." They are sick of waiting for his answer. They want an answer now and they want to know what the next step is with

this legislation. We have waited since 1996, when another incompetent Minister in this Government, the present Minister for Community Services, introduced the present legislation. We have waited for more than five years for the Government to get to the next step, which should have run concurrently. We have waited for insurance and regulation/licensing to come together, but they have not come together. With great reluctance the Opposition will not oppose this legislation, but we expect more from the Government. We are waiting for action from the Minister. We want him to act quickly to solve the crisis in home warranty insurance.

Ms SEATON (Southern Highlands) [10.08 p.m.]: I have some simple questions for the Minister. Will he guarantee that more insurers will come into the market as a result of this legislation? Will he guarantee that premiums will be reduced? Will he guarantee that access to the insurance products will be increased? Will he guarantee that builders will go back to work? I want to hear him give those guarantees. I read with great interest the brief speech he made last night when he introduced this legislation. He gave no such guarantees and gave no indication that the bill would achieve that any of those things. The Minister knows that this bill is flawed; it is a half-baked attempt to solve these problems, and that it simply is not good enough.

Late last year I and my colleague the honourable member for Camden held a meeting at the Picton Bowling Club to which we invited builders in our area to come and talk with us about the problems they were experiencing with home warranty insurance. All of the builders in the room told a similar story. Most of them were members of family building companies, most had been local builders for a long time, many had younger sons in particular who were interested in coming through the business, and many of their small businesses consisted of a husband and wife in a business partnership. But common to them all was, they said, that they could not get insurance, or they could not get insurance to the level they wanted.

The Minister spoke in his second reading speech about procedure. All of those builders would have ticked the box indicating that they were insured. But when asked whether they were insured to the level they desired to do the work they needed to do, the answer was "No." These builders were underinsured, finding insurance too costly, and were either having to lay workers off or not take on the subcontractors that they normally would have engaged. They were concerned that they would have to sign over the family home to get the insurance cover that they needed. These were people who had never had a claim against them, people who had been working successfully in the business for many years.

The opinion that the honourable member for Camden and I formed at the end of the meeting was that family builders in our area are an endangered species. That concerned us greatly. We returned to have discussions with our colleagues about finding ways to put pressure on the Government to fix the problem and how to develop ways to help those builders. These are builders who want to keep on building. They want to take advantage of the fact that the Federal Government is promoting home building in our area. Many people wanted to build homes and had the finance to do so, but they could not find a builder who will take on building their home.

It is worth taking the Minister back through a little bit of ancient history to remind him of some features of the old Building Services Corporation scheme, which has been commented upon favourably by many of the builders to whom I have spoken. Among the things in that scheme that they said were remarkably successful were the disciplines that existed within it. That scheme focused strongly on regulation of the industry and on making sure that builders' licences meant something: that builders' licences described the qualifications of the licence holders accurately, that those who engaged a builder with a particular licence knew what they were getting. Also, the builder was confident that he or she could deliver that service.

Sixty inspectors were employed by the Building Services Corporation. Those inspectors did an excellent job. They inspected building sites in progress. When they found a fault or an aspect of the building that was not compliant, they had power to ensure everything possible was done on the building site to rectify the fault and to bring the builder and owner to agreement on how to fix the fault. I acknowledge the findings of the Dodd report of an inquiry into the Building Services Corporation, but the issues identified by the Dodd report were issues of procedure and of design of the scheme that could have been rectified easily if the Government had had the will to do that. Instead, the Government privatised the scheme. Following its privatisation in 1997, a second package of reforms was to have addressed the important licensing and discipline issues. That second package never eventuated. The Minister for Fair Trading, Faye Lo Po', said on 30 October 1996:

While some changes have been made to the present system, the fundamental reform issues identified by Dr Dodd remain to be dealt with. These are the introduction of private home building insurance and the reform of licensing. The bill is largely about the first of those issues ...

The former Minister for Fair Trading addressed the issue of private home building insurance but completely ignored the second aspect of Dr Dodd's recommendations, which was to do with the reform of licensing. That continues to be at the heart of the problem being experienced today. A blank cheque is written by Minister Aquilina under the bill now being debated. The Minister has yet to tell us what safeguards he has put in place for taxpayers. The honourable member for Vacluse succinctly set out the Coalition's concerns about exposure of taxpayers to what could be multimillion dollar losses, because the Minister will not tell us what measures he has put in place to safeguard taxpayers' money.

Although this bill gives effect to agreements made between Victoria and New South Wales on 13 March, those agreements are all about containing the potential benefits and protections to consumers. They are about limiting the extent of the cover of the insurance. They are about separating structural from non-structural defects. They are about reducing forward liability in some areas, together with some other technicalities. All of those are sensible issues to be considered. No-one is suggesting that those aspects of insurance ought not be reviewed. But, in isolation from a fundamental and comprehensive review of the licensing scheme and the disciplines within the scheme, and in isolation from questions of quality and accreditation and questions about licensing to protect the thousands of good builders who are demanding the removal of shonky builders from the system and that their own reputations be upheld by a good and reliable licensing system, none of those things have been included in this bill.

There will be serious consequences of the Government's failure. The most concerning of those that I have heard about a number of times from builders in recent weeks is that many experienced builders will just give up and leave the industry because they are unprepared to meet indemnity requirements. The best builders will simply retire early. One builder told me that at this stage in his life and career he is the best builder he will ever be. This builder has a couple of decades of experience, has learned on the job, and is well respected in his profession. He believes he is now at the pinnacle of his professional expertise and capabilities. His wife, quite correctly, is saying to him, "I will not let you put the family home that we have worked for years and years in hock to get insurance for the next job." He is saying, quite correctly, "I will not put her or my family through that. I will leave the business."

Some of the most experienced builders in New South Wales will exit the industry. Of equal concern is that some builders will simply build illegally; they will go bare; they just will not bother to take on insurance. Small and family-based home building companies will become extinct. Potentially large-scale home building and development companies will dominate the industry. Lost will be the family builders who source their supplies from other businesses in their localities, with the consequent demise of the local hardware store, the local timber yard and the small-scale but nevertheless important suppliers in regional, suburban and country communities like mine.

Let us hope this will never happen, but if we were to see a repeat of the hailstorm in Sydney of 1998, many people would potentially go homeless for years simply because builders would not be able to get insurance fast enough to meet the needs of those who will need urgent repairs done. Many people who suffered damage during the Sydney hailstorms had bills in excess of \$100,000. That put them well within the threshold of requiring building warranty insurance for any jobs, even repairs to a home. Another similar natural event like the Sydney hailstorm could result in people waiting literally years and years to be covered. This bill makes no attempt to beef up licensing, inspection regimes or quality control or builders' qualifications. None of the problems that have been outlined to me and to every one of my colleagues on the Coalition benches have been addressed in this bill.

Consumers have been short-changed and builders—good builders, in particular—have been short-changed. I discovered during the many meetings that I held recently to try to find a solution to these problems that the good ideas that builders have tried to promote to the Government for improved licensing regimes and more practical inspection procedures have simply been ignored by a Government that is deaf, tired, bored and arrogant. It is not surprising that in many of the conversations I have had with builders the old features of the Building Services Corporation are mentioned time and time again. All those builders have emphasised the success of the licensing scheme and the success of the education system offered to builders by the Building Services Corporation through a program of continually upgrading their professional qualifications and skills.

When Faye Lo Po' was the Minister for Fair Trading, she refused to even be bothered to attend to the matters I have mentioned. That is why there will be a rally on Wednesday 15 May at the Concord RSL club that will be attended by builders who are angry and just fed up with this Government not listening to what they have been saying. That is also why builders will be marching on Parliament House on 29 May. Tonight the Minister

for Fair Trading would do builders and consumers a great service if he 'fessed up, said he was sorry, took some sound advice from builders and consumers, and produced a decent bill that will fix these problems. But this Government is too arrogant to be bothered and too arrogant to heed the concerns of local people, particularly people from the Southern Highlands electorate.

In my electorate there are builders who are unable to work and families who are missing out, despite the fact that there are people who want to build homes. Those home buyers are unable to find a builder who will take on a home building project, and that is a very sorry state of affairs. I am disappointed that tonight honourable members will leave this House without feeling confident that the problems will be resolved. The Government is on notice that it needs to produce the results that the Minister has said are expected outcomes of this bill. If the Government does not do that, it will have to account to the people of New South Wales in 10 months time.

Mr WEBB (Monaro) [10.21 p.m.]: At the outset I make the point that Opposition members who preceded me in this debate, particularly the honourable member for Vacluse, have outlined in great detail the Opposition's attitude to this bill, and the Leader of the Opposition, the honourable member for Pittwater, also referred to many examples that I had intended to refer to during my speech. The honourable member for Southern Highlands referred to the attitude of builders who have already notified me of their intention to participate in a rally on 29 May, despite having to travel approximately 400 kilometres to do so. They will do that simply because they have no work to do. They will not have to leave any jobs to be able to participate in the rally because the jobs have not commenced.

One of the partners of a building company operating in Queanbeyan has been involved in the building industry for more than 20 years. The company builds contract homes which means that staged payments are made to the company throughout construction of the homes. Those payments are made only after the contract arrangements and certification of the building at certain stages are carried out. Despite the company having a 100 per cent record for quality work and completion, as a result of this Government's mishandling of home building insurance, insurance coverage for projects cannot be obtained. The company lodged an application for insurance with Dexta but the application fell over when Dexta temporarily dropped out of the industry. When Dexta resumed its insurance coverage, the company renewed its application and Dexta requested a \$40,000 guarantee, but the application stayed on the table for a week. The company was desperate to begin projects and had already turned down a house project that was worth \$300,000 because insurance could not be obtained.

The company has subcontractors and employees who rely on it for employment and income, and the partners have money tied up in this business. Eventually Dexta responded, but required an additional \$40,000 guarantee, which effectively meant that the company was not able to obtain indemnity insurance at all: The builders have to provide the funds for indemnity, and the money which forms part of an indemnity fund is held for seven years until clients certify performance of the work to a satisfactory standard. There is a big difference between speculative builders, development builders, or contract builders and home owner builders who can obtain certification or contract a registered builder to undertake the project, thereby saving themselves the trouble of arranging insurance.

However, working around the difficulties of obtaining insurance does not solve the problem of downsizing that is taking place in the building industry, and does not solve problems that confront larger building companies such as Van Der Plaat's of Cooma which is involved in many projects. At any one time, that company has projects worth more than \$2 million on its books, and has up to 20 subcontractors as well as supply businesses in Cooma relying on it. That company has turned to commercial building and renovations as an interim measure, because the owners of the company are not prepared to offer their mother's house as a guarantee. Despite their mother having no connection at all with the building company, the insurers requested that their mother's house be offered as part of the guarantee.

The situation in the building industry became worse when the New South Wales Government privatised the insurance scheme and failed to improve the licensing and certification systems that are intended to identify shonky builders. The New South Wales Government has not worked out ways to exclude shonky builders from the building industry or to apply sanctions which will force such builders to retrain or limit the size of their businesses. The Government has taken no steps to ensure that shonky builders who are giving the building industry a bad name carry the guarantees. Coalition members who preceded me in this debate referred to the value of the home building industry as a major economic driver of the New South Wales economy. This State's economy is doing well at the moment only because of the good financial management of the Federal Government. The economic boon provided by the First Home Owners Grant Scheme has assisted many builders who are involved in the house building industry.

In desperation, people in Queanbeyan have been telephoning my electorate office. In spite of having the money to go ahead and build a home, they have been unable to find a builder who will even make a start on their project because the builders have been unable to obtain insurance cover. As I mentioned earlier, some home builders have been able to switch to the commercial building industry, but because suppliers who are involved in the home building industry offer a tremendous range of building products they operate in a matter that is different from the way that suppliers in the commercial building industry operate. I have urged builders in my electorate to approach the Master Builders Association of New South Wales and the Housing Industry Association to develop industry approaches so that indemnity insurance can be arranged. The difficulties experienced by builders in Queanbeyan have been exacerbated by anomalies associated with restrictive insurance provisions which apply in the Australian Capital Territory to certain types of building work.

I know of many builders who live in Queanbeyan and who contract for work in the Australian Capital Territory, where building is a completely different ball game from the industry in New South Wales. The introduction of levies in that Territory has been mooted to provide home warranty insurance cover so that jobs and construction can proceed. The increase in population in the Queanbeyan and Yarrowlumla Shire Council areas is very high and a great deal of building is being undertaken. The area is one of the fastest-growing inland centres in the nation. A number of people have expressed concerns about being unable to participate in the building construction industry at the moment. Concern extends to another level, namely, the availability of apprenticeships in the various building trades. Because of the difficulties of the building construction industry, people are quickly making decisions that the building construction industry is not for them. Instead, they join the metalworkers, the defence forces or the motor industry trade, or they move to a State that is more proactive in overcoming insurance problems.

Provisions for the protection of building companies' clients must be in place. Consumer affairs organisations such as the Department of Fair Trading are certainly venues for the provision of client protection, but what protection exists for builders? Under present circumstances, how will they be able to obtain insurance coverage when insurance companies limit the number of projects that they can undertake and the total amount of insurance indemnity, and when insurance companies, having taken weeks and weeks to consider an application for indemnity insurance, respond by making a demand for large amounts to be deposited in an indemnity fund that has been created by builders themselves? I would have thought that this Government would have been very keen to put in place some options to protect house construction consumers, especially through the enactment of inspection provisions, reform of the builders licensing system, and strengthening of the provisions for inspection, certification and auditing to weed out shonky builders who give the building industry a bad name. That must happen.

People must be able to obtain home warranty insurance. Builders must be able to obtain building certificates. Tonight honourable members were informed that the home building industry has been in crisis for many years because of the inaction of this Government. Yesterday I was alarmed when I heard the Premier refer in this House to the problems in the building industry. He referred also to stage one of the Government's public liability insurance initiatives. As I said earlier, this problem, which has been around for years, has just got worse. I have been talking about this issue for about six or seven months and we are still waiting for the Government to introduce stage two of its initiatives.

No-one really knows what stage two will achieve. While we are waiting for stage two we will see many changes in the community. All sorts of people will leave the industry. Groups, clubs and all sorts of other people will be unable to obtain insurance cover. Builders are now in that same category. Builders who are no longer able to obtain insurance cover will be looking for a way to get out of the industry. I ask the Government at this stage: What is it doing to sort out shonky builders? The Government has been talking about banning shonky builders, restricting them from operating and limiting the size of their businesses. The Government should put shonky builders on probation, but no inspectors are available monitor those builders.

The certification process has broken down. Local government is no longer able to ratify and certify building operations. There has been a complete meltdown in the building industry. Inspectors must be employed not only to protect consumers but also to weed out shonky builders in the industry who have given the industry its bad name. Insurers might have to consider other ways of supporting the industry. Queanbeyan, Cooma and Eden, which are located in the Monaro electorate, are all experiencing building booms.

[Debate interrupted.]

BUSINESS OF THE HOUSE**Extension of Sitting: Suspension of Standing and Sessional Orders****Motion by Mr Whelan agreed to:**

That standing and sessional orders be suspended to vary the resolution of the House on days and hours of sitting to permit the House to sit beyond 10.30 p.m. at this sitting.

HOME BUILDING AMENDMENT (INSURANCE) BILL**Second Reading**

[Debate resumed.]

Mr WEBB: Many builders in Queanbeyan, Cooma and Eden are experiencing building booms. Builders in Jindabyne and in the Snowy Mountains area must complete jobs prior to the onset of winter. Many companies—suppliers, subcontractors and people involved in the industry—are waiting for this Government to resolve these problems. Unfortunately, this legislation does not go far enough.

Mr McBRIDE (The Entrance) [10.33 p.m.]: I support the Home Building Amendment (Insurance) Bill. I commend the Government for implementing this legislation, which is part of a series of legislative packages to be implemented by the Government since the collapse of HIH. Last year, when HIH collapsed, there were three insurers in the building industry—Dexta, HIH and the Housing Insurance Association. HIH was the major insurer among those three insurance companies. It provided building insurance for builders, home owners and other people in the building industry. When HIH collapsed, the Australian Prudential Regulation Authority [APRA] was the body responsible for overseeing the insurance industry. The Minister responsible for APRA was Joe Hockey. At the last Federal election Minister Joe Hockey got the punt because he failed builders throughout Australia as a result of the collapse of HIH.

Minister Joe Hockey did nothing to alleviate the problems in the industry. He was an apologist for the Federal Government. He constantly appeared on television and in the media and said that somehow those problems were the responsibility of someone else. However, all honourable members would be aware that they were the responsibility of the Federal Government and Joe Hockey. Joe Hockey was responsible for APRA, which came within his portfolio responsibility, but he did nothing to correct those problems. Joe Hockey was not up to the job because he was incompetent. He was so incompetent that when the Federal Government was re-elected he was demoted from Cabinet and put into the second eleven. Joe Hockey, the Minister responsible for insurance companies in Australia, failed not only the people of New South Wales; he also failed the people of Australia. He was subsequently sacked and demoted by Prime Minister John Howard.

Mr Fraser: Point of order: The honourable member for The Entrance is referring to a Federal Minister and to insurance companies per se. We are debating legislation that deals with home warranty insurance. The incompetent State Government appointed two insurers—

Mr ACTING-SPEAKER (Mr Mills): Order! I have heard the debating points as well as the point of order. The House is debating the Home Building Amendment (Insurance) Bill. My recollection is that Federal Minister Hockey was involved in home building insurance. The honourable member for The Entrance is in order and he may proceed.

Mr McBRIDE: The Government introduced this legislation because of the collapse of HIH. The responsible authority was APRA. The Minister responsible for APRA was Joe Hockey. Because Joe Hockey embarrassed the Federal Government and the Prime Minister he was sacked after the last election and sent to the second eleven. This legislation was introduced because of the failure of the Federal Government and Joe Hockey, the Liberal Minister responsible for overseeing the insurance industry. Under the Constitution, responsibility for that industry comes under the auspices of the Federal Government. This Government acted responsibly after the collapse of HIH. The first issue that Minister Watkins dealt with following the collapse of HIH was the protection of home owners. This Government provided a guarantee for all those people who had defects associated with their properties.

The costs for those defects were picked up by the State Government. The Government protected ordinary home owners who had invested their life savings in their houses. The former Coalition Government did

nothing to protect home owners. This Government did something to protect home owners, but members of the Opposition have the gall to criticise it for its actions. Opposition members have done nothing. They are a good group of do nothings. At least the honourable member for Coffs Harbour does something—he lights fires—but all other Opposition members have done absolutely nothing. The Carr Government implemented the first stage of its rescue operations after the failure of Joe Hockey—a favoured Cabinet Minister in the Howard Government.

The second phase of this Government's initiatives involves builders. When builders wanted to obtain reinsurance they fell into the trap because the rules had been changed. After the collapse of the HIH there were only two insurers in the building industry. Insurance companies—good fellows that they are—changed the rules. They now require further capital injection. Companies without some sorts of guarantees, assets or capital cannot operate in the building industry. That change was made by the insurance industry; not by the State Government. Because of this reduction in the size of the market, insurance companies took the opportunity to squeeze builders. Private enterprise in the building industry is squeezing small building operators.

The State Government, under the former Minister the Hon. John Watkins, set up on-line computer workshops throughout the State that could access Dexta and HIH. Obviously, the honourable member knows nothing about this. That was not his interest then. He was not the shadow Treasurer then, it was someone else. Builders could attend the workshops, go on line and chase up their re-insurance. I attended a workshop on the Central Coast and talked with builders who had been struggling to get their re-insurance. They walked out of the workshop with re-insurance. They got it on the spot. Private insurance companies in Victoria, Dexta and HIH, were incapable of dealing with the matter. The State Government supplied public servants to work in their offices to process the forms because private industry did not have the capacity to do the job. We were doing our best to help builders get back into the industry and start building again. That was another phase of the operation.

The incompetence of a Liberal Cabinet Minister in the Howard Government means that we have had to pick up the pieces and do something about it. Why did not the Federal Government do something about it? The Federal Government has responsibility for the insurance industry; under the Constitution it is responsible for that industry. We are now dealing with the third phase of the operation. The first phase was to deal with home owners, protect them and guarantee their protection. The second phase was to deal with builders and get them re-insured. The third phase is the legislation. The bill makes provision for home owners to claim against their policy as a last resort, where the builder is dead, has disappeared or is insolvent. Insurance will cover structural defects for six years and non-structural work for two years. Claims relating to incompetent work will be limited to 20 per cent of the contract price for the work. The contract of insurance will include cover for such reasonable legal and other costs incurred by the claimant in seeking to recover from the contractor. Alternatively, indemnity schemes and other arrangements may be approved.

Finally, the bill contains an enabling provision under which, if appropriate, the Builders Insurance Guarantee Corporation may be used as a vehicle to administer any re-insurance or other arrangements that may be put in place by the Government. Last week I was speaking to a builder and noted that, in the building industry, a builder could operate as a \$2 company. A builder did not have to have any assets or guarantees. A builder insured job by a job. But that situation changed and, as a result, builders are now required to have assets. I attended a meeting of more than 200 builders and spoke hypothetically about a successful builder who has had no problems and has been in the industry for 30 years. Why should he now be subjected to the same sorts of rules as those who are in small business? Why does he have to take out a guarantee? Anyone who has been in small business will know that, often, people have to take out a bank guarantee and put up their assets. That is what I had to do when I was in a small business. That was part of the business. But that was not required in the building industry.

Mr Piccoli: It is not the same thing.

Mr McBRIDE: It is the same thing. I worked in the building industry as well. I worked in both. This particular situation relating to insurance existed in the building industry. It was totally different to other areas of small business, in which I have also been involved.

Mr Piccoli: It is not professional indemnity insurance.

Mr McBRIDE: I can assure the honourable member that was the situation. Builders must recast how they run their businesses. It is as simple as that.

Mr Piccoli: It is the builders' fault now!

Mr McBRIDE: No, it is not the builders' fault. It is the fault of the private sector. It is the failure of HIH. We now have only two major insurers. Dexta fell over because Swiss Alliance would not reinsure. It is the private sector—the insurance industry—that needs to be brought to heel. Who is responsible for the regulation of the insurers industry? I thank members opposite for their help—yes, it is the Federal Government. The Federal Government oversights, regulates, enforces and should discipline the insurance industry.

Mr Ashton: That is in the Constitution.

Mr McBRIDE: It is in the Constitution. Thank you for your help for leading us back to the real responsibility in this issue. This is important legislation. It is another phase in dealing with this problem that was created by the incompetence and mismanagement of the Federal Minister responsible for the oversight of the insurance industry in Australia.

Mr PICCOLI (Murrumbidgee) [10.44 p.m.]: We have just seen another extraordinary performance from one of our Labor Party colleagues in this Parliament. When will he get it through his thick head that the problem is that the Labor Government has never done anything about it?

Mr McBride: Point of order: The honourable member used unparliamentary language. Would he like to withdraw or apologise?

Mr PICCOLI: To the point of order: I have plenty of evidence that the honourable member has a thick head. I am prepared to present it at any time he would like to see it.

Mr ACTING-SPEAKER (Mr Mills): Order! Is the honourable member for The Entrance requesting a withdrawal?

Mr McBride: That is right. I certainly am.

Mr ACTING-SPEAKER: I ask the honourable member for Murrumbidgee, in accordance with the standing orders, to withdraw.

Mr PICCOLI: I will withdraw it, just because it is late.

Mr ACTING-SPEAKER: Order! I advise the member for Murrumbidgee not to direct second-person remarks across the Chamber. If he refers to other members in the third person or by their correct titles he will find that the aggression is not so personal.

Mr PICCOLI: It is the very inaction of this State Government that has caused the crisis. If the honourable member does not think there is a crisis, and if he thinks the Government has solved the problem or has gone even some way to solving the problem, then he should get out there and ask a few builders. We have builders in the gallery with whom I had the pleasure of having dinner this evening who will tell the honourable member of their problems. They have been in contact with the Department of Fair Trading, the current Minister and the former Minister, as have many other builders in New South Wales, for a long time. I have had people coming to my office for more than two years complaining about this problem. If the Government believes, as the previous speaker said, that this problem has been even partially addressed and solved, it is completely mistaken.

It is typical of this State Government to try to foist any problem that arises on the Federal Government. Certainly, the Federal Government is involved in regulating insurance companies, but when the State Government mandates that a particular private industry must have insurance, surely the State Government must take some responsibility for the problems that causes. The fact that builders must have insurance to construct residential properties will cause significant problems. It will give insurance companies the upper hand. The system is uncompetitive. The State Government has not addressed all sorts of problems in the system. The Opposition will not oppose the bill. We certainly would not oppose anything the State Government is trying to do to rectify this problem, but this is seriously tinkering at the edges.

Aspects of the home owner warranty system must be changed to alleviate builders' problems. It is a problem for the builders and the people for whom they are building, be they wealthy clients building multistorey

apartments or battlers building their first home. The Federal Government's first home grant scheme has been a great boon for what, at the time, was a struggling building industry. But this home owner warranty crisis has the potential, and has already started, to undermine the building industry. It is a very important industry in New South Wales that directly and indirectly employs a lot of people. The fillip the industry got from the first home owners grant is being lost.

Many builders, including those in the gallery this evening, have large businesses, large amounts of money in investments, and developments that are on hold because of this crisis. They are some of the thousands of builders who are unable to go about their daily work. It is a problem for building managers because they are the ones who have to put up their houses and assets as security. But it is also a problem for the tens of thousands of people that the building industry employs. If the Government thinks that the crisis will somehow be solved by one bill, it is sadly mistaken. The honourable member for The Entrance referred to builders who do not have assets. What about the young kid who has just finished his apprenticeship or has done a few years post apprenticeship and wants to start his own business? He will not have the \$200,000, \$300,000 or \$500,000 worth of net assets that he will need to get a level of insurance that will enable him to operate a business.

Young builders in my electorate who have wanted to start their own business have been able to get insurance for work to the value of \$30,000. These days \$30,000 would be the cost of about half a renovation. The crisis is affecting large and small builders, the people who need to be fostered in the building industry so that it remains what it is today, a very important part of our economy. The State Government needs to take firm action to resolve the crisis. I am aware that builders have put plenty of proposals to the Government as to how the problem can be resolved or at least alleviated, and I am disappointed that the Minister has chosen to simply ignore the problem and has not put any significant proposals into effect so that the problem can be sorted out sooner rather than later.

As previous Opposition speakers said, the crisis is getting worse. If the current millions of dollars worth of developments do not go ahead, there will be more job losses in the industry and that will be very bad for home owners, investors, building managers and builders. For the honourable member for The Entrance to go on with a lot of hogwash about the crisis being sorted out and about it somehow being the responsibility of the Federal Government is to totally dismiss the role of the State Government. Home building insurance is mandated by the State Government. Under the legislation, builders must have home building insurance; they cannot do any building work without it. Therefore, the State Government has total responsibility for it. The communities of my electorate, such as Griffith and Leeton, which are developing quickly with a strong building industry, need that industry so they can continue to develop. Plenty of other builders in New South Wales are in the same situation. I plead with the State Government to take on board some of the suggestions that have been made and do something about this crisis immediately.

Mr FRASER (Coffs Harbour) [10.53 p.m.]: I wish to engage in a bit of a parish pumping with respect to this bill because of the importance of the building industry to the North Coast of New South Wales. What members opposite fail to accept—and I listened with amazement to the drivel that came from the honourable member for The Entrance—is that HIH Insurance did not go broke because of the home warranty insurance in New South Wales. It went broke because Minister Lo Po' licensed it to underwrite home warranty insurance without doing the appropriate probity checks she should have done. HIH was entrusted with home warranty insurance, a function that previously had been entrusted to the Building Services Corporation, which made a profit. The State Government saw the corporation as a hollow log, which it raided, and then entrusted private insurers with home warranty insurance without doing the appropriate probity checks. All this bill does is underwrite three insurance companies—Dexta, Royal and Sun Alliance, and Reward Insurance. It does not solve the underwriting problem in New South Wales.

Mr McManus: It is a Federal matter.

Mr FRASER: The Parliamentary Secretary says it is a Federal matter. It is not a Federal matter. The Government should go back to the previous scheme, which ran at a profit. It should review the planning processes and go back to having local government check that shonky builders do not build shonky houses. Insurers do not want to touch building insurance now because the due process of building approvals is not being followed in the way in which it was followed years ago. The Government needs to address the problem to ensure that insurance companies regard the risk as acceptable. The Parliamentary Secretary laughs. I am sure he does not realise that the crux of the New South Wales economy is the building industry. That industry provides jobs for many people. The construction of a house involves tilers, plumbers, electricians and so on, and then the purchase of soft furnishings, curtains, furniture, floor tiles, et cetera. The building industry is the engine of the

New South Wales economy. We have had an incompetent Government under an incompetent Minister put insurance into the hands of an insurer that was not economically sound and could not meet the general insurance requirements, and the insurer went broke.

The Parliamentary Secretary said earlier that it is a Federal responsibility. Perhaps the insolvency of insurance companies is a Federal Government responsibility. However, it is the responsibility of the State Minister to ensure that insurers who are given a contract by the State Government to exclusively insure home owners warranty insurance are solvent. The Minister did not do that, and people across the State are now paying for the incompetence of this Government. The bill has been introduced at short notice, without proper consultation with the Opposition or the people of New South Wales. We cannot be sure that it will solve the problem. Indeed, I do not believe it will. It is a short-term underwriting fix. The Treasurer said he has a \$700 million surplus, which will blow out to \$1 billion with the GST revenue it is reaping from the Federal Government. The Government needs to underwrite the building industry, as it used to do with the Building Services Corporation. Then it needs to look at the shonky builders, commercial licences and the project home operators who are creating the problems in this State.

The Government can then look at the dinky-di, honest builders—as they are in my electorate—the ones who are good builders, so they can continue with their work if a claim is made against them. They are the ones who cannot feed their families or pay their bills at the moment. They are the ones who cannot work because the Government has let them down badly. Under Minister Lo Po', this Government allowed a shonky insurer to take on a risk that it could not underwrite—not because of the problems within home owners warranty insurance in this State but because of general problems.

The Government needs to wipe the slate clean and go back to the scheme that was in place previously. It needs to bring in regulations that will ensure that homes are completed properly and there are no claims, or that claims are extremely limited, so that builders, the tradesmen and craftsmen, can complete their jobs. The bill does not cover the unfortunate builders who cannot complete the jobs they have already started because they are the subject of insurance claims. On other occasions I have told the House about a Coffs Harbour resident who has to use ladders to get to the three different levels of her home. The builder was a shonk and did not finish the job properly, the insurance company did not accept the claim, and the builders who are now trying to complete the job cannot do so because they cannot get insurance.

There are other instances in my electorate where builders are able to do a job but they cannot get insurance. Dexta, Royal and Sun Alliance, and Reward Insurance constantly shift the bar. Companies in my electorate are being asked to put forward security that is more than the value of their jobs. According to the underwriting contract, if builders are insured for \$2 million of work per year, once they complete a building and the warranty period expires, they cannot increase the insurance to cover \$2.2 million worth of work for the year or even keep it at \$2 million. The insurance companies insist on a total contract value. If the builders do \$2 million worth of work in the first six months of the year, they cannot work for the next six months. This bill is not going to fix the problem. It is up to the Government to introduce legislation that will fix it. Whilst the Coalition will not oppose the bill, because it may provide some slight relief in the short term, I ask the Minister for Fair Trading to devise a scheme that will work and will give the industry some assurance for the future.

Mr HAZZARD (Wakehurst) [11.00 p.m.]: This bill will do very little to assist consumers or builders. We have to go back to 1996 to see where the problems originated. They started with the then Minister for Fair Trading, Faye Lo Po'. The then Minister, presumably on bad advice—because I cannot begin to imagine that she understood anything about the issues at all—effectively threw out the baby with the bathwater. The previous scheme, which was operating through the Building Services Corporation and prior to that the Builders Licensing Board, did have problems, but nowhere near the level of problems that have come about through the replacement scheme that Minister Lo Po' auspiced in 1996 and commenced in 1997. There were issues with the previous scheme. The Building Services Corporation had both a regulatory and an insurance role. There were failures and there were problems from the point of view of both the builders and the consumers.

Builders often complained that they were not given a fair shake by the corporation. Sometimes payments were made to consumers without proper and appropriate discussion with the builders. The result was that after money was paid out to consumers from the fund, the corporation would then seek to recover it from the builders. Often the builders were surprised that they were suddenly being asked to pay this money. On the other hand, consumers argued, quite properly, that they regularly did not get access to the funds, which were almost guarded by officers of the Building Services Corporation as if they were their own funds. There were problems with that scheme. But this scheme has been an unmitigated disaster. It has been a Faye Lo Po' special, much like she has managed to do with the Department of Community Services. She moved on from this disaster to create a new one.

This bill is a total let-down for builders and for consumers. In that sense, it is consistent with what has gone on in recent years. I am appalled at some of the provisions contained in the bill. For example, the bill provides that home building insurance contracts may limit liability for non-completion of building work to 20 per cent of the contract price or the work. Honourable members should think about what that means for consumers. This is a sop to the remaining few insurers just to keep them in the marketplace. They only stay in the market by the skin of their teeth and are certainly not interested in the consumers. The usual problem that occurs with a building contract is when a builder fails or when the work is not being done appropriately. Under the current scheme, consumers then instigate a claim to one of the private insurers. When and if the matter is dealt with and concluded, it may be necessary for the consumers to get another builder to do the work. Consumers often find that they cannot get another builder to give a quote for the work. If they manage to get a quote, they rarely manage to get a quote for the same amount that was reflected in the original contract.

In other words, if they had a contract worth \$100,000 and \$40,000 of the work has been done, they still have \$60,000 worth of work to go. It is not a simple matter of getting another builder to do the balance of the work for \$60,000. The new builder builds in a factor, usually a substantial factor because he is involved in what is already a tortured situation, and often that \$60,000 worth of work turns into \$100,000 or \$120,000 worth of work. It is farcical that this bill provides that consumers will get only 20 per cent of the contract price. Consumers are not being considered at all in the formula. The Government has failed to look at the regulatory side. That is the key in the sense that poor builders who continue in the industry damage the industry for good builders. Builders of long repute and young builders who want to get into the industry will find that this bill will not markedly improve the situation. This bill is simply aimed at holding existing builders and the three remaining insurers—Royal Sun Alliance, Renewal and Dexta—for a short period of time. It is not an answer. It is a half-baked attempt to glue together a system that is in total chaos.

I shall recount a problem experienced by a couple of my constituents. They had a Henley Home built under a contract worth \$130,000. When it was almost completed they discovered huge cracks in the slab. They made an application to their insurer, who told them that before it would even consider their application they had to get an engineer's report. The engineer's report cost them the best part of \$10,000. Before they could even make a claim, it cost them 8 per cent on top of the contract. They wrongly thought that because they made an application to the insurer that the Department of Fair Trading would make a regulatory review of the builder's licence. It was only when they came to my office that we were able to clarify that the Department of Fair Trading was not doing anything about the builder's licence.

Henley Homes is famous for its incompetence. I believe it is now out of the New South Wales market. Although Henley Homes was a known disaster in the marketplace, the Department of Fair Trading was reluctant to bring regulatory proceedings against it. The current regulatory system is appalling. Yet this bill will do absolutely nothing to change that regulatory area. It will not help consumers by dealing more appropriately with builders so that good builders survive and bad builders are taken out of the equation. This bill is a continuation of the Government's failure. The Minister for Fair Trading is following in the footsteps of his predecessor, the current Minister for Community Services. She has gone from mucking up the consumer affairs portfolio to mucking up the Community Services portfolio. The Minister for Fair Trading has come from the Education portfolio to consumer affairs and has mucked up both. Unfortunately, the Ministers who have had responsibility for this legislation, whilst they are individually nice people, are totally incompetent in their portfolios.

Mr Aquilina: Don't be so patronising.

Mr HAZZARD: The Minister tells me not to be patronising. I do not wish to be patronising. I would like to say good things about him in a personal sense, but he is not doing a good job in the management of his portfolio, and he knows it. This is a half-baked bill that goes nowhere. As the Leader of the Opposition said earlier, it is a sad situation. It is a sad situation that the Minister cannot resolve it; it is a sad situation that the Minister for Community Services started it. We do not want consumers or builders to be left with this bill. We ask the Minister to get back to the drawing board and come up with a better scheme.

Mr AQUILINA (Riverstone—Minister for Land and Water Conservation, and Minister for Fair Trading) [11.09 p.m.], in reply: I thank all honourable members, both Government and Opposition, for their support for this legislation. It needs to be placed on the record that the Government is moving this legislation and the Opposition is firmly in support of it—although one might think otherwise after listening to the many comments that have been made tonight by various members of the Opposition. Curiously, one member of the Opposition has not contributed to this debate—the honourable member for Gosford. I find that curious because I thought his contribution in support of the legislation would have been the most genuine of all contributions from

members opposite. On radio 2GO on 17 April he could not wait to swallow his corn flakes before commending the Government for what it was doing with this legislation. At 8.00 a.m. on 17 April on 2GO radio news, the honourable member for Gosford said:

The building industry is vital to the Central Coast. It's one of our major industries. And I welcome the decision by the government to provide some temporary assistance for builders and for consumers until more insurance can be brought back into the marketplace.

They are words spoken from the heart. They are words of great import, words that mean what they say, unlike many of the so-called pious comments we heard tonight. Many members opposite decided to give a history lesson on this topic. They made a somewhat blinkered attempt to recount what occurred in relation to home warranty insurance in this State. Having been a former history teacher I am well used to marking thousands of history papers in which young people—the honourable member for East Hills, also a former history teacher, is nodding—try to put forward a certain position and conveniently ignore relevant history and simply make points they think will support their views.

In this instance, members opposite rounded quite suddenly on the Minister for Community Services for her former role as Minister for Fair Trading in 1996. For the most part they neglected to say that it was the 1993 Dodd inquiry into the Building Services Corporation—the old government-backed scheme—which was initiated by the Fahey Coalition, that did away with the Building Services Corporation and led to the 1996 legislation. That inquiry found that the Building Services Corporation was in a no-win situation. Its role as both a third party expert in evaluating the cause and effect of damage and as an insurer was clearly a problem.

The Dodd report recommended a private sector insurance market. Let us remember the real facts. It was the Fahey Government that initiated the Dodd inquiry. It was the Fahey Government whose inquiry recommended a private sector insurance market in building operations. On 4 May 1994—curiously, before the election of the Carr Government—the Hon. Wendy Machin, then Minister for Consumer Affairs, long before the Hon. Faye Lo Po', said in relation to the Building Services Corporation:

Very few people in responding to the Dodd report raised strong objections to the private sector taking over this role, provided consumers were treated fairly by any new arrangements.

When the bill was introduced in 1996, there was bipartisan support. The Opposition supported the legislation. Now, with hindsight, six years later, members of the Opposition are saying they did a bad thing in supporting it on that occasion and in recommending, when they were in government, that the Building Services Corporation be done away with and that home warranty insurance go to the private sector. As may be expected, their attempts to provide a blinkered account of the history of this matter have backfired because there are those of us who do more thorough research and provide full histories, as is warranted in this case. We are attempting to provide the full story. The Opposition says it supports the legislation, but that it falls very short of what is required.

Mr Ashton: That is easy.

Mr AQUILINA: As the honourable member for East Hills just interjected, that is very easy to do. As always and as is typical, the Opposition is high on rhetoric but short on ideas and policy. It has squibbed out, saying that it will wait until the bill gets to the upper House before moving amendments. If the Opposition has a genuine alternative to the measures outlined in the bill, it should be honest and declare the details now. The truth is that it has no details and no understanding. All that members opposite have done today is to criticise, to nark, and to say they will not oppose the bill but will not really support it. They have no notion of how they would do anything different to rectify the situation.

The Opposition has not done its homework, it does not understand and it does not have the courage to declare its hand now. It is not helping consumers or builders in this State by not opposing, but at the same time criticising. It is a weak response. The Opposition is saying that the Government is negotiating with the insurers, that it is in the pocket of the insurers and that it is doing everything it can to make sure that the insurers survive, and that it has not consulted with consumers. Again, the Opposition is wrong. Again, it has a blinkered vision. The Opposition likes to look at things out of context, to look at individual matters rather than at the total picture.

I refer the Opposition to a number of things the Government has already done to assist consumers and builders. The Home Building Legislation Amendment Act was assented to on 17 July last year. The reforms contained in that Act significantly improved the level of protection for consumers. Those reforms were achieved by tightening the licensing system to exclude insolvent and unscrupulous traders, by speeding up the process for disqualifying incompetent or unfit persons, and by increasing penalties for unlicensed and uninsured work and for other offences.

The reforms also made the insurance scheme fairer and more accountable and established an early intervention dispute resolution system. Consumer awareness of remedies available when things go wrong was also raised by these reforms. To top it off, earlier this year the Opposition had the hide to make reference to the Victorian reforms, which were catching up to the New South Wales reforms of July last year. Again, this is a warped vision, a warped sense of history and a warped presentation from the Opposition, who once again purport to support this legislation but do only with so much criticism—criticism that is baseless. That is what the Government has done to support consumers.

In relation to builders, I refer the Opposition to various products that I introduced on 19 December last year. I introduced, for example, Builder Assist to help builders who were having problems obtaining home warranty insurance. That came out of my consultation with the building industry. Builder Assist was based on recommendations made by builders themselves. It related to the small number of builders struggling to get home warranty insurance in the wake of the collapse of HIH. The scheme was a practical way to help builders obtain the insurance they need to get on with the job. Financial advisers were chosen to work alongside builders to help them present their financial position to the insurance companies in the necessary format. That scheme was of great assistance and at the time the insurance industry complimented the Government on introducing that initiative. Also, the Government introduced Rapid Access Warranty, which was of benefit to sole traders and partnerships with a turnover of up to \$1 million. This enabled those people to obtain insurance, in some cases within 24 hours—half of the Leader of the Opposition's much-acclaimed 48 hours.

A number of Opposition speakers referred to the difficulties experienced by young people wishing to get into the game. In my former position as the Minister for Education and Training I was at a loss to make sufficient positions available for the apprentice carpenters and builders who were graduating and wishing to join the rapidly increasing building industry. However, the Opposition now claims that young builders are now finding it difficult to get into the market and that the Government did nothing for them. On 19 December I introduced the New Builder Access program, which provided a pathway for young builders entering the industry. By using the New Builder Access facilities, builders could obtain fast insurance approvals on a project-by-project basis. This meant that younger builders did not need large sums of capital to get a foothold in the industry. Again I commend HIA Insurance Services, part of Aon Risk Services Australia Ltd, for developing these products in response to the industry's needs.

The Government recognises a problem, consults with the people concerned, accepts suggestions and acts to bring about resolution to the problem, such as this legislation. The Leader of the Opposition and other Opposition members referred to the Government's gall in ensuring that builders of high-rise buildings were able to keep taking out insurance. Reference was made to the fact that the Government was using government money as a backup, reinsurance for insurance companies in relation to high-rise buildings. Indeed, they made a number of comments concerning the Building Insurers Guarantee Corporation. The Leader of the Opposition said this was a way for the State Government to leave the State open to a liability of something like \$600 million—a possible \$600 million blow-out.

Oppositions are want to indulge in hyperbole. I know that, because I was a shadow Minister for seven years. I suppose it is excusable from time to time, but it is ridiculous to suggest a \$600 million liability for a period of only two or three months. I notice that the honourable member for Vacluse is looking at me somewhat askance. I put his quizzical mind to rest. Actuarial advice provided to the Government by PricewaterhouseCoopers indicates that the total estimated liability to which the Government will be exposed for the two-month period is, in fact, less than \$2 million. So much for \$600 million! Not only are Opposition members no good at history, they are no good at maths as well. They do not know much about numbers.

This \$200 million provides reinsurance to both Dexta and Royal and Sun Alliance. This exposure represents approximately 25 per cent of low-rise development and 100 per cent of high-rise development. I am pleased to advise that the same actuarial advice concludes that this liability should be offset by the premiums that are to be received by the Government in its role as a reinsurer. The alternative that the Opposition wanted the Government to introduce is to leave high-rise builders uninsured. Those who will potentially suffer as a result of that will be consumer and builders. In my discussions with builders—unlike the hypothetical builders of the Opposition—I was told in no uncertain terms that builders wanted to ensure that the insurers of high-rise buildings remain in the game. They want the security of being able to carry on with high-rise buildings knowing they are covered and that the people for whom they are building are also covered.

None of the arguments put forward by the Opposition have any relevance or carry any weight. That includes the arguments of the Leader of the Opposition—who made a poor contribution and posed two

rhetorical questions—the honourable member for Vacluse, who led for the Opposition, and other Opposition members. Their comments suggesting that the Government did not consult with consumers are false. The Government has consulted extensively and developed proposals to help consumers. It has consulted with builders and come up with real propositions. Indeed, as long ago as July last year the Government introduced legislation that was of great assistance to consumers.

In relation to the home building industry, I conclude by stating that the Opposition always takes great delight in talking down the New South Wales economy. Listening to them tonight one would think that New South Wales is in the depths of depression and that no building is taking place. However, the record shows the building in New South Wales is at the highest level it has ever been. New South Wales has more than 30,000 builders. In fact, we do not have enough builders to cope with the demand for all the buildings we need in New South Wales because of the great show of confidence in our economy and in the management of New South Wales generally. Let us not, like the Leader of the Opposition and the Opposition generally, talk down the economy. Let us continue to introduce the sort of far-sighted and important assistance to builders and consumers that this legislation provides.

Motion agreed to.

Bill read a second time and passed through remaining stages.

**LEGAL PROFESSION AMENDMENT
(NATIONAL COMPETITION POLICY REVIEW) BILL**

Second Reading

Debate resumed from 10 April.

Mr HARTCHER (Gosford—Deputy Leader of the Opposition) [11.29 p.m.]: The Opposition does not oppose this legislation. Along with medicine, science, veterinary practice, architecture and teaching, the legal profession in New South Wales is one of the great professions. The legal profession has long been in the service of this State, and it has a proud record of service. Sadly, in recent times the Premier has sought to denigrate the legal profession by constantly repeating comments, both in and outside the Parliament, in which he essentially blames lawyers for the insurance difficulties the community is now facing.

It is clear that insurance premiums are too high and that there is too much litigation in our society. However, these matters are not the fault of lawyers, who simply seek to serve the community. Lawyer bashing is not the answer to the problems the community faces. The Premier is aware of that, but he takes a simplistic and populist line to problems. He finds it easier simply to put the boot into the legal profession. Responsible citizens in our society would acknowledge the role that lawyers play. The Law Society motto, "Omnium Jura Defendimus"—we defend the rights of all—is a proud motto to which lawyers by and large have overwhelmingly adhered.

This legislation is part of the National Competition Policy designed to open the New South Wales legal profession to all of Australia. Australia is walking away from the historical fragmented legal profession that is a hangover from colonial days, when each State had a separate legal system. While the States will continue to regulate their legal systems, the interstate movement of lawyers is facilitated, and lawyers will play a role on a national stage, rather than the previous State stage. An article in the *Australian Financial Review* of 9 March 2002, under the headline "Legal profession to start falling into line", reported:

The Federal Attorney-General, Mr Daryl Williams, said the agreement would "significantly enhance the ability of Australian law firms to compete on a national and international basis and to market themselves to international companies looking to invest in Australia".

The different state-based regulatory regimes made running legal businesses in other states "complicated and unwieldy", he said.

The New South Wales Coalition does not oppose these reforms, which express National Competition Policy and are endorsed by our colleagues in the Federal Government. The bill has a number of other functions. It will separate the regulatory and membership functions of the Law Society and the Bar Association so that membership and practising fees are imposed separately. That clearly opens the way for voluntary membership of the Law Society at a later date. Of course, the Bar Association already has voluntary membership. The bill makes a breach of the newly imposed ban on advertising by solicitors grounds for disciplinary action against the barrister or solicitor. It is now accepted, and I think most people in the community would agree, that lawyers' advertisements went too far. Indeed, some lawyers abused their right to advertise.

Whether the ban on advertising is an overreaction remains to be seen, and it will be tested by time. The bill enables the Law Society and the Bar Council to accredit specialist training courses not conducted by them, and it promotes multidisciplinary practice by ensuring that barristers and solicitors can practice in such partnerships. Further, it requires the rules and joint rules of barristers and solicitors to be made available for public comment before they are made. These are significant changes to the legal system. At one time these changes would have been seen as revolutionary. Indeed, they would not have been envisaged some 10 to 15 years ago. However, legal practice, like so many other areas of practice, has moved on. The global economy is upon us, information technology has changed much of the way vocational practice is conducted, and the regulatory process needs to keep pace with that.

Accordingly, the Opposition will closely monitor the impact of this legislation. We invite parties or persons who are concerned about its implementation to feel free to contact us, and we will take up their concerns. As I have said in this House on a number of previous occasions, essentially, we are conscious of the need for the legal profession to operate on a national basis, and the Opposition supports that. However, I close by putting in a word for the many thousands of good solicitors and the many hundreds, if not thousands, of good barristers in this State who work hard at their job, are responsible members of the community and do not merit the lawyer bashing in which the Premier has indulged in recent days. As I said, the insurance crisis is not the responsibility of lawyers. We do not deny that some lawyers have acted in a greedy way but the majority of them have not, and the Premier's remarks have, on many occasions, been intemperate and unjustified. With those remarks, I conclude my comment on the bill.

Mr ASHTON (East Hills) [11.36 p.m.]: The Legal Profession Amendment (National Competition Policy Review) Bill makes important reforms to the regulation of the legal profession. The bill gives effect to recommendations made by the Attorney General's Department in its National Competition Policy review of the Legal Profession Act. It makes important changes that will enhance the accountability of the legal profession and give the public a greater say in regulation of the legal profession. To put it simply, those who are not afraid of being made more accountable will have nothing to fear, and it is good to give the public a greater say in the regulation of the legal profession.

Honourable members will be aware that the day-to-day conduct of the legal profession is largely regulated by practising rules made by the Law Society and the Bar Association. That is fairly traditional historically, as the previous speaker said. The bill introduces a requirement for practising rules made by the Law Society and the Bar Association to be publicly exposed before they are made, and for the Law Society or the Bar Association to consider any comments made about the rules before they are made. The requirement for the rules to be publicly exposed will complement the existing accountability mechanisms in the Act which provide for the Legal Profession Advisory Council to review the rules and for the Legal Services Commissioner to ask the Law Society or the Bar Association to review a rule.

Another key aspect of the bill relates to access to information about disciplinary action that has been taken against a solicitor or a barrister. If a consumer, a potential client, is unhappy with a legal service, he or she can complain to the Legal Services Commissioner. The commissioner can investigate complaints or refer them to the Law Society or the Bar Association for investigation. Following an investigation, a practitioner can be referred to the Administrative Decisions Tribunal. The tribunal can take disciplinary action, including striking off a practitioner, suspending or removing his or her practising certificate, and reprimanding or fining the practitioner. The Law Society Council and the Bar Council can also suspend or cancel the practising certificate of a practitioner.

A potential client who is about to engage a legal practitioner is entitled to know whether that practitioner has been subject to disciplinary action in the past. Honourable members may be aware that late last year the Attorney General released a discussion paper on the complaints and discipline scheme in the Legal Profession Act which asked whether there should be a public register of such action and what information should be included on the register. I understand that the report of the review is being finalised by the department at the moment. However, I can say that there has been general support for the establishment of a public register. Consumers agree that it is vital for information about miscreant legal practitioners to be available in the public domain.

The Government considers that this reform is too important to be delayed and, accordingly, the bill provides for the Legal Services Commissioner to establish a public register of information about disciplinary action being taken against legal practitioners. The Deputy Leader of the Opposition said that there are undoubtedly thousands of good barristers and solicitors but, as in every field, the few bad ones impinge on the reputations of the rest. This register will be readily available on the commissioner's web site, but I am sure that he will provide information by telephone or in writing to any member of the public who does not have access to

the Internet. This amendment will complement the existing accountability mechanisms in the complaints and discipline system and ensure that the rights of the public are protected.

I know of one solicitor in my area who was struck off by the Law Society. He appealed the decision on a technicality and was struck off again. The appeals process continued for a considerable period during which time many people believed he was a practising solicitor and sought his advice. I understand that he is now in the real estate business.

Mr Debus: He will probably run for the Liberal Party at the next election.

Mr ASHTON: I recently read that the son of a former Chief Justice of Australia had been struck off. I trust that this bill will make such occurrences well known in the wider community but generally less likely. Ross Garfield Barwick—I think that is his name—is the son of Garfield Barwick of High Court fame. As the *Sydney Morning Herald* article reported, I am afraid that this son of Sir Garfield Barwick is more likely to be a litigant than a practitioner. He was struck off by the Law Society, after it heard the case for a second time, for "disgraceful and dishonourable behaviour." He was also once a Liberal candidate for the Federal seat of Parramatta.

Mr KERR (Cronulla) [11.42 p.m.]: The Legal Profession Amendment (National Competition Policy Review) Bill contains several features, which the Deputy Leader of the Opposition has outlined. However, in his second reading speech the Attorney General referred only briefly to multidisciplinary practices. It is interesting to note that on 19 February this year the European Court of Justice gave its long-awaited judgment on multidisciplinary practices between accountants and lawyers. The European court had been asked to rule on whether the Dutch Bar Association regulation that prevents lawyers and accountants from setting up integrated firms, or multidisciplinary partnerships, was contrary to European Community competition law.

The request for a preliminary ruling stemmed from a dispute between Price Waterhouse and Arthur Andersen and the Dutch Bar Association. The Amsterdam court that made reference to the European Court of Justice had ruled that such a ban was a restriction on the freedom to provide services but was, however, justified in the public interest. The European Court of Justice held that the Dutch Bar is an association of undertakings and that the prohibition on multidisciplinary partnerships produced "effects restrictive of competition". The rules also affect trade between member states given the nature of cross-border work undertaken by multidisciplinary partnerships. However, the court held that it was nonetheless reasonable for The Netherlands to impose the ban despite the effect that it had on competition because the measures were deemed necessary to the proper practice of the legal profession.

The American Bar Association also commented about this matter in its memorandum of June 1999. We cannot view these matters in purely economic rationalist terms; we must also consider their social impact. The comments of the American Bar Association about the legal profession are applicable to this State and this nation. The memorandum states:

1. The legal profession

The legal profession is a calling in the spirit of a public service. Lawyers are officers of the court in that they participate in the function of administering justice. Therefore, the lawyer has a public character as has the judge. The lawyer is the protector of civil rights and liberties.

2. The ethical duties

The mission of public service confers on the lawyer some prerogatives (e.g. attorney-client privilege) and correlatively imposes on him strict ethical duties beyond those that are imposed on regular citizens ... These ethical duties mould the profession. They make the specificity of lawyers. If such duties were to be abandoned or unduly relaxed, the legal profession would become a mere business, an honest business perhaps, but it would cease to be a profession.

Independence is the quintessence of the profession. All the other ethical duties of the lawyer directly emanate from the primordial right and duty of independence and find their efficient cause in the need to protect such independence.

As the Deputy Leader of the Opposition said, we must supervise closely the effects of this legislation. The American Bar Association mentions four disadvantages of multidisciplinary practices in terms of social consequences. The first of these involves independence. It states:

The crucial feature of the legal profession is the lawyer's independence. The many duties to which the lawyer is subject require his absolute independence, free from all other influence, especially such as may arise from his personal interests or external pressure. Such independence is necessary in the process of justice as is the impartiality of the judge. A lawyer must avoid any impairment of his independence and be careful not to compromise his professional standards in order to please his client, the court or third parties.

What must be protected is the absolute independence of the lawyer, not only independence of judgment but also professional freedom ...

The lawyer, therefore, needs to be in command of his law firm and no third party should be allowed to dominate or have any determining influence on the advice its lawyers give to clients. The independence of the lawyer, then is the crucial point in determining whether or not MDPs between lawyers and accountants should be permitted.

The direct or indirect control of the law firm, the control of lawyers' activities and the control of lawyers' work and judgment exercised by non-lawyers is contrary to the independence of lawyers.

The second area is client choice. The association states:

Clients should be guaranteed a genuinely free choice of legal adviser. Clients' free choice would be jeopardised by MDPs marketing "packaged services". Were MDPs to be permitted, the trend would undoubtedly be towards the MDP endeavouring to monopolise legal and financial advice as well as the auditing of a given client ... This may eventually place the client in a state of dependency on the MDP, especially if the "package" includes auditing.. changing auditors is a most serious move, apt to alarm creditors.

I expect that the honourable member for East Hills is concerned about these issues. I am sure that he will be even more concerned about the last two matters that I shall mention. With regard to legal privilege the association states:

Attorney-client privilege ... is one of the pillars of democracy. It is the primary and fundamental right and duty of the lawyer. Lawyers obtain from their clients information which they have a duty to keep confidential. The other professions do not have the same concept or the same duty of confidentiality. MDPs put this fundamental concept in jeopardy since "Chinese walls" are often a deceptive concept used to defend an insurmountable obstacle.

The final matter is conflict of interest, about which the association states:

Both the accountant and the lawyer must be independent. But the accountant must also be impartial, like a judge (the accountant is the judge of the accounts), while the lawyer in essence is partial (a defender or adviser of one party). The two of them working in association, i.e. becoming a single-advisor entity, they could not carry out such conflicting functions.

It is important to emphasise that what is at stake is not a pure fight for the domination of the market as some media have suggested, but the protection of clients' interests, the ethical values of the profession and the judicial system.

We must guard against these dangers. The public interest will not be served unless Parliament acts as a guardian and ensures that adequate supervision is undertaken when this bill is enacted.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [11.50 p.m.], in reply: Apart from thanking those honourable members who have taken part in this debate, I should like to make two remarks in response to propositions put forward by those opposite. I would reply to the proposition put by the Deputy Leader of the Opposition concerning the Premier's attitude to lawyers by reminding him that on a number of occasions, both in this Chamber and outside, the Premier has gone out of his way to thank the Law Society, the Bar Association and, indeed, the great majority of lawyers for their constructive approach to the resolution of the insurance crisis that we all have to deal with at the moment. The only difference is that at this present time the Government is dealing with the crisis with more precision and dispatch than anyone else. It is seriously misleading for the Deputy Leader of the Opposition to suggest that the Premier is in some fashion or other scapegoating lawyers in regard to this matter. He has, in fact, gone out of his way to avoid doing so.

I would respond to the dissertation of the honourable member for Cronulla by merely emphasising that the solicitors incorporation legislation—that is to say, the legislation that provides for the creation of multidisciplinary practices—goes out of its way to ensure absolutely that the ethical responsibilities of solicitors are maintained in a multidisciplinary practice as if they were in practice before the passage of that legislation. The responsibilities of lawyers under the Legal Profession Act and, indeed, under the broader ethical framework that lawyers share, remain in the new incorporated or the multidisciplinary practices that are increasingly likely to be set up as the profession of the law is harmonised more thoroughly across the State. It is no accident that the administration of the regulators of the legal profession in this State lead the rest of the country, both with respect to the establishment of multidisciplinary practices and the harmonisation of the legal profession across the country.

The Legal Profession Amendment (National Competition Policy Review) Bill will achieve a number of important reforms to help consumers who deal with lawyers and improve the governance of the legal profession. By making membership of the Law Society and the Bar Association truly voluntary, the bill will remove the need for lawyers to pay for services they do not use. The cost savings can be passed on to consumers. I should

say that the Government remains well aware of the problems facing rural practitioners and small firms everywhere. It is equally conscious of the need to ensure that all citizens have access to legal services, whether they live in Sydney or in the regional parts of the State. The Government will, indeed, take steps to ensure that voluntary membership does not have a differential impact on rural practitioners.

The bill provides for regulations to be made to determine which activities are regulatory and subject to a compulsory fee, and which activities are to be covered by the voluntary component of the fee. The Government has not yet reached a concluded view about what activities are regulatory, and which activities are voluntary. However, vital services to regional and rural practitioners are unlikely to be affected by the changes. Services such as the membership department of the Law Society, which deals with the issuing of practising certificates; the Lawyers Assistance program, which provides help for practitioners who are having difficulties with their practice; and the provision of important information to practitioners about statutory and procedural changes are all unlikely to be affected by voluntary membership.

Other services comprise a mixture of regulatory and representational activities, and at least part of the cost of those services will be regulatory. These services include *Law Society online*, which gives all types of information to practitioners and is especially valuable for practitioners who do not practise in urban areas, and the library, which lends material to suburban and country solicitors through the DX system. I assure honourable members that I will take special care in the course of the implementation of these reforms to ensure that rural practitioners are not adversely affected by voluntary membership.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES AMENDMENT (BUSHFIRES) BILL

Second Reading

Debate resumed from 12 April.

Mr HARTCHER (Gosford—Deputy Leader of the Opposition) [11.58 p.m.]: The Coalition does not oppose the Crimes Amendment (Bushfires) Bill. The bill creates a new offence under the Crimes Act 1900 of causing a bushfire which will carry a maximum penalty of 14 years imprisonment. The bill specifically excludes firefighters and those acting under their direction. The proposed offence largely results from the recommendations of the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General [SCAG], the horrific Christmas bushfires last summer in New South Wales and the revelation that many of them were deliberately lit. The bill creates a new property offence determined on the basis of recklessness to keep the penalty for causing a bushfire in line with analogous offences. The maximum penalty has been set at 14 years, one year less than the recommendation by the Model Criminal Code.

The bill also provides for the offence to be dealt with summarily unless the prosecutor or the accused has elected to have the matter tried on indictment or by a jury. No reason has been advanced by the Government as to why this separate new statutory offence is necessary. The Crimes Act and the Rural Fires Act already contain provisions in relationship to bushfires. There has been no report that this offence is necessary to fill a gap in the law. The most likely explanation is that the Government wants to be seen to be doing something in reaction to the bushfires of 2001-02. The State had similar bushfires in 1994-95 and there was no belief then or recommendation that action was needed on a statutory basis. The bill creates the penalty of 14 years imprisonment.

How many people will be charged under the new provisions? How many people will get a prison sentence is unknown, but if the present practice of this Government is any indication it will be zero. We do not know how many people have been charged under the existing provisions of the Crimes Act with arson relating to the recent bushfires, because the Government has not released the figures. On 4 April the Government issued a press statement which said that 25 people—21 adults and 4 juveniles—had been charged, but declined to give a breakdown as to whether they were charged under the Crimes Act or the Rural Fires Act.

I would suspect they have all been charged under the Rural Fires Act, that they will be dealt with summarily and that, in all likelihood, none will receive a gaol sentence. It is the consistent policy of the Government, when faced with any crisis, to announce tough law and order measures and then to reflect them in

legislation. The legislation then comes before the Parliament and a long term is specified as the maximum. But no charges are ever laid, the maximum penalty is never sought and no-one ever goes to gaol. This is law and order by press release and, of course, the public are no longer fooled. This bill will not receive any great media attention. It simply comes before the House as a result of a throwaway line by the Premier, who tried to act tough during the bushfire crisis.

The House will remember his wonderful statement about how he was going to rub their noses in it, about how arsonists were all going to have to go to the burns unit and become acquainted with the victims of the bushfires that they caused and that a special regulation was to be introduced to allow that to happen. How many people have had to submit to those penalties and, more importantly, how many have been charged under the Crimes Act with cause those bushfires and how many will go to gaol? The answer is zero. The bill is just another example of the belief of the Government that every problem can be solved by creating a new offence or, if there is already an offence on the books, to simply increase the maximum penalty under the Crimes Act.

The Coalition does not oppose the bill. Why should we? Essentially it will go nowhere. The real challenge is not to write words on paper but to ensure that the laws of the State are upheld, that those who break them are called to account and when they are called to account they face substantial retribution for their crimes. The Government consistently and persistently fails to do that. I draw the attention of the House to the definition of the offence in the bill. New section 203E, which is headed "Offence" provides:

- (1) A person:
 - (a) who intentionally causes a fire, and
 - (b) who is reckless as to the spread of the fire to vegetation on any public land or on any land belonging to another,is guilty of an offence.
- Maximum penalty: Imprisonment for 14 years.

I ask honourable members to think about how wide that is. First, there must be an intention to cause a fire. Someone who wants to burn off some leaves in his back yard and lights a match intentionally causes a fire. He walks away and leaves that fire to burn. It spreads to his next door neighbour's land and burns some of his vegetation or it spreads to public land, which is the road verge in front of his house that is owned by the council. The fire spreads out of his property onto the council land and burns some vegetation there. He is liable under this bill for the fire. The definition could not be wider; it is incredibly wide. The Attorney should look closely at the definition and decide how he will respond to the example I have given. It is the simplest possible example. It could happen anywhere, and it probably does, but technically the bill leaves open the possibility of people being charged with this offence under the Crimes Act and being technically liable for a maximum term of 14 years imprisonment.

If the bill was not intended by the Government to be such a dead letter—in the same way that all the Government's legislation on law and order is intended to be a dead letter—such a widely drafted offence could well be a cause for concern. But a dead letter it will be because no-one will ever be charged with this offence by the Government, in the same way as no-one is ever charged with the more serious offences by the Government. If, heaven forbid, anyone should actually be brought before a court they would receive a substantial penalty, and the Attorney General would never appeal to the Court of Criminal Appeal to set a heavier sentence. He never appeals to the Court of Criminal Appeal to increase sentences. He hides behind the Director of Public Prosecution [DPP] and refuses to exercise his own statutory power, which is granted to him by law, to appeal to the Court of Criminal Appeal when sentences are inadequate. He has not done so and he seems to take some pride in his failure to protect the public—

Mr Debus: Neither has anyone who has ever occupied this office.

Mr HARTCHER: But they will. When a change of Government comes in 2003 Mr Cowdery is on notice that the Attorney General will. The Premier is not addressing the law and order needs of this State by this legislation. The Attorney General needs to look at the extraordinarily wide drafting of the offence. The Coalition do not oppose legislation. Let it go forward. Let those who commit these serious offences be brought before the courts. Let them be detected and charged. Let them be sent to gaol. People who light bushfires deserve to go to gaol, especially people who light bushfires at times of high crisis, as we experienced in the past Christmas-New Year period. We will do it what the Government will not do, and that is only one of the many wedge differences between us and the Government in the lead-up to the 2003 general election.

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [12.05 a.m.], in reply: Leaving aside the strange maunderings of the honourable member for Gosford concerning the role of the Director of Public Prosecutions [DPP] and the Attorney General, I simply draw attention to the fact that the purpose of this bill is to amend the Crimes Act 1900 to create a new offence of causing a fire intending it to spread or being reckless as to its spread to vegetation on any public land or land belonging to another. The extraordinary bushfires that threatened Sydney and other parts of the State in December and January provided us with a stark reminder that the threat of bushfire can never be underestimated.

The work of our world-class volunteers will never be forgotten, but this amendment specifically focuses on the single offence of lighting such bushfires. In so doing it works to positively contribute to the level of safety afforded to our community in the future. Contrary to the extraordinarily uninformed claims of the honourable member for Gosford a few moments ago, a number of people have been charged with serious arson offences in recent times. People have been identified by Task Force Tronto and charged with the serious offence of arson under the Bushfire Act. They have not been charged, of course, under the provision that we are discussing here because it has not yet been passed, but the Crimes Act is certainly used in cases of serious serial arson offenders. As I have said several were charged in recent weeks following investigations by Task Force Tronto.

This new provision complements the existing framework of arson-related provisions under the law of New South Wales. So that we can be left in no doubt as to the inaccuracy of the remarks of the honourable member who recently spoke I point out that there is an offence of leaving an open fire without thorough extinguishment under section 100 (2) of the Rural Fires Act which carries a maximum sentence of one year under the Rural Fires Act. The offence of setting fire to land or property of another, or permitting fire to escape from land where damage is likely to be caused under section 100 (1) of the Rural Fires Act carries a penalty of five years. The offence of recklessly or maliciously causing damage to property by fire under section 195 (2) of the Crimes Act carries a penalty of 10 years imprisonment. The offence of recklessly or maliciously damaging property by fire with intent to injure or defraud under sections 196 (2) and 197 (2) of the Crimes Act carries a penalty of 14 years imprisonment.

The offence that we are now creating will apply to those who recklessly cause fire and who are reckless as to the likelihood of it spreading to vegetation. Finally, under sections 198 and 203 of the Crimes Act, a maximum sentence of 25 years can be imposed for property damage amounting to sabotage or endangerment of human life. In other words, the new offence complements others that already exist in both the Rural Fires Act and the Crimes Act and completes, as it were, a comprehensive suite of offences that may result in charges across the whole range of arson. The danger to life and property that a bushfire represents in this country means that the offence should be seen to be a special aggravated form of damage to property. Of course, if buildings or other property are damaged as a result of the spread of such a fire, that damage can be taken into account in sentencing. Where appropriate, additional charges may be laid relating to the additional damage. The offence—again contrary to the remarks apparently made by the honourable member for Gosford—does contain appropriate safeguards. It requires that the person causing the fire was aware of the possibility of the fire spreading to public land or property owned by another.

That, practically, means that fires lit by landowners on their own land will not fall within the scope of the offence unless there is the possibility that the fire could spread beyond the boundary of their land. On the other hand, a firebug lighting an uncontrolled fire on public land such as a national park will immediately come within the scope of the new offence. Further, in some circumstances lighting a fire which may possibly spread to another's land or to public land is clearly for a justified reason, such as when firefighters carry out bush fire fighting or hazard reduction operations under proper directions. In recognition of that circumstance, a specific exemption from prosecution for such persons is included in the new provision.

It appears that the honourable member for Gosford did not understand that, but it is so. This exemption will guarantee the ability of our front-line firefighters to continue to do their essential and often life-saving work. Here we are dealing with a new serious offence aimed at both deterring and preventing those who would otherwise be minded to light bushfires. The offence attracts a maximum penalty of 14 years imprisonment, and as such it should be seen as a very clear expression of the community's firm opinion concerning those who deliberately light bushfires. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

The House adjourned at 12.10 a.m., Thursday.
