

LEGISLATIVE COUNCIL

Wednesday 24 October 2001

The President (The Hon. Dr Meredith Burgmann) took the chair at 11.00 a.m.

The President offered the Prayers.

DEPUTY GOVERNMENT WHIP

The PRESIDENT: I inform the House that on Tuesday 23 October 2001 the Hon. Amanda Fazio was elected to the position of Deputy Government Whip.

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. Michael Egan agreed to:

That on Thursday 25 October 2001 General Business take precedence of Government Business until 5.00 p.m.

WELLINGTON LOCAL ABORIGINAL LAND COUNCIL

Report of Independent Arbiter

Motion by the Hon. Richard Jones agreed to:

1. That the report of the Independent Legal Arbiter, Sir Laurence Street, dated 17 October 2001, on the disputed claim of privilege on papers on the Wellington Local Aboriginal Land Council, be laid upon the table by the Clerk.
2. That, on tabling, the report is authorised to be published.

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Reporting Date

Motion by Reverend the Hon. Fred Nile agreed to:

That the reporting date for the Standing Committee on Parliamentary Privilege and Ethics inquiry into the report of General Purpose Standing Committee No. 3 entitled "Special report on possible breaches of privilege arising from the inquiry into Cabramatta policing" be extended to 15 November 2001.

STANDING COMMITTEE ON STATE DEVELOPMENT

Report

The Hon. Tony Kelly, as Chairman, tabled report No. 24 entitled "Genetically Modified Food—Interim Report (Issues Paper)", dated October 2001.

Ordered to be printed.

The Hon. TONY KELLY [11.07 a.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Tony Kelly.

WELLINGTON LOCAL ABORIGINAL LAND COUNCIL

Return to Order

The Clerk tabled the report of the Independent Legal Arbiter, Sir Laurence Street, dated 17 October 2001, on the disputed claim of privilege on papers on the Wellington Local Aboriginal Land Council.

PETITIONS

Council Pounds Animal Protection

Petition praying that the House introduce legislation to ensure that high standards of care are provided for all animals held in council pounds, received from **the Hon. Richard Jones**.

Circus Animals

Petition praying for opposition to the suffering of wild animals and their use in circuses, received from **the Hon. Richard Jones**.

Children in Institutions

Petition praying that the House undertake an inquiry into the treatment of all children in institutional care in New South Wales as recommended by the Federal Parliament's August 2001 report into child migration, entitled "Lost Innocents: Righting the Record", received from **the Hon. Richard Jones**.

Wildlife as Pets

Petition praying that the House rejects any proposal to legalise the keeping of native wildlife as pets, received from **the Hon. Richard Jones**.

PASSENGER TRANSPORT ACT: DISALLOWANCE OF PASSENGER TRANSPORT (PRIVATE HIRE VEHICLE SERVICES) REGULATION 2001

Debate resumed from 17 October.

The Hon. MALCOLM JONES [11.10 a.m.]: I adjourned the debate on the disallowance of the Passenger Transport (Private Hire Vehicle Services) Regulation last Wednesday to enable the Minister for Transport, and Minister for Roads to reconsider the issues relating to the hire car industry and to come up with an appropriate formula or suggestion to assist people who are adversely affected by this regulation. From yesterday's meeting with the Government and from my subsequent discussions with the Minister's staff, the Minister does not wish to address this issue. He has the same attitude to this issue as he had to the M5. I support the disallowance motion.

The Hon. PETER BREEN [11.11 a.m.]: I take this opportunity to offer my support to people in the hire car industry who have outlaid substantial amounts of money for their licence plates and now find their investment undermined by the Government. I have always been a supporter of just terms compensation when the Government takes unilateral action against private industry, particularly small business operators. I refer to a letter dated 28 September from Antonio Princi of St. Ives to Minister Carl Scully. He said:

I Antonio Princi owner operator just starting out in this new business am seriously affected by this decision. The state Governments decision to halve short term licence fees will reduce value of hire car plates adversely affecting me. I am devastated at this.

Mid March I purchased a Hire Car Plate and paid \$138000—with stamp duty. I purchased this as an investment. I had to borrow money from the bank and now have a mortgage of \$135000—Per month I have to pay \$1213—I also purchased a new car costing \$50414—on Corporate Hire Purchase and paying \$987—per month. Added expense is also petrol costing \$800—per month and any other expenses incurred.

In a letter dated 21 October Jan and John Edwards of Kenthurst wrote:

Why does Mr C Scully and the Labor Party of NSW want to destroy our financial security?

We can't get an answer! Perhaps you can help us ...

If you support the Opposition in their attempts to debate the Disallowance, Mr Scully may be forced to give us his reasons.

My reaction to that letter is to say that getting reasons from Minister Scully is like extracting teeth. I asked him about filtration in the cross-city tunnel and he referred me to the Minister for Urban Affairs and Planning, Andrew Refshauge. Whenever I ask him about filtering the M5 East emission stack he has a conniption. Of all the Ministers in the Carr Government, Minister Scully is the most obstinate in my opinion, and the present

disallowance motion is directly attributable to his obstinacy and his hardline approach to his portfolio. He was supposed to brief the crossbench yesterday on the issue, but he just happened to be out of the State. As if his diary has not been planned months ahead!

I am no expert in the car hire business, but from my personal observation the industry appears to be operating quite well. Every weekend I see hire cars in the city—they are a treat. Vintage cars, stretch limousines and old Rolls Royces seem to work happily together. Why does the Government want to upset the apple cart in an industry that operates efficiently? More to the point, why does the Government want to interfere in the market for licence plates? What concerns me most is that the Government will do to the hire car industry what it has done to the taxi industry—namely, flood the market with plates and cause chaos. I am told that the value of a taxi licence has dropped \$25,000 since the events in the United States of America on 11 September. As a result, we can expect further pressure on taxi drivers, who already drive like lunatics in my experience. Like taxis, hire cars will become more and more dilapidated as people struggle to recover their investments. The Government needs to talk with the people affected by this regulation.

I have also received letters from Glen Kachel of Maroubra, Roy and Helen Easton of Copacabana, Michael Parsons of Hunters Hill, Adel Eldahaby and Salma Ibrahim of Eastlakes, Sammy Dawood of Quakers Hill and many other people—they are too numerous to list. I have also received a submission from the Motor Traders Association, which I understand is the peak body for the car hire industry. These people have substantial investments in their licence plates and many of them will face bankruptcy if the Government acts in the way it has proposed. I urge honourable members to support the disallowance motion.

The PRESIDENT: Order! Members wishing to contribute to debate should, at the appropriate time, stand and actually seek the call. Often it is not clear to the Chair, with a number of members walking about the Chamber at any one time, whether those members are rising to seek the call or are simply leaving the Chamber.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.16 a.m.]: The Passenger Transport (Private Hire Vehicle Services) Regulation was made under section 63 of the Passenger Transport Act 1990. This debate is about the merits of disallowing this regulation. It goes beyond what is happening in the hire car industry. It is about due process for government dealing with a variety of interests that exist in New South Wales. This regulation implements several recommendations as outlined in the final report of the Independent Pricing and Regulatory Tribunal [IPART] into the review of the taxicab and hire car industries. The report argued:

... restricting the number of taxi and hire car licences does not appear to generate any significant benefits for passengers, drivers or anyone working in the industries other than the licence owners.

It must be acknowledged that cartels of monopolies can exploit their market position and provide no benefit to consumers or the economy as a whole. An increase in the number of hire car licences in Sydney, and other regulatory reforms as proposed in this regulation, would go some way to decrease waiting times during taxi changeover periods, increase transport to and from the airport, and offer a wide variety of transport options to consumers. The principal recommendation made by the IPART report in relation to fees for hire car licences is:

Hire car licences should be issued to any person who can satisfy the quality-based entry requirements ... all hire car business should operate under the same licence conditions.

Further, IPART recommended that the price structure for hire car plates should be:

... reduced to an amount which reflects only the sum of administrative and compliance costs associated with the industry.

Hire care services offer a premium product which prices them out of the range of most people. Legislation prohibits them to obtain customers off the street or taxi ranks, so their share of the market is minimal. The IPART report noted:

... the current constraint on the supply of licences in the hire car industry has stifled innovation and the development of new market opportunities ...

If hire car operators succeed in establishing themselves in market segments currently serviced by taxis, this will free up capacity within the existing supply of taxis.

The Australian Democrats support most of this regulation. However, part 5, section 38, refers to reduced fees for licences. It states:

The Director-General, in accordance with section 39I (2) of the Act, may fix a licence fee at less than the current value of the licence on the open market or may decide not to impose a licence fee for the licence in circumstances where, in the opinion of the Director-General, the service concerned would for economic or other reasons be unlikely to be provided if the full licence fee were to be imposed.

That does not reflect recommendations made by the IPART report. The current unrestricted annual fee is \$16,000 per annum and some perpetual licences have been auctioned at \$150,000. Some people have mortgaged their homes and put a substantial amount of money into this investment. I have received a lot of correspondence from people who said that they would be financially devastated if this regulation is permitted in its current form. We are seeking a commitment from the Minister that he will go back to the drawing board, negotiate with stakeholders and provide a better outcome for those who have been affected. In fairness to the Minister, I have received advice from his staff that some compensation will be negotiated. As pointed out by the Minister's staff, it might well be that some of these licences were issued at no cost. However, those licences now have a value. It is not enough simply for ministerial staff to state, "These licences were issued without cost. They have no value and we have no obligation."

People have speculated in licences. It is not the job of the Government to pick up the tab for profits made by people who have invested in licence plates any more than it is the job of the Government to guarantee the profits made by people who have invested in the stock market. However, there are those who genuinely believed that this was sound financial investment based on precedent. Because the Government did not indicate what was likely to happen in the future, those people have been seriously disadvantaged. The Minister, who arranged an interview with members on the crossbenches on Tuesday, was not even in the State on that day. That somewhat cavalier approach by the Minister might not result in members on the crossbenches voting against this disallowance motion. The Minister's staff came up with a proposal to establish a committee to look at hardship cases. However, we need a little more detail before we are able to vote against this disallowance motion.

The Minister, who tends to go out on a limb, said to members on the crossbenches, "If you do not support this regulation the system will collapse and industry will be disadvantaged. You either take the whole package or you get nothing." Effectively, members on the crossbenches, who are practising brinkmanship, are being told by the Government, "Either you give us the whole regulation with the bits that you do not like, or there will be chaos and it will be your fault." As this has happened on a number of occasions it has made me wonder whether the procedure for the disallowance of regulations should be changed. If proposed regulations are disallowed we must be able to revert to previous regulations. Our regulatory system appears to have worked in the past. I note that the new regulation appears to contain many of the provisions contained in the old regulation. I am not persuaded to vote with the Government on this issue. The Government must do more than simply give members on the crossbenches bland assurances. So far that is all that we have received. If the Government wants the support of members on the crossbenches in relation to this motion it must tell us how it proposes to address this drop in licence fees.

The Hon. Dr PETER WONG [11.23 a.m.]: I support the disallowance motion moved by the Opposition. I believe that the deregulation of the hire car industry is ideology driven. As the Hon. Peter Breen said, the Government has not consulted most of the stakeholders involved to this issue. Independent members have received many letters of complaint. The Government must look at this issue fairly and compensate those unfortunate people who bought licences at a high price. This regulation must go back to the drawing board. Until that occurs it cannot be fully debated in this House.

The Hon. HELEN SHAM-HO [11.24 a.m.]: Earlier I was not certain whether to support the motion moved by the Opposition to disallow the Passenger Transport (Private Hire Vehicle Services) Regulation 2001. However, I am now inclined to support the motion because I have received numerous letters of complaint from my constituents. Last week I received a briefing from the Motor Traders Association of New South Wales [MTA] and yesterday I received additional letters of complaint. I was surprised when the Opposition moved this disallowance motion. As a matter of principle, I agree with the Minister for Transport, and Minister for Roads that this industry should be deregulated—a recommendation made in the report of the Independent Pricing and Regulatory Tribunal [IPART]. However, the way in which that is occurring is a problem. As was said earlier, industry was more than content with the progress that was being made in this regard. Industry is objecting to the fact that the regulation has been changed, which is why this disallowance motion has been moved. I take this opportunity to place on record what Jim Gibbons, Executive Director of the Motor Traders Association of New South Wales, said in his letter to me about the New South Wales hire car industry. He said:

- MTA supports the deregulation of so-called wedding cars and school formal cars;
- MTA concurs with the IPART that, without the maintenance of high vehicle and service standards within the hire car industry, there will effectively be de-regulation of entry into the taxi industry and this is agreed by all to be an desirable result;
- Although not MTA's preferred result, the Association has contemplated that de-regulation will proceed and has advocated that if that were to be the case, then proper compensation needed to be made based on values existing before the IPART recommendations were released.

I agree that there should be proper compensation. All those who have contributed in debate on this motion are agreed on one point: proper compensation. Fair compensation must be paid. I place on record another letter from one of my constituents. It is not my intention to read all the letters that I have received from my constituents, but I received this letter only yesterday. This letter, which clearly sets out how most people feel about the deregulation of hire car plates, was written by Glen Kachel, on behalf of his wife. Among other things he is asking for my help to alleviate these problems. I certainly want to help my constituents. After all, that is the purpose for which I have been elected. Glen Kachel states, in part:

The DOT—

the Department of Transport—

reduced the fees for a Hire Car licence to \$8,235 per year, thereby effectively deregulating the industry, despite the NSW Government's claim to the contrary.

We purchased our plate in 1988 and operated it ourselves for a number of years before leasing it out. The plate was acquired with the idea that it would form a substantial part of our superannuation and that plan had been working well up until now. We are self funded retirees aged 66 and 69 respectively.

Added to this problem is the fact that the Government does not pay GST on those lease fees, as we do, and therefore have an unfair trading advantage as well.

Apart from more than halving the funds generated from the lease, our capital investment has also been slashed by this NSW Government led bureaucratic action.

The NSW Government has, in our opinion, a moral obligation to adequately and comprehensively compensate all unrestricted Hire Car licence holders, because in August and October 1998 there were 20 licences auctioned by them and almost \$3 million was realised from those sales.

The Hon. Richard Jones: They took the money then, didn't they?

The Hon. HELEN SHAM-HO: Yes, they did. That is the immoral part. The letter continues:

We would appreciate your assistance on our behalf and trust this letter might reinforce any approaches you make to the Minister for Transport, to convince him to either reverse this unfair decision or grant adequate compensation to all affected licence holders, as the only just outcome to the predicament which has been thrust upon us.

Mr Kachel has stated his case very clearly and I am very sympathetic to his cause. As I said, I have numerous other letters to that effect. Earlier this morning I told the Minister's adviser that setting up the committee as proposed by the Minister is one way out but it is not what I would like to see. This independent committee is supposed to look at the package of compensation, not just at anything. The committee's brief or reference is to look at adequate compensation. That is fair enough. I support the adjournment of this disallowance motion to give the Minister more time to look at the regulation.

I was told that it takes four months to put another regulation in place. I would like the Minister to tell us if that is true. If this regulation were disallowed today or in the next fortnight, there would be a window of opportunity for other people to come in and wreck the industry. I would like the Minister to clarify why it would take four months to put a regulation in place. I told the adviser that I thought we could legislate within two weeks, because regulations can be legislated. He did not know. But I know that we can legislate anything if Parliament sees fit. Being a lawyer, I know that the Government could have legislation in two weeks. In any case, I will give the Government an opportunity to rectify the situation. I would prefer to make compromises so that everybody can be happy.

Reverend the Hon. FRED NILE [11.32 a.m.]: In a moment I propose to move that debate on the disallowance of the Passenger Transport (Private Hire Vehicle Services) Regulation be adjourned to the next sitting Wednesday. But before I do that I want to ask a couple of questions and raise some points for the benefit of the Minister. It was said that there is no connection between this regulation and the Government's change to the system, which halves the value of licences from \$16,100 per annum to \$8,200 per annum. I understand that this regulation gives the director-general the power to do that. If the regulation were disallowed the director-general would lose the power to do what he has done or would do. So there is a connection between the regulation and the controversial issue relating to the hire car industry. Many members have received correspondence from various individuals. In one letter to the Premier dated 10 September Mr Anthony Willock stated:

I am writing in respect of your governments decision to arbitrarily lower the lease rate for government issued hire car plates from \$16,100 pa to \$8,200 pa. In a single stroke of a pen Carl Scully has destroyed the value of 270 privately held perpetual hire car

plates. I own one such plate which I bought on the open market for \$100k in July 1996. I operated that licence on a vehicle until Dec 2000. I then decided to lease the plate to a small hire car company for \$1,200 a month, which was the going rate. The cost of lease for a government plate was \$1,340 per month. I owe \$62,000 on the plate, borrowed from Esanda. My repayments are \$1,275 per month with 5 years to go on the loan.

Mr Willock stated that because of the Government's decision to deregulate, these hire car plates have become unsaleable on the open market. Other honourable members have referred to the fact that as late as 1998 the Department of Transport auctioned 20 licences at an average price of \$150,000. That adds up to about \$3 million to the Department of Transport. I have been told that at the auction people were warned about the possibility of the regulation. The argument is that the user bears the cost—the purchaser was warned, so he should be wary about spending that amount of money. When Mr Willock complained to the Minister's office, the person who answered the phone said, "When you make an investment you take a risk, and it was just bad luck." There was not much sympathy for the people who were affected.

I have a copy of a letter dated 5 July from Mr Michael Deegan, the director-general, to Mr K. Stanley of the Hire Car and Chauffeured Limousine Division of the Motor Traders Association of New South Wales. Warnings were given as early as 5 July, the date of this directive. There appears to have been a break in communications with individual licence holders as to whether anyone took the time to inform them about the impact of the proposed reforms to improve private hire vehicle services. I seek leave to table that letter and the attached proposals for reform.

Leave granted.

Letter tabled.

Debate adjourned on motion by Reverend the Hon. Fred Nile.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Ian Cohen agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 99 outside the Order of Precedence relating, to Rhodes Peninsula, be called on forthwith.

Order of Business

Motion by the Hon. Ian Cohen agreed to:

That Private Members Business item No. 99 outside the Order of Precedence be called on forthwith.

RHODES PENINSULA REDEVELOPMENT

The Hon. IAN COHEN [11.38 a.m.]: I move:

1. That the Standing Committee on State Development inquire into and report on plans, including Sydney regional environment plan 29, for redevelopment and remediation of the Rhodes Peninsula, and in particular:
 - (a) the extent of land and water contamination at Rhodes and other contaminated land in the vicinity and the waters of Homebush Bay,
 - (b) the necessity for remediation of contaminated land and water, including the former Union Carbide site and land subject to reclamation in Homebush Bay,
 - (c) the cost of remediation,
 - (d) liability for the cost of remediation,
 - (e) any risk to existing and future residents,
 - (f) any risk to the environment, including terrestrial and marine fauna and flora,
 - (g) the effectiveness of transport plans, taking into account the proposed density of future development,
 - (h) the adequacy of public participation in the planning process,

- (i) the health impacts of remediation and development, including any effect on the health of workers employed at Rhodes,
- (j) any matters arising from, or incidental to, these terms of reference.

2. That the committee report by 15 March 2002.

This inquiry by the Standing Committee on State Development will enable an independent investigation to be carried out into issues of substantial community concern arising from plans for the redevelopment of the Rhodes peninsula. The local community has raised a number of issues about the planning process for the site. While the issues are very broad and the community's concerns are great, I will mention one, which relates to contamination, establishing the degree of toxicity and the nature and cause of contamination of the soil on lands at Rhodes covered by the Sydney regional environment plan [SREP] 29 and all sediments in Homebush Bay, when the Government became aware—or should have become aware—of the dangers of the method of reclamation being used by Union Carbide at Homebush Bay. There is a question as to who should be responsible for the cost of remediating these properties, when the Government became aware of the leaching of contaminated materials from the former Allied Feeds site into Homebush Bay, and whether appropriate and timely action was taken to prevent this contamination.

In terms of secondary contamination, it is necessary to establish whether properties at Rhodes outside the area of SREP 29, Homebush Bay, including residential properties in Blaxland Road, Harrison Street and Alfred Street, and the Astraland site have been contaminated by materials similar to those contaminating the former Union Carbide, Meriton and Orica sites, and who should be responsible for the cost of remediating these properties. Also, it is necessary to establish the impacts of the proposed remediation and associated infrastructure, works and transport on the health and lifestyle of the residents in the area, including Rhodes, Meadowbank, Liberty Grove, Mariners Cove and Concord West; on aquatic life, flora and fauna in the surrounding area, including the Homebush Bay conservation area, Bicentennial Park, including wetlands, and Newington wetlands and woodlands; and on recreational and other users of the Parramatta River. It is important to establish the appropriate methods and standards of remediation and control of air, water and soil protection, having regard to world's best practice, and the results of similar remediation projects in Australia; and to review the adequacy of standards for protection of health and the environment when multiple contaminants are involved.

The inquiry will review the planning processes, including provision of information to the local community, responses to submissions by the local community, involvement of the local community, including on committees regarding the determination of the director-general's requirements for the environmental impact statement and the development control plan [DCP] steering committee; to determine and compare common standards of density, transport, traffic and community infrastructure for populations, including residential, workers, shoppers and visitors, of a similar size to that proposed for the western side of Homebush Bay, in particular the adequacy of educational facilities, facilities for organised active recreation and riparian protection measures; and to review whether there was misleading conduct, negligence or unreasonable failure on the part of government or semi-government bodies or their consultants or proponents, and whether the removal of the RTA and local government from the consent process could reasonably be expected to prejudice the fairness of the outcomes of the planning and approval processes.

The inquiry should review the assumptions, standards and methodology adopted in the preparation and conclusions of the draft and final SREP 29, development control plan, transport management plan and community development plan and the findings, conclusions and forecasts therein, any amendments made between exhibition and approval, and determine whether plans should have been re-exhibited as a result of substantial amendments. It is necessary to determine whether information on monitoring and enforcement of licences, approvals and conditions has been withheld from the local community, whether there have been failures in these areas by government bodies, whether the proposed methodology is adequate for the risks involved, particularly during remediation, and whether the Department of Urban Affairs and Planning has adequate infrastructure, staffing and experience to perform these tasks adequately, particularly having regard to its previous responses to allegations of breaches in the area and the scale of the works proposed.

In terms of occupational health and safety, it is necessary to review the impacts on workers of previous remediation projects, including the Olympics site, the Union Carbide remediation, the complications of building on or occupying the Orica site whilst remediating the Union Carbide site, and the standards of occupational health and safety proposed in the light of world's best practice and the multiple contaminants involved. Many issues need to be carefully examined before any decisions are made about the redevelopment of this area. I

received a briefing from the Waterways Authority, which has been carrying out remediation work on the former Union Carbide site. Many technical questions arise in relation to dioxin contamination on that site and the leaching of contaminants into the waters of Homebush Bay. I appreciate that the Waterways Authority has a substantial community consultation program under way in relation to that particular site.

The problem is that one part of the peninsula cannot be considered in isolation from other parts. The whole area needs to be considered in an integrated way. The Government says a lot about integrated decision making but the reality is often very different. Also, the private companies involved, particularly Meriton, have no interest in resolving the contamination problems for the benefit of the community. They want to obtain development approval for their site as quickly as possible. These issues are too important for the Parliament to ignore. It is essential that a full public inquiry is carried out. Without an inquiry, the community will be unable to have confidence in the planning process for Rhodes. I understand that the inquiry is supported by the local council. It will be a constructive attempt to find solutions to some very important and difficult issues in that area of the community, including the important issue of toxic contamination.

The Hon. DON HARWIN [11.45 a.m.]: The Opposition supports the reference to the Standing Committee on State Development the issue of the redevelopment and remediation of Rhodes peninsula. It is a matter of record that the Opposition supports local residents in the Rhodes area calling on the State Government to halt development in the area because of concerns about that area. There is little doubt that Rhodes peninsula is one of the most polluted sites in Australia. Local residents have major concerns about the intended management of toxic soils and sediments in the proposed development area. The Carr Government has seemingly reneged on its promise to local residents to establish a community reference committee to consider these issues. Earlier this year officers from the Department of Health, the Department of Land and Water Conservation, the Waterways Authority and the Environment Protection Authority met with residents and showed them a proposed reference committee membership list and draft terms of reference. However, six months on, there is still no reference committee.

It would seem also that the local member, John Murray, has been missing in action on this issue. He has been completely silent on the concerns raised by his constituents about development in the area. The honourable member for Southern Highlands and the honourable member for Pittwater visited the site at the request of local councillors, including Councillor Joseph Tannous, the former mayor of Burwood, Councillor Carmel Del Duca, the current mayor of Canada Bay, and the very hard-working Canada Bay Councillor, Megan Lavender. On those occasions they met with residents to hear their concerns. In August the honourable member for Pittwater called on the Minister for Urban Affairs and Planning to place a moratorium on development until an independent review of decontamination procedures had taken place. However, the State Government has failed to bring in independent expertise to review decontamination procedures, so it is appropriate that this House look more closely at this important issue. A reference to the Standing Committee on State Development is an appropriate way to proceed, and has the Opposition's support.

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.47 a.m.]: The Government is happy to support this reference to the Standing Committee on State Development. I am sure that committee will be able to throw some light on the issues contained in the motion.

Motion agreed to.

HARNESS RACING NEW SOUTH WALES AMENDMENT (RULES) BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [11.48 a.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The object of the legislation before the House is to amend section 10A (2) of the Harness Racing New South Wales Act 1977 to restore words omitted in the restatement of the existing rule making functions by the Harness Racing New South Wales Amendment Act back in 1998.

It occurred that certain words were not carried forward at the time of the 1998 amendments, and their insertion would reinstate the intention of the Act that rules can be made if no Regulation has been previously made on a specific matter.

In this regard, the intention of the Harness Racing New South Wales Act 1977 is that a Rule cannot be made where a Regulation has been made in relation to a specific matter.

However, at the time of the Harness Racing New South Wales Amendment Act in 1998, the words "(section 27 (2) excepted)" were inadvertently omitted.

The effect of that omission, it has been argued, on a literal reading, suggested that Rules could not be made on matters where there was a Regulation making power.

The Explanatory Note for the amending Act makes it plain that it was not the Legislature's intention to render ineffective the existing rule making power.

Consequently, the drafting omission at the time of the 1998 amending Act was unintended and should be corrected to give effect to the wishes of Parliament.

Both the Crown Solicitor and Parliamentary Counsel recognise that there are precedents in relation to drafting omissions, similar to the present case, where the Courts have recognised the drafting error and the intention of Parliament, and the Courts have accordingly construed the relevant provision as though the omitted words were in place.

However, it has been considered prudent, for reasons of abundant caution and to put the matter beyond doubt, to correct the error by way of amendment.

I would mention that the Regulation Review Committee of the Parliament recently examined the Regulations made under the Harness Racing New South Wales Act 1977, and have recommended amendments be made to repeal section 10A (2) of the Act to remove any conflict between a rule and a regulation, and to make rules made under section 10A disallowable by Parliament.

Such an approach is not supported at this stage. It is the Government's belief that the first priority of Parliament must be to restore the certainty of the regulation and control of harness racing.

There was clearly no intention for Parliament to make a policy change at the time of the 1998 amendments. Similarly, there should be no expectation on the part of an individual to profit from a technical defect or omission from the Act.

The best way to address the drafting error is to restore the legislation to the form that it would have been if not for the error. Accordingly, the legislation before the House will operate from the date of the commencement of the 1998 amending Act, that is, 1 January 1999.

Separately, and after due consideration, the reform proposals made by the Regulation Review Committee may, or may not, be supported by the Government for the relevant provisions of the Act.

However, that does not mean that the status quo should not be validated pending the resolution of the Government's response to the Regulation Review Committee's report.

In relation to the Regulation Review Committee's report on this matter, the views of Harness Racing New South Wales have been obtained and a draft Government response is being prepared for the Minister's consideration. That response will be provided to the Committee later this year.

I commend the bill to the House.

The Hon. GREG PEARCE [11.48 p.m.]: The Opposition does not oppose this legislation, which is necessary to rectify an omission from the Harness Racing New South Wales Amendment Act 1998. It has been argued that the effect of leaving out those words from the amending legislation is that suggested rules that were to be made by Harness Racing New South Wales could not be made on matters when a regulation-making power was provided. The omission effectively rendered the rule-making power ineffective. The Regulation Review Committee considered the amending provisions and the regulations and had something to say about the regulations that had been made under the Harness Racing New South Wales Act. The committee expressed some concerns about whether those regulations and matters affected by those amending provisions should have been the subject of substantive legislation.

Under the bill the legislation will act retrospectively from the commencement date of the 1998 amending Act, namely, 1 January 1999. The Minister's justification for that retrospectivity was that the status quo should have been restored and that the omission should not have had effect. Any Parliament should exercise caution when contemplating retrospective legislation. In this case, when the legislation is said to reflect a drafting error and when the Government has given assurances that the issues raised by the Regulation Review Committee will be subjected to proper scrutiny and review, the Opposition can, albeit warily, accept the Government's desire for retrospectivity. In the second reading debate in the other House the Opposition spokesman on racing, the honourable member for Port Macquarie, drew attention to the Government's apparent obsession with trying to rationalise the racing industry instead of supporting the racing industry in this State.

The racing industry employs more than 50,000 people in New South Wales. It is a decentralised industry and it is very important in regional and country areas. On a number of occasions the Opposition has

called on the Government to support, protect and enhance the New South Wales racing industry. When the Minister was asked about diverting additional funds to support the racing industry, he responded by emphasising once again the Governor's direction and priority in relation to gaming and racing when he deferred to the Treasury. The Minister has again confirmed the Carr Government's addiction to gambling revenues and lack of priority for the racing industry, which has such an important place in the New South Wales economy and in New South Wales social and cultural activity. The Opposition will not oppose the bill.

The Hon. IAN COHEN [11.52 a.m.]: While the Greens do not oppose the bill, we have concerns about some of the issues that were raised during an inquiry into the harness racing industry and the report produced by the Regulation Review Committee entitled "Harness Racing New South Wales (Appeals) Regulation 1999". The committee recommended that the amending provisions currently before the House be accompanied by substantial legislated amendments relating to the harness racing industry. However, the Government does not support the proposal for substantive legislation at this point. The Harness Racing New South Wales Act was amended in 1998. At that time certain words were not carried forward from the 1997 Act to the 1998 Act.

The words that were omitted related to rule-making functions and had the effect of ensuring that rules cannot be made if no regulation has previously been made on a particular matter. This bill rectifies the situation and allows for rules to be made if no previous regulation has been made in relation to the issue. During the inquiry, interesting evidence was raised which led to the Regulation Review Committee specifying that "there is a need for some changes to the supporting rules and regulations of harness racing". The Regulation Review Committee made a couple of key recommendations owing to the nature of the evidence presented at the inquiry. Recommendation 4, which relates to absolute liability, states:

The Harness Racing Rules relating to the presentation of horses free of prohibited substances be amended so as to allow a person the defence that he or she has taken all proper precautions to prevent the administration of a prohibited substance.

This recommendation stemmed from concern about the presence and testing of TCO₂ in standardbred horses. In harness racing the threshold is set at 35 millimoles per litre. TCO₂ levels rise when horses are given bicarbonate. However, levels can also rise when horses are given foods which naturally increase TCO₂, such as citrates. When bicarbonates are given to horses they act as a very potent stimulant and make it difficult to detect the presence of other drugs because of the way in which horses hold bicarbonates in the body. Dr Stanley, an official analyst at the Australian Racing Forensic Laboratory, pointed out at the inquiry:

Taking bicarbonate has two effects. It will effect a very potent stimulant and make it difficult for us to pick up because of the way it holds it in the body. Instead of finding this type of level in urine, we find that level. If the sample were from a horse that had been doped close to the race, we will simply miss those... The other effect of TCO₂ is to delay the onset of fatigue by mopping up lactic acid.

The Hon. Ian Macdonald: I did not know you were into horses.

The Hon. IAN COHEN: I owned a horse for 10 years and I am an excellent rider, too—Country Greens.

The Hon. Ian Macdonald: Is it cruel to ride a horse?

The Hon. IAN COHEN: I was a very compassionate owner. The problem with TCO₂ testing is that it is highly inaccurate. Different horses come up with different test results, despite being given an identical amount of the bicarbonate. Another problem is the issue of absolute liability. Rule 190 of the Australian Harness Racing Rules states that a horse shall be presented for a race free of prohibited substances. If a horse is presented for a race and it is not prohibited-substance free, the trainer of the horse is guilty of an offence regardless of the circumstances in which the prohibited substance came to be present in the horse. For instance, if the horse accidentally or inadvertently ate things which increased its TCO₂ levels, or was given bicarbonate maliciously—for example, by a competitor who wanted the trainer found guilty of an offence—the trainer is still guilty. Some of the issues raised by the Regulation Review Committee need to be examined further. Other than that, the Greens do not oppose the bill.

The Hon. MALCOLM JONES [11.57 a.m.]: As a member of the Regulation Review Committee, which inquired into the regulation affecting harness racing, I point out that the committee furnished a rather extensive report following hearings into the matter. As the Hon. Ian Cohen said, the Harness Racing New South Wales (Appeals) Regulation 1999 basically enables Harness Racing New South Wales to look after its own affairs when given a choice of alternatives in the racing industry. I will deal with that matter at length in due course. The regulation related to TCO₂ in horses sets certain levels. If a horse is given alkaline substances to eat, that can raise the chemical level and hide any drugging of the horse that may have taken place.

The effect of the rule is that, with a permissible level of 35 millimoles per litre and a 1.2 millimoles tolerance as a safeguard, if a horse were tested and found to have a TCO₂ level above the standard, it would be categorised as having tested positive and the trainer would receive a virtually automatic suspension of his or her licence for 12 months. In the submissions received by the committee, it became obvious that Harness Racing New South Wales naturally regulates harness racing in this State but also affects trainers in other States.

One submission from Western Australia firmly concluded that the TCO₂ level of 35 millimoles per litre in the current testing procedure is producing significantly higher readings than previously, which endorses the comments made by the Hon. Ian Cohen that TCO₂ testing is highly inaccurate. It appears that the New South Wales attitude towards TCO₂ testing and the 35 millimoles level is out of sync with other States. By comparison, the thoroughbred racing industry subscribes to and is regulated by international rules and regulations because we receive horses from Ireland and New Zealand, and our horses in turn compete internationally. The international rules for thoroughbred racing should be closely examined.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

WORKERS COMPENSATION PREMIUMS

The Hon. MICHAEL GALLACHER: My question without notice is to the Minister for Industrial Relations. Given the Minister's comment yesterday about his Government's commitment to relocating jobs to regional centres throughout New South Wales, what incentives does the Minister propose for local businesses to overcome the workers compensation blow-out under his administration in the last 12 months, which has seen an Orange-based trucking company's premium rise from \$43,000 to more than \$97,000?

The Hon. JOHN DELLA BOSCA: That essentially is a good question, but the Leader of the Opposition has mixed up two different concepts. I shall deal with them separately. The first is the Government's policy on the relocation of agencies to other regions of New South Wales—that speaks for itself. Yesterday the Minister for Mineral Resources, and Minister for Fisheries was able to discuss, by interjection and in a substantive answer, the movement of the Department of Mineral Resources to Maitland. I also indicated in answer to a question yesterday that the Long Service Leave Payments Corporation will move to Gosford, where it will become a tenant in the new WorkCover building.

The Hon. Michael Gallacher: I know about that. Tell us about the \$97,000.

The Hon. JOHN DELLA BOSCA: The Leader of the Opposition asked two questions in one. I am answering the first part. That is self-explanatory. The Carr Labor Government is committed to relocating appropriate agencies to regional centres. It has an excellent record of achieving that. The Public Sector Superannuation Corporation has moved to the Illawarra, and other agencies, as appropriate, are relocating to regional centres. It is a successful strategy; it helps regional small businesses. I believe the Hon. Tony Kelly supports the view that it also helps regional businesses and farmers because they have access to relevant agencies.

Second, the Leader of the Opposition raised the specific example of an Orange-based trucking company's increased premiums in workers compensation insurance this year. It is highly unlikely the company being located in Orange has anything to do with the reason the premium would have increased. The most likely explanation for such a serious increase is a change in the occupational, health and safety experience of the company, but I cannot even be sure of that. If the Leader of the Opposition were to provide me with the details of the case study or the example he refers to—

The Hon. Michael Egan: Does the Opposition support the reform?

The Hon. JOHN DELLA BOSCA: I was going to come to that.

The Hon. Michael Egan: They opposed it.

The Hon. JOHN DELLA BOSCA: Yes, I was going to come to that too.

The Hon. Duncan Gay: You got it in and it still has not made any difference.

The Hon. JOHN DELLA BOSCA: We are helping them.

The Hon. Michael Gallacher: What are you doing to help them?

The Hon. JOHN DELLA BOSCA: We are helping them. We put in place a major reform project for the dispute resolution system. The Opposition had an opportunity to support it and did not. The Opposition let them down. The people in Orange will be in greater fields because of what we have done for them. The Opposition has been antibusiness all the way in this debate.

The Hon. Michael Egan: They are antibusiness and antiworker.

The Hon. JOHN DELLA BOSCA: That is right. The Opposition has taken the daily double, antibusiness and antiworker. As I was saying, the Opposition had the opportunity to do something about the problem for this firm in Orange and for the half a million other firms throughout the State, and the people who work for them. The Opposition has not done it. I ask the members opposite that the next time they have a chance to do the right thing by the employees of this State that they do so.

NATIVE AQUATIC LIFE PROTECTION

The Hon. AMANDA FAZIO: My question is to the Minister for Fisheries. What action has been taken to give greater protection to threatened species and the conservation of aquatic life in New South Wales?

The Hon. EDDIE OBEID: Protecting our aquatic biodiversity is an important part of the State's conservation efforts. I am pleased to advise the House that the Government is creating 10 new jobs in regional New South Wales to help better protect and conserve our native aquatic life. This is good news for regional towns and great news for our aquatic habitats. The State Government has provided \$1.3 million to create these new jobs, of which \$500,000 will support five new jobs at the New South Wales Government's Fisheries Centre at Port Stephens. The Port Stephens Fisheries Centre is already a world leader in aquaculture research and these extra jobs will increase our commitment to protecting threatened species. These positions range from senior manager through to research staff. The new recruits will help co-ordinate, develop and implement our State's threatened species program. They will also develop recovery plans for species listed as threatened under the Fisheries Management Act. The positions have been advertised and interviews will begin shortly.

Other regional areas will also benefit from this New South Wales Government program. We have allocated \$800,000 this year for five more jobs, as part of our commitment to water reform. We have created four jobs in conservation in Ballina, Wellington, Narrandera and Inverell, and conservation manager positions have been filled in Wellington and Ballina. It is anticipated that the Narrandera and Inverell jobs will be advertised later this year. A fifth position also has been created for the Sydney area. The New South Wales Government's water reform process aims to improve the health of this important resource. These new staff will help ensure that future water management plans target the health of our rivers and continue to support aquatic biodiversity. The 10 new staff will work with local communities to better protect aquatic habitats in our State.

ELECTRICITY INDUSTRY EMPLOYMENT NUMBERS

The Hon. DUNCAN GAY: My question is to the Treasurer. Is it a fact that in 1995 total employment numbers across the state-owned electricity businesses were 3,790? Is it a fact that the 1999-2000 figures from New South Wales Treasury show employment numbers in the same businesses to be 2,500, representing a drop of well over 1,000 and all his own work? Why then did he mislead Parliament yesterday when he claimed that job losses in this industry were caused during the former Coalition Government?

The Hon. MICHAEL EGAN: I draw honourable members' attention to page 43 of the report of the Standing Committee on State Development.

LOGGING PROTESTS

The Hon. IAN COHEN: My question is to the Minister for Juvenile Justice, representing the Minister for Forestry. My question relates to the continuing protests against the logging of old-growth forests in Marengo and Sheas Nob State Forests near Grafton. Will the Minister investigate three irresponsible actions by logging

contractors and police, which threatened the lives of young protesters in the forests? Will the Minister act against contractors who are physically seizing protesters under so-called citizens arrests? Will the Minister accept responsibility if the death or serious injury of a protester results from reckless logging through negligent policing or through violence arising from attempts by loggers to effect so-called citizens arrests? Will the Minister urgently consult with the Minister for Police to ensure that police at this site are made accountable for the safety of protesters and contractors, and that on-site police do not allow or encourage provocative and dangerous actions like the so-called citizens arrests?

The Hon. CARMEL TEBBUTT: I will refer the Hon. Ian Cohen's question to the Minister for Forestry and undertake to obtain a response as soon as possible.

OCCUPATIONAL HEALTH AND SAFETY TRAINING

The Hon. RON DYER: My question is to the Special Minister of State, and Minister for Industrial Relations. Will the Minister inform the House what measures the Government has put in place to ensure that occupational health and safety training is protecting the welfare of New South Wales' workers?

The Hon. JOHN DELLA BOSCA: Employers in New South Wales have a statutory obligation to ensure the health, safety and welfare of all employees at their workplace—and, indeed, others who enter the workplace. In order to reduce work-related injuries and illness, employers must ensure that workers understand the principles of health and safety that apply to their particular workplace.

New South Wales occupational health and safety legislation reflects the importance of health and safety training for ensuring the wellbeing of workers. Section 8 of the Occupational Health and Safety Act 2000 requires employers to provide the instruction, training and supervision necessary to ensure their employees' health and safety at work. This general duty is supported by a number of more specific regulations regarding training. These include requirements for induction training to be provided to people engaged in construction work and specific training for first-aid officers.

In order to ensure consistency and promote high standards of occupational health and safety training, WorkCover maintains a system of approval and accreditation. In this capacity WorkCover undertakes a range of functions. These include assessments of course quality, methodology and suitability to meet legislative requirements; assessment of courses in line with the general principles of the National Training Framework and partnership with the Vocational Education and Training Board; allocation of WorkCover course approval numbers to provide standard recognition and portability throughout New South Wales; application of WorkCover requirements and standards to help ensure continuous improvement and updates of courses; and ongoing provision of information and advice to providers of approved courses.

In addition to the approval and accreditation of courses, WorkCover provides accreditation for trainers. There are approximately 1,100 WorkCover accredited trainers in New South Wales. WorkCover accredited trainers must comply with a range of conditions, and provide occupational health and safety training, using WorkCover accredited courses. Accredited training courses have been developed in areas including manual handling, noise, employee induction and hazardous substances. WorkCover also conducts orientation courses for people who wish to become accredited trainers, and provides information, advice and educational materials to occupational health and safety trainers throughout New South Wales. These measures form one small part of WorkCover's broad efforts to ensure the health and safety of workers in New South Wales.

RESPIRE CARE FACILITIES

The Hon. ALAN CORBETT: My question is addressed to the Minister for Juvenile Justice, representing the Minister for Community Services. Is it a fact that vast areas of urban and rural New South Wales have no suitable respite beds? Is it a fact that some young people, and even children, with disabilities or acquired brain injuries are placed in nursing homes because there are no available respite beds? What steps are being taken to address the shortage of respite accommodation? What is being done to ensure that respite facilities are appropriate for the persons concerned?

The Hon. CARMEL TEBBUTT: The Hon. Alan Corbett's question raises an important issue facing carers of people with disabilities: access to respite beds. The Government has taken significant action in the broad area of disability support services. However, for the specific details the honourable member requires I will obtain a response from the Minister for Community Services.

WORKERS COMPENSATION PREMIUMS

The Hon. PATRICIA FORSYTHE: My question is to the Special Minister of State, and Minister for Industrial Relations. What assurances can the Minister give to workers of an engraving company in western Sydney that their jobs are not at risk because their employers' workers compensation premiums in the past 12 months of the Government's administration have increased from \$2,300 to \$8,300—a rise of about 260 per cent—despite the company never having an in-house accident during 40 years of operation?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Patricia Forsythe for her intelligent question. It is a much better question than the question asked by the Leader of the Opposition. Rather than attempt with encyclopaedic capacity to conjure up the records of the engraving company, I will explain in general terms the reasons why a company could have an increase in its workers compensation premium. First, there may have been a claim. If the honourable member is correct, the company she refers to has not made any recent claims. Second, the increase could be due to a reclassification. The company may have been paying the incorrect premium for some time. It could also be due to the Australian and New Zealand Standard Industries Classification [ANZSIC] premium classification system, in which case the company would be one of a minority of employers whose premiums have increased due to the ANZSIC system. Third, the company may have had, officially or unofficially, a large increase in its wages bill.

If the Hon. Patricia Forsythe is able to provide me with the precise details of the engraving company I will endeavour to find out why the premium has changed and to what extent it has changed. Despite the fact that the honourable member's question was better than the question asked by the Leader of the Opposition, the general answer remains the same. The National and Liberal parties had the opportunity—

The Hon. Michael Egan: They are responsible for blowing out workers compensation costs.

The Hon. JOHN DELLA BOSCA: As the Leader of the Government points out, when the Coalition was in government it was responsible for blowing out workers compensation costs. The Leader of the Opposition and his cohorts are responsible for rejecting, at the eleventh hour—it was well past midnight on that particular night—the reforms that would have in many respects straightened out the dispute resolution system.

The Hon. Michael Egan: They dropped the ball.

The Hon. Michael Gallacher: Look at your own work.

[Interruption]

The Hon. JOHN DELLA BOSCA: How silly can members opposite be? How little understanding can they have of the system? They know that the dispute resolution system that this House created in the last session of Parliament will not become operational until next year, yet they are talking about a premium change this year.

The Hon. Duncan Gay: You are hoist with your own petard.

The Hon. JOHN DELLA BOSCA: Clearly, the interjections of members opposite suggest that they do not understand the basic operation of the system. I acknowledge the interjections, and suggest that they again demonstrate that the Coalition does not understand what it did when it was in government. It had the opportunity to fix the most fundamental problems in the scheme but rejected that opportunity.

I note the presence in the Chamber of Reverend the Hon. Fred Nile, who is chairman of the Legislative Council committee inquiring into the problems in the workers compensation system. We know that we have another vital component of that reform to complete before the end of this year, and we will want to know how the Coalition will line up. The small businesses and the workers of this State will want to know how the Leader of the Opposition will line up on the tough questions. Will he be prepared to stand up to his mate the honourable shadow Attorney General and tell him where to get off, or will he chicken out again?

SEAWIND CATAMARANS

The Hon. TONY KELLY: My question without notice is to the Treasurer, and Minister for State Development. Will the Minister advise the House of the Government's latest initiatives to promote regional and rural New South Wales?

The Hon. MICHAEL EGAN: I thank the Hon. Tony Kelly for his question and wish to take this opportunity to provide some further good news to the House. Yesterday we spoke about poll results of 48 per cent and 49 per cent due to party-preferred votes, but today we are up to 51.5 per cent! The Coalition is down to 48.5 compared with 51.5—no wonder members opposite are quiet today. We are going to blow them away in November, not only in New South Wales but also in every State of the Commonwealth. One reason for that is that we, as well as Kim Beazley, take job creation and investment in regional New South Wales very seriously. That is why we are running 3 per cent ahead of them with almost three weeks to go in the campaign.

In responding to the Hon. Tony Kelly's question, I want to share with the House a significant milestone this week for Seawind Catamarans, a boat-building company in the Illawarra. This is all about jobs in regional New South Wales. As honourable members well know, creating jobs in the regions has been the hallmark of this Labor Government and indeed every Labor government. This week, Seawind Catamarans celebrated the launch of its one-hundredth boat. It was a great occasion. This Government has been part of the company's success story. The New South Wales Government is always keen to support enterprising regional businesses in providing local jobs.

Members of the Opposition do not have to be so quiet. They're down to 48.5 per cent of the vote and falling fast. Indeed, if honourable members look at the graph they can see how they have fallen off. They have just completely collapsed. The line on the graph for Labor is going right up to the sky. It is magnificent! Madam President, can I have that diagram incorporated in *Hansard*? Please think about it.

The Hon. Duncan Gay: Why don't you send a copy to Kim? He had a bad day yesterday, a terrible day.

The Hon. MICHAEL EGAN: A terrible day with 51.5 per cent. Imagine how much better it could be.

The Hon. Duncan Gay: Is Tony Mundine writing Kim's lines?

The Hon. MICHAEL EGAN: I heard Tony Mundine, and I heard Kim Beazley put him into place quick smart. Kim Beazley put him back in his box. A year ago Seawind was looking to expand its premises at Bellambi and the New South Wales Government was pleased to assist through the Department of State and Regional Development's Regional Business Development Scheme. The expansion is expected to increase staffing levels from the current 70 full-time staff to 120 at the end of 2003. Added to that are the flow-on jobs through subcontracting, including timberwork, electrical, sail and mast making, and upholstery. Seawind has had nearly 20 years experience in the design and construction of cruising and power catamarans.

The reason for the launch this week was the completion of the company's one-hundredth boat in six years, and, I might say, its main export model. The Managing Director of Seawind, Richard Ward, says his company is the only sailboat manufacturer in Australia to achieve this rate of output. The company took out the Illawarra Business of the Year Award earlier this month. Once again, I congratulate Seawind on its achievements. I am sure honourable members will join me in commending the New South Wales Department of State and Regional Development for its role in the company's success. [*Time expired.*]

NATIONAL PARKS AND WILDLIFE SERVICE PERISHER VALLEY HEAD LEASES

The Hon. MALCOLM JONES: My question without notice is to the Minister for Juvenile Justice, and Minister Assisting the Minister for the Environment. Will the Minister provide details to this House of a proposal by the National Parks and Wildlife Service to grant a head lease over Perisher Valley ski lodges to a private company?

The Hon. CARMEL TEBBUTT: I will refer the question to the Minister for the Environment and obtain a specific response as soon as possible.

WORKERS COMPENSATION PREMIUMS

The Hon. JOHN JOBLING: My question without notice is to the Minister for Industrial Relations. Will the Minister advise the Chamber what assistance he will give to employers, such as a convenience store operator in rural New South Wales who, as a victim of two armed robberies, faces huge increases—this time 300 percent—in his workers compensation premium, which in the past 12 months under the Minister's administration has risen from \$10,000 to \$38,000 per year?

The Hon. JOHN DELLA BOSCA: The first part of the question is outside my jurisdiction. The Minister of Police reforms the police system. Having a more effective police system is the best way to deal with armed robbery. I can give an answer only in the most general terms. If the honourable member wants specific operational details of those armed robberies and the clear-up rates and so on, I will ask the Minister for Police. The honourable member is referring to armed robberies and it is self-evident why a convenience store in that circumstance will regrettably have increased premiums. Clearly we are talking about a historically-based increase in premiums.

The Hon. Michael Gallacher: What about occupational health and safety incentives to assist these people?

The Hon. JOHN DELLA BOSCA: I will get to that;; be patient. Based on the information the honourable member has provided, clearly the reason for the increase would be the claims made in relation to those armed robberies. A large number of employees are exposed to the occupational health and safety risk of armed robbery. The reality is that their employers share some part of that burden in workers compensation terms, through the premiums they are required to pay. The next part of the question asks what are we going to do about it. I have said before that dispute resolution reform, over time, will have a generally downward impact on workers compensation premiums and the workers compensation deficit, which is an extension of the premiums. Government measures, such as the dispute resolution package that went through this House in the past session, and the next part affecting common law claims—about which we will need to have debate before the end of this year to make further changes—will bring down workers compensation premiums in general.

The Hon. Michael Gallacher: If he is hit with an armed robbery every six months, he is a shot duck.

The Hon. Michael Egan: You should have supported the Government's legislation instead of trying to stymie it.

The Hon. JOHN DELLA BOSCA: The Leader of the Government has made the critical point that the Coalition should support our reform program. The Opposition has a fundamental misunderstanding of the system. Over the past 5½ years the number of claimable workers compensation incidents has gone down. Occupational health and safety is getting better in workplaces across the State. The severity of the increases has decreased. One would think that under those circumstances premiums and the deficit would be going down, but they are not, and that is because of the dispute resolution system and the transaction costs and other difficulties. The Leader of the Opposition did not have the guts to stand up to Chris Hartcher, the shadow Attorney General, and agree to change them. [*Time expired.*]

COMMUNITY DRUG ACTION STRATEGY

The Hon. IAN WEST: My question without notice is directed to the Special Minister of State. Will the Minister inform the House how community drug action teams are receiving financial support from the State Government?

The Hon. JOHN DELLA BOSCA: As honourable members would be aware many small businesses would be interested in the efforts of these community drug action teams. This issue is important to them.

[*Interruption*]

That interjection demonstrates that there is yet another policy issue about which Opposition members and the shadow Minister are not clear. Community drug action strategies are some of the initiatives that this Government has been able to implement after the Drug Summit—strategies that are of great help to small businesses. Many small businesses have become involved in community drug action programs. It is not only a good thing for communities to assist drug abusers and drug users into rehabilitation; strategies of this sort also help small businesses.

Where we have problems of local amenity and other things, community drug action teams help local small businesses, teachers and parents involved in schools and parks to ensure that community amenities are unaffected by drug abuse problems. The Leader of the Opposition, who attempted earlier to interject, has demonstrated that he does not understand the critical improvements this Government has made in a key policy area. I think most honourable members—other than the Leader of the Opposition—would be aware that the New South Wales drugs and community action strategy has been in place successfully for 18 months.

The Hon. Jennifer Gardiner: Most people do not know that it exists.

The Hon. JOHN DELLA BOSCA: I think the honourable member is wrong but I will take her at her word and ensure that the Government does more work to promote this strategy. Community drug action teams comprise local residents, local government, government agencies and small or large businesses working together to develop strategies to address drug abuse, drug use and associated issues. Sixty-five community drug action teams are now operating around the State—37 of them in regional areas. Hundreds of people are actively taking action on illicit drugs in their own local areas. At this point in time there are some well-established drug action teams and some relatively new teams.

The drug action teams, which are well supported by our nine regional project managers who are located around the State, provide different levels of support to the teams, depending on each team's individual needs. The Government is also keen to ensure that the teams receive financial support for specific locally based initiatives that they wish to implement. The Drugs and Community Action Special Fund provides small grants to drug action teams to assist them to establish projects to address their local problems. I am advised that 58 new grants, amounting to approximately \$330,000, have been allocated in the first year of the scheme.

Through the scheme the Government is funding youth activities and peer leadership projects in areas such as the Illawarra, Lithgow, Glebe and Gunnedah. The Lithgow project is being led by the Lithgow Youth Housing project. That project will involve the training of 30 young people in leadership, knowledge and skills regarding the prevention and reduction of illicit drug use. The program aims to enable those young people to become peer educators. The young people involved are from a school in the area and from Lithgow youth and accommodation services.

The Liverpool drug action team is engaged in some important awareness-raising activities by working with local media outlets including, of course, the ethnic media. Their project aims to raise awareness of drug initiatives in the Liverpool area and increase public understanding of treatment and support services. A number of the drug action teams, such as Corowa, Ballina and Canterbury, are working on arts, photography, entertainment and theatre projects involving their local communities. It is important that people know where they can go for help and information on drugs. Drug action teams are actively involved in providing such information.

WESTERN PLAINS ZOO EUTHANASIA PROCEDURE

The Hon. RICHARD JONES: I ask the Minister for Juvenile Justice, representing the Minister for the Environment: Does the Western Plains Zoo have to seek approval from Taronga Zoo before it euthanases animals that need to be put down? If so, is it true that some animals that are in pain and are suffering have to wait up to three days before such permission is given, causing distress to both animals and staff? Will the Minister ensure that this cruel practice is ended immediately?

The Hon. CARMEL TEBBUTT: Despite the fact that I recently visited Western Plains Zoo and saw some of the good work that is being done there, I cannot provide any detail about whether staff at that zoo have to obtain approval from Taronga Zoo. An ethics committee has been established. It may well be that Western Plains Zoo has to go through that process. I will refer the honourable member's question to the Minister in the other place and undertake to obtain a response as soon as possible.

RURAL DOCTORS INDEMNITY INSURANCE

The Hon. JENNIFER GARDINER: My question without notice is addressed to the Treasurer, representing the Minister for Health. Now that the New South Wales President of the Australian Medical Association has said that changes to medical indemnity provisions contained in the Health Care Liability Act have not succeeded in relieving the indemnity premium burden on country doctors, will the Government consider further changes to the legislation so as to try to avert a further worsening of the doctor shortage?

The Hon. MICHAEL EGAN: I will be happy to refer the honourable member's important question to my colleague the Minister for Health and obtain a response for her.

YEAR OF THE OUTBACK 2002

The Hon. MICHAEL COSTA: My question without notice is directed to the Treasurer, and Minister for State Development. Will the Minister advise the House on the Year of the Outback 2002?

The Hon. MICHAEL EGAN: I would be delighted to do so. Last week the Premier launched the Year of the Outback 2002. I am told that the year-long celebration will involve more than 200 events in 50 locations across outback New South Wales. The Year of the Outback represents a chance for everyone in New South Wales to get out and celebrate in their own backyards. The Year of the Outback, which starts on 1 January, will be part of a national program to promote inland Australia.

The New South Wales Government will spend more than \$2 million funding community events throughout western New South Wales and promoting tourism and economic development. Some of the Year of the Outback events include the grand opening of the Australian Shearers Hall of Fame, which is located in Hay; the grand opening of the Back O'Bourke Exhibition Centre in Bourke; Walgett's Big Day Outback rock concert and the St Patricks Day Race Festival in Broken Hill, which I am told is always a great event. I will try to get to that.

The Hon. Carmel Tebbutt: Will you attend the rock concert?

The Hon. MICHAEL EGAN: I am not interested in the rock concert. However, I do like the country races. I think that the St Patricks Day Race Festival will be absolutely fantastic. The Year of the Outback will attract even more visitors to an already booming region. I am told that outback New South Wales already attracts more than 500,000 visitors a year—an incredible number of visitors. I am also informed that those visitors spend some 1.4 million visitor nights.

The Hon. Doug Moppett: And they got a special grant from the Federal Government.

The Hon. MICHAEL EGAN: I know that, but that grant is not quite as big as the \$2 million that this Government is contributing to the outback. According to most recent figures, visitors to outback New South Wales spend some \$133 million supporting 1,170 full-time jobs. Forty-five local communities and organisations have joined forces to promote the physical, cultural and economic magnificence of outback New South Wales. I take this opportunity to congratulate Peter "Outback" Black—the honourable member for Murray-Darling—who was the driving force who promoted this Year of the Outback idea. In a spirit of co-operation he brought together 15 mayors from all political persuasions, covering more than half this State's geographical territory, to be part of these celebrations. The Year of the Outback will showcase to the world the beauty, diversity and the can-do attitude of the outback and its people. I congratulate all those involved. I particularly congratulate Peter Black on a great initiative and on the great work that he has done to bring this about. Well done Peter Black!

CALLAN PARK PSYCHIATRIC HOSPITAL SUICIDES

The Hon. ELAINE NILE: My question without notice is directed to the Treasurer, representing the Minister for Health. Has there been a dramatic increase—it could be said that it is a 100 per cent increase—in suicides in New South Wales in the last five years by persons suffering mental illness? How many suicides have occurred in the Callan Park Psychiatric Hospital in the last five years? Are these increases in mental health suicides related to a significant reduction in mental health staffing levels and increased use of marijuana, which can result in schizophrenia? Are adequate records kept of suicides in New South Wales?

The Hon. MICHAEL EGAN: I admit I do not know the answers to the Hon. Elaine Nile's questions, but I will refer them to my colleague the Minister for Health and obtain a response as soon as I can.

FEDERAL LABOR PARTY EMPLOYEE ENTITLEMENTS

The Hon. JOHN RYAN: My question is to the Minister for Industrial Relations. Does the Minister recall saying yesterday that the Beazley Federal industrial relations policy concerning employee entitlements was an excellent one? Is he aware that that policy contains the following statement:

Employers with fewer than 20 employees will be exempt from the additional payment, with the Federal Government assuming responsibility for covering their employees.

Taxpayers will thus be required only to cover the employees of small business.

In light of the strong support the Minister expressed yesterday for the Beazley plan, does he now accept the idea that New South Wales taxpayers should make some contribution to meet employee entitlements, contrary to his previous statements on at least six occasions in this House?

The Hon. JOHN DELLA BOSCA: I am disappointed. I thought the Hon. John Ryan was going to ask me another question about WorkCover premiums, and was thinking through an even better answer than I gave

previously. This question is the same as or very close to the question I was asked yesterday, and I really cannot improve on the answer I gave yesterday, although I would like to be able to. I did not mislead the House but I think I may have made a mistake yesterday. I said in response to a comment by the Hon. Jennifer Gardiner that Hegel said that consistency was the hobgoblin of small minds. Overnight my staff carried out some research. I am sure Hegel said something similar, but according to the worldwide web the author of the words "A foolish consistency is the hobgoblin of small minds" was Ralph Waldo Emerson. It may be that Emerson plagiarised Hegel, I do not know. I say that under protection of privilege, of course, and as both are dead I can get away with it.

With regard to consistency and worker entitlements, honourable members know that the New South Wales Government has long campaigned for a better system of employee entitlements. We laid down a number of principles with respect to the operation of a scheme that we thought would be better than the old so-called EESS scheme, which was put in place after the collapse of the national textile company. It is not for New South Wales to provide the fine detail of that scheme. Individual States do not have the option of acting alone lest they jeopardise their interstate competitiveness. The Premier has outlined on a number of occasions, as have I, that New South Wales requires and will insist upon a scheme that is employer funded. The detail of how premiums and funds are collected is a matter for any incoming Federal Government. I make the point again that the Beazley-Bevis scheme is the best option. The way the polls are trending, the fine details will be put forward by the new Government, and we look forward to a new scheme that embodies the principles that we would be willing to put in place.

The Hon. JOHN RYAN: I ask a supplementary question. I refer to the Minister's comment about fine details. Does that mean that when the fine details come to be finalised the Minister will argue that taxpayers should not make a contribution?

The Hon. JOHN DELLA BOSCA: I have answered the question. I cannot improve on yesterday's answer and the answer I just gave. With regard to the other part of the honourable member's question relating to when the scheme will be put in place, I advise that clearly that is a question for the Federal government of the day. I have been saying that we managed to persuade the Howard Government, dragging it kicking and screaming, to a better workers entitlements scheme.

FILM INDUSTRY

The Hon. IAN MACDONALD: My question without notice is directed to the Treasurer, and Minister for State Development. Will the Minister advise the House of Government initiatives to help attract overseas film production to New South Wales?

The Hon. MICHAEL EGAN: Since the opening of Fox Studios 3½ years ago film production has been one of our State's fastest growing industries. The state-of-the-art Fox Studios has positioned Sydney and Australia as a highly regarded film location with a highly skilled and creative work force. In fact the recent Australian Film Commission National Production Survey revealed that last year total production expenditure in New South Wales reached \$348 million or 61 per cent of total Australian production.

The Hon. Patricia Forsythe: How much did taxpayers provide?

The Hon. MICHAEL EGAN: No, that was before the Commonwealth's recently announced tax rebate scheme, which I applaud the Federal Government for announcing.

Reverend the Hon. Fred Nile: How many jobs does that equate to?

The Hon. MICHAEL EGAN: I am not quite sure about that. That is a very good point and I will find out how many jobs the \$348 million equates to. Over the past few years some of the world's biggest films, including *Mission Impossible: 2*, *Star Wars: Episode 1 The Phantom Menace*, *Moulin Rouge*, *Babe*, *Pig in the City* and *Matrix*, have been shot in Sydney, creating thousands of local jobs and injecting thousands of dollars into our economy. Rural and regional New South Wales is also benefiting. Some 15 films, miniseries or short films were shot on location throughout the State last year.

The latest New South Wales Government initiative aimed at attracting Footloose Film and Television Productions to New South Wales is the four-year \$2.4 million Film Industry Attraction Fund, which the Premier announced a short while ago. The fund is administered by the Department of State and Regional Development,

which will be working closely with the New South Wales Film and Television Office in promoting the State to foreign producers and studios. The global market for Footloose Films is estimated to be worth around \$US10 billion and is growing rapidly. New South Wales is becoming a more attractive location, not only because of the talent and facilities that we have here but also because we are very competitive cost wise.

The Hon. Patricia Forsythe: Have you covered the remediation costs?

The Hon. MICHAEL EGAN: The cost to taxpayers of the remediation of the showground site was a lot less than it would have been had the public of New South Wales been required to transform that site into parkland. From memory, it was the least cost option available to New South Wales other than to make the site completely disintegrate and become a no-go area, which apparently is what the Opposition was proposing. As I say, New South Wales is well positioned in terms of size, skills and capabilities of its work force. Its award-winning post-production houses and extensive infrastructure can support a larger number of overseas productions. And the recent announcement by Fox to expand its studio space is a vote of confidence, by a key investor, in the future of the New South Wales and Australian film industry. In a short period of time the film production industry has established itself as one of our State's most vibrant industries. I am sure this latest Government initiative will see the further expansion of the local industry, creating new jobs and investment in New South Wales. [*Time expired.*]

CENTRAL STATION NON-SMOKING REGULATIONS

Reverend the Hon. FRED NILE: I address my question to the Minister for Mineral Resources, representing the Minister for Transport. What procedures are in place to enforce the no-smoking regulations on railway platforms at Central station? How many no-smoking signs are clearly displayed on the platforms? How many infringement notices for smoking have been issued at Central in the past three months? Are State Rail Authority staff on duty also prohibited from smoking on the platforms, and what enforcement procedures are in place for them? Why are non-smoking regulations not being enforced at this railway station to protect the travelling public from the effects of passive smoking?

The Hon. EDDIE OBEID: Reverend the Hon. Fred Nile. has asked an intelligent question and he deserves an intelligent answer, which I shall seek from my colleague in the other place.

GOODS AND SERVICES TAX

The Hon. DOUG MOPPETT: I direct my question to the Treasurer, who would acknowledge that the Federal leader of the Australian Labor Party has pledged to drop the goods and service tax from gas and electricity bills. Is the Treasurer aware that industry leaders have predicted chaos if the GST is removed from gas and electricity bills? Will the Treasurer confirm that the costs of compliance and billing software will be passed on to consumers, and that there will be no savings on household bills?

The Hon. MICHAEL EGAN: I have high regard for the Hon. Doug Moppett. On many occasions I have said that he is one of the half-dozen most intelligent National or Country Party members of Parliament this nation has ever seen.

[*Interruption*]

There are at least half a dozen. I include Arty Fadden, Blackjack McEwen, the Hon. Jennifer Gardiner and the Hon. Doug Moppett. How anyone can pretend that in New South Wales alone a \$250 million GST rebate on gas and electricity bills will increase the price of gas and electricity is beyond me. That is a ludicrous observation. I thank the Hon. Doug Moppett for again raising the issue of the GST. Earlier I gave the House the good news that according to a Morgan Gallup poll 51.5 per cent of Australian voters will be voting Labor on 10 November. I am pleased to say that one of the issues uppermost in the minds of voters is the GST. The Morgan Gallup poll not only gives the polling results but also tells us why 51.5 cent of people will vote, on a two-party preferred basis, for the Labor Party.

One person said, "I am very dissatisfied with the GST." Another person said, "The other party"—that is, the Nationals and the Liberals—"lied about the GST and they still brought it in." Another said, "John Howard took matters into his own hands and didn't listen to the Australian people with the GST." That is why Labor is responding. The GST is a bad tax. Labor opposed the GST and a Labor government will roll back the GST to the tune of \$250 million for gas and electricity bills in New South Wales alone in 2003-04. That is a substantial

benefit for the families of New South Wales—a benefit that I predict will go down in history in the minds of the Australian people alongside the back-to-school allowance introduced by this Government—one of the great social measures of our time. I congratulate Kim Beazley on his recent announcement.

It is not only the GST that is the reason for the 51.5 per cent, two-party preferred vote for the Australian Labor Party. For example, another person who was surveyed said, "I favour the Labor Party's education policy." Another person said, "The education policy of the Coalition is poor." Another said, "I want more money spent on education, and they [the Labor Party] have better education policies." Another person said they are voting Labor because "the Labor Party will be more inclined to help health". Another said, "I will vote Labor on their education and medical policies." Another said, "The ALP has more concern for social welfare and justice, and has a more compassionate approach to Aboriginals." Another said, "The ALP has a better social justice policy, a better record in that area." Another said that the ALP's policies are good for the environment. Another said that the ALP supports a fairer society and has more emphasis on environmental issues. Another said—and this is very true—that Howard makes it very hard for pensioners. That is why, in the 1954 elections, I became a Labor Party supporter. [*Time expired*]

MINERALS EXPLORATION LICENCE APPLICATIONS

The Hon. HENRY TSANG: My question is directed to the Minister for Mineral Resources. What action has been taken to improve electronic services available to companies exploring New South Wales mineral deposits?

The Hon. EDDIE OBEID: I thank the Hon. Henry Tsang for an important question. The New South Wales Government continues to encourage the streamlining of processes involved in exploration in this State. One initiative that is helping to deliver better services to potential investors in our State is TAS 2 NET. This online service means that companies can now electronically lodge exploration licence applications directly with the Department of Mineral Resources. This is relayed into the titles administration system, hence TAS 2. This means that companies anywhere in the world can now apply for an exploration licence in New South Wales and pay for it using online credit. As well, solicitors and conveyancers, as well as the community, can use TAS 2 NET to undertake property title searches online.

The New South Wales Government has provided nearly \$140,000 to develop this new service, which is part of the connect dot New South Wales initiative. This initiative is being developed by my ministerial colleague in the other place the Minister for Information Technology, the Hon. Kim Yeadon. Since TAS 2 NET began full operations, 34 per cent of exploration licences have been lodged electronically. This is a tremendous response to this new service. Applications are recorded instantly in the titles administration system, which then streamlines the initial processing of these applications. This is helping to deliver a more efficient and better service to companies interested in investing in our State. I look forward to updating the House on further developments that encourage investment in our State's mineral resources.

PRISONERS VOTING RIGHTS

Ms LEE RHIANNON: I direct my question to the Minister for Mineral Resources, representing the Minister for Corrective Services. Is the Minister aware that there is inconsistency in the law with regard to prisoners voting in Federal and State elections, with prisoners gaoled for two or more years being ineligible to vote in State elections but prisoners gaoled for five years or more being ineligible to vote at Federal elections? Is the Minister aware that in the last Federal election many New South Wales prisoners were denied a vote despite being eligible to vote? What measures is the New South Wales Department of Corrective Services taking to ensure that all eligible prisoners are allowed to vote and to access information about the candidates they can vote for?

The Hon. EDDIE OBEID: I thank Ms Lee Rhiannon for an important question. As I am not aware of the particular issues she has raised, I will obtain from my colleague in the other House a detailed answer to her important question.

QUEENSLAND WORKCOVER SCHEME

The Hon. DON HARWIN: My question is to the Minister for Industrial Relations. Is the Minister aware that Queensland WorkCover reported an operating surplus of \$919.9 million last financial year? Is he also aware that Queensland WorkCover intends to fully repay any remaining debt to the Queensland Government?

this year? Has he undertaken an investigation into why Queensland WorkCover has been so successful financially—with the lowest premiums in Australia—while his scheme's liability has now blown out to more than \$3 billion?

The Hon. JOHN DELLA BOSCA: Obviously WorkCover, my officers and I have reviewed the schemes that are operating throughout the States in relation to WorkCover and workers compensation systems. Clearly we should not be so proud as to think that there are no lessons to be learned from other State jurisdictions. Indeed, the General Manager of WorkCover New South Wales, Kate McKenzie, has had many meetings with her peers from other WorkCover authorities throughout the country. We have been carefully examining the work that has been done by various WorkCover schemes.

I have to say a couple of things about Queensland in particular. It is a fact that Queensland benefits are generally lower. Permanent impairment benefits and other benefits in the Queensland scheme for workers are relatively lower than they are in New South Wales, and that is not necessarily an element or an example that New South Wales would want to take on board. However, the principal strength of the Queensland system is its relatively less litigious nature. It is one of the schemes that is at the bottom end in levels of disputation on claims. If there is any single, obvious theme—instances of claims being settled properly, injuries and difficulties of treatment being managed properly, return to work being carefully managed by the employer, and rehabilitation being provided with all the required doctors and health professionals involved, as well as the operation of the scheme—then the scheme is relatively more financially stable. That is a general trend.

Queensland lives up to that general trend, leaving aside the issue of a lower level of benefits which, as I said, is not something that New South Wales would seek to embrace. Queensland has a much less litigious system than elsewhere, and I speculate that there are a whole bunch of reasons for that, some of which are cultural with respect to Queensland and its operation and some of which relate to workers compensation. I conclude by stating that schemes operating in other jurisdictions have been carefully considered. The essential point is that the themes of the Queensland scheme that make it good have been picked up by the New South Wales dispute resolution package that was introduced into this Parliament only a couple of months ago, and members opposite did not support it. So the Hon. Don Harwin should look to himself before he points the finger at anyone else.

The Hon. MICHAEL EGAN: If honourable members have further questions, I suggest they place them on notice.

TOMALPIN INDUSTRIAL ESTATE

The Hon. JOHN DELLA BOSCA: On 19 September Ms Lee Rhiannon asked me a question about the Tomalpin industrial estate. I provide the following response:

The draft local environmental plan for the proposed Hunter Employment Zone, as it is known, was on public exhibition until 12 October 2001. The proposed bypass road forms an integral part of the proposed development. It is understood that Cessnock City Council has indicated that support for the proposed estate is contingent upon the bypass road. The Minister has been advised that the developer of the land has recently confirmed the ability to fund the necessary road works, and that there is an agreement with Cessnock City Council that this road should be constructed if the proposal is approved.

LABOUR HIRE FIRMS

The Hon. JOHN DELLA BOSCA: On 19 September Ms Lee Rhiannon asked me a question about labour hire firms. I provide the following response:

The Government's temporary staff contracts are managed by NSW Supply. The tendering process requires companies supplying temporary staff to provide specific information in relation to occupational health and safety observance and policies and practices. I am advised that issues of training and induction are negotiated between the host government agency and the company supplying temporary staff.

Questions without notice concluded.

[The President left the chair at 1.02 p.m. The House resumed at 2.30 p.m.]

STANDING COMMITTEE ON LAW AND JUSTICE**Report: A New South Wales Bill of Rights****Debate resumed from 17 October.**

The Hon. JOHN HATZISTERGOS [2.30 p.m.]: On the last occasion I said I had a number of concerns, to say the least, about the proposition of a New South Wales bill of rights. When reading the committee's report I was interested to read the dissenting report of my colleague the Hon. Peter Breen, in which he focuses on the concept that the report of the committee does not give due weight to the fact that the overwhelming majority of submissions to the inquiry—indeed, 68 per cent of them—were in favour of a New South Wales bill of rights. The honourable member indicates that the report is somewhat jaundiced in that it fails to reflect the majority view as set out in the submissions.

I thought the report related to an inquiry into the merits of a bill of rights, and not into its popularity amongst certain people who might be expected, in any event, to write about it and advocate support for it. I take some solace from the fact that the overwhelming majority of the public did not bother to lodge a submission—I assume because they were happy with the status quo. The argument has been articulated elsewhere that somehow New South Wales is out of step with the rest of the world, that England, America, Canada, South Africa, and so on, have bills of rights and New South Wales ought to join that trend. In each of the countries that has a bill of rights, perhaps with the exception of New Zealand, it has been brought about by some historical circumstances. That applies particularly to America.

We in this country have never experienced a civil war or a revolution, as did the French and the Americans. To a large extent, those countries' bills of rights reflect those experiences, their particular culture, and the need to address the interests of minority opinions. When apartheid was being dismantled in South Africa it was necessary to set out a structure that would reassure the significant minorities about their rights in the new constitutional arrangement that the country was to embark upon. But that is not true of Australia. When the committee was deliberating on this matter a number of minority groups—Aboriginal groups, women's groups, ethnic communities, and so on—said they wanted a bill of rights.

Invariably I asked them what they would do if they went to court and challenged some legislation because it was incompatible with a bill of rights in New South Wales, and lost the case. They said they would ask the New South Wales Parliament to fix it up. In other words, it was suggested that the court should act as a middleman. I simply say that we should cut out the middleman. If people have a point of view they should tell the Parliament, and if they can persuade the majority, we will make changes. Some legal theorists have said that if we knew the view of the courts, Parliament could have dialogue with the court system about rights cases. That is nonsense! I have never heard such turgid rubbish.

If judges want to run policy in this State they can stand for Parliament, just like any other citizen, get themselves elected, and articulate their views. I do not believe it is their job to form views of that nature. I might indicate that that is also the view of a number of judges, particularly Justice McLelland, who appeared before the committee. The court system is being involved in politicisation and being asked to form views on economic, social and cultural issues, and to embroil them over social policy. That is not the function of the court system.

The committee was told of a number of cases in Canada in which that was the outcome. The Canadian courts came under sustained criticism, and as a consequence they backed off from the adventurism that existed when the charter of rights and freedoms in that country was first embarked upon. Let me give the House some examples of what would happen if New South Wales followed the Canadian example. Canada has a statutory bill of rights, and it has some overriding provisions that allow the Parliament to override a decision if necessary. The Canadian experience demonstrates how parliamentary democracy has been hijacked by some special interest groups that have intervened in the Canadian court.

Firstly, Canada gives interest groups a right to intervene. If a court case is being conducted, an individual has the right to apply to intervene and argue a rights issue in that case. Earlier this year Toronto's York University Centre for Public Law and Policy released its study on the phenomenon. It reported that in more than half of the rights cases heard by the Supreme Court the judges allowed interveners—that is, third parties with no direct interest in the case—to put arguments before the court. On average, the number of special interest groups weighing into a rights case was six. That sort of lengthening of cases causes complications by allowing parties with no direct interest in the outcome, beyond a theoretical or academic interest, to step in.

Another feature of the Canadian experience has been the large amount of court time taken in rights disputes. In 1999 the London University Constitution Unit found that 11 per cent of cases brought under the Canadian charter were challenges to breathalyser tests. In the 1985 Canadian case of *Regina v. Therens*, a failure to be informed of the right to legal counsel prior to providing a breathalyser sample forced the Attorney General to discontinue most of the 19,000 breathalyser cases then pending. In the 1990 case of *Regina v. Askov* the Canadian Supreme Court ruled that the applicant had not been given a trial within a reasonable time. The result of that case was that charges against 34,000 people in Ontario were dropped on the same grounds. The Government's response was to allocate \$39 million towards reducing delays in the court system.

The Hon. Peter Breen: Not that there should be delays in the court system.

The Hon. JOHN HATZISTERGOS: The Hon. Peter Breen is satisfied with those sorts of outcomes. He thinks that is a tremendous outcome. I suggest that he tell the taxpayers that they can fund \$39 million to come up with the sort of lunacy that has been weighing down that country. Regardless of whether one thinks the outcomes of these individual cases were just, the Canadian experience clearly demonstrates that the charter of rights and freedoms is occupying an enormous amount of court time and consuming an enormous amount of public money. I have no problem whatsoever with arguing rights issues in this Parliament. I have no particular problem with our being signatories to international treaties, with listening, if necessary, to criticisms from international bodies about the way we deal with human rights issues, or with responding to those criticisms in the appropriate way.

It has been argued that if this country has a bill of rights people will not go overseas to challenge what we are doing in this country, that they will not go to the United Nations and other venues to argue that there have been breaches of international instruments. I regard that argument as spurious. The groups that complain overseas will continue to complain overseas, because the one thing that the courts of New South Wales cannot do is internationalise an issue. Whether it is Aboriginal groups or other minority groups that feel aggrieved by particular outcomes in the system in New South Wales, the fact is that a New South Wales bill of rights, and a court which enforces that bill of rights, will not be able to give them the publicity and notoriety that they seek, so they will continue to go. That has been the experience elsewhere, particularly in Great Britain. Since its charter commenced operating last year there has been no let-up in the number of people who want to go to the European Court and other places to articulate their argument that they have been aggrieved.

I take the view that if we are to be serious about rights, we should do something about them in the context of legislation. That is why the argument that has been put forward in this report about having a scrutiny of bills committee is sound. The Hon. Peter Breen may wish to be a member of the committee. We can listen to the merits and hear arguments about bills of rights and let the majority decide. If people are particularly aggrieved they can return to the committee and seek amendments. In that way people have control of those issues. I do not believe that courts have any role in rights arguments.

The statement that somehow we are poorer for not having a bill of rights is specious. Some people say we have no guarantee of a right to vote in this country. If we tried to take away from people the right to vote in this country, riots would break out everywhere. We do not need a bill of rights to protect the right to vote or to protect people from discrimination. Those rights are protected not only by instruments of this Parliament, but by public will and the state of public opinion. We have a vibrant, free media in which people can criticise and express their points of view from time to time. That provides adequate protection for these sorts of issues without complication.

I was particularly impressed by Brett Walker, who appeared before the committee representing the New South Wales Bar Association. He pointed out that when a client needs help on a particular issue that involves constitutional matters, he has to look at the Constitution of Australia, the Constitution of the State, relevant legislation, subordinate legislation, rules, regulations and common law, and now he is being asked to look at a bill of rights as well. No wonder people do not understand their position when things are complicated by numerous layers of bureaucracy, which in the end does not achieve the desired outcomes. I agree with protecting rights but I do not believe that a bill of rights is the way to do it. No-one in this inquiry—not even the Hon. Peter Breen in his dissenting report—has presented a draft bill of rights that should be adopted. People are happy to theorise about it, but until such a stage is reached it is not worth even considering this issue further.

The Hon. DON HARWIN [2.43 p.m.]: Recently a number of honourable members would have received a letter from a member of Sydney's legal community urging us to be very cautious about human rights. That letter quoted Lawrence H. Tribe and his dictum that an excess of law inescapably weakens the rule of law.

That is very relevant to the report under discussion today, and indeed to some of the remarks made this afternoon. The report of the Standing Committee on Law and Justice entitled "A New South Wales Bill of Rights" is an interesting and well-written report. I congratulate the committee and staff members who assisted in producing it. On the principal question of whether New South Wales should have a bill of rights, the report concluded that we should not proceed. I find its reasoning very persuasive. My interest is in chapter 8 of the report, which is entitled "Parliamentary Scrutiny and the Protection of Rights", and I will limit my remarks to that chapter only. It has attracted my attention as I serve on the Parliament's Regulation Review Committee. Paragraph 8.2 of the report states:

If members of Parliament, as law-makers, become more familiar with the standards of human rights and apply these to their consideration of legislation, considerable gains could be achieved without a Bill of Rights.

I certainly endorse those remarks. The report recommends a joint committee with a charter similar to the Senate Standing Committee on the Scrutiny of Bills which would complement the work of this Parliament's Regulation Review Committee and therefore solely focus on the scrutiny of legislation. The report notes that this Parliament's Regulation Review Committee has also called for the establishment of such a committee on several occasions. In this term, report No. 9/52 entitled "Re-engineering Regulations in New South Wales for the Twenty-first Century" records that the absence of a scrutiny of legislation committee is a major weakness of the New South Wales legislative and regulatory framework.

Our committee's report noted that the inconsistency of only subjecting delegated legislation to the types of scrutiny our committee has as its jurisdiction is quite bizarre when we consider that there is no such scrutiny in the primary legislation which enables that delegated legislation. Our report also noted that the need to have scrutiny of legislation in this Parliament has been fully endorsed in the recent OECD report, which reviews the efficacy of regulatory review in New South Wales. Parliament, at the behest of Executive Government, has been too inclined to overlook important rights and liberties when passing legislation. It has not been the tenacious watchdog that it should be because Executive Government has not wanted it to be. Of course, both parties when in government are guilty of allowing Executive Government to do that.

This Chamber, because of its structure and complexion, has the capacity to insist that Parliament's forms and procedures function to facilitate keeping our governments honest. It is therefore important that this Chamber gets behind this recommendation for a scrutiny of legislation committee because that can be an important part of Parliament's armory. The history of the Senate's Scrutiny of Bills Committee is interesting and might provide a few pointers as to how this recommendation will be received. The first person to raise the issue was Senator Fred Chaney, who, as a member of the Senate Constitutional and Legal Affairs Committee in the mid-1970s, brought it up as a suggestion.

The Senate committee also owes its existence in large part to the tenacity of the late Alan Missen. Chaney and Missen, as members of that committee, are also remembered by many in my party as among those great men who have kept alive a liberal tradition within a Liberal Party that is too often dominated by conservative impulses. Missen, as chair of the Senate's Constitutional and Legal Affairs Committee, tabled the report on scrutiny of bills on 23 November 1978. Like the recommendation that is being discussed this afternoon, Missen's committee recommended the establishment of a joint committee of the House of Representatives and Senate to highlight provisions in bills which had an impact on persons either by interfering with their rights or by subjecting them to the exercise of undue delegations of power. However, the proposal met with opposition from the Fraser Government at the time. It took a full year before the Government even responded to the report, and its response was in the negative. Anton Hermann's Biography of Missen entitled "Alan Missen: Liberal Pilgrim" records, at page 144, Missen's withering contempt for the Government's response. He said:

[The Attorney-General's statement] contains assertions which positively amaze me. It is a short statement. It absolutely refuses and rejects the recommendations of the Senate Committee ... I am appalled by the Government's response to the Committee's report and have no intention whatsoever of letting it rest there. I trust that the Senate will try to take this matter up in the interests of the effectiveness of Senate committees.

Those were certainly fighting words for a government senator who rejected the position of his own Government. Senator Missen and his committee preferred to set up a joint committee on the scrutiny of bills, along the lines suggested in this report. Hamano notes on page 145 that the committee preferred "the involvement of the House of Representatives to ensure that scrutiny occurred at the earliest possible stage, not just when legislation reached the Senate". The proposal then languished for almost two years, until after 1 July 1981, when the Fraser Government lost its majority in the Senate.

Alan Missen's committee then decided to adopt the fall-back option of establishing a Senate committee through a resolution of the Senate. The Senate Standing Committee on Constitutional and Legal Affairs had an expanded brief for the first six months, as a trial. At the end of that six-month period a motion of the Senate was passed—almost three years to the day after the initial report—to set up a Senate scrutiny of bills committee. The Fraser Government maintained its opposition when that issue was debated at the end of 1981, but seven Liberal senators—Alan Missen, Neville Bonner, David Hamer, Rob Hill, Don Jessop, Kathy Martin, who is now Kathy Sullivan, and Peter Ray—were joined by Labor and Democrat senators to establish the committee by a margin of 35 to 21. In debate, Alan Missen said:

The onus is surely on us to ensure that civil liberties are protected and that bills are not passed which damage them.

That was very much the spirit behind the Senate committee. Since then, scrutiny of legislation committees have also been put in place at a State level in Victoria and Queensland, but not yet in New South Wales. The work of those committees is well regarded. The report we are discussing today has probably identified only one substantive criticism—that is, that the lack of time sometimes makes it difficult for those committees to make considered responses to legislation, particularly towards the end of parliamentary sessions. In my view, that does not amount to a substantive enough reason for not proceeding with such a proposal.

At the Seventh Australasian and Pacific Conference on Delegated Legislation and the Fourth Australasian and Pacific Conference on the Scrutiny of Bills, which was held in this Parliament in July 1999, we heard an excellent speech from Senator Barney Cooney, who I think currently chairs the Senate Committee on the Scrutiny of Bills. He talked about the work of the committee during the Thirty-eighth Commonwealth Parliament—from May 1996 to August 1998. He noted that in its deliberations the committee raised issues such as retrospectivity, strict liability offences, reversal of the onus of proof, vicarious liability, limitations on the power of Parliament, exclusion of rights of individuals, insufficient parliamentary scrutiny, the imposition of a levy by regulation, forensic procedures and suspects' rights, non-reviewable discretions, non-availability of merits reviews, the position of women and powers of entry, and search without warrants.

That certainly illustrates and underlines the recidivist tendencies of Executive Government, but also the ongoing need for scrutiny of legislation through a parliamentary committee. Senator Cooney went on to talk about the Senate committee's *modus operandi*. He made a few important points about procedures. First, the production of the *Alert Digest* and the fact that it is available on the Internet means that there is the capacity for dialogue with players outside the parliamentary arena. Third parties can and do join in and their feedback is passed on. Senator Cooney gave an example of how that worked on the 1995 amendments to taxation legislation. He also mentioned the involvement of Ministers in that process. Second, he talked about the culture of dialogue between the committees and Ministers and the way it was kept, as he described it, "immediate, informal and expeditious". He said that that was how the committee was able to work effectively in Canberra. Senator Cooney concluded his speech with this quote:

Whatever values and principles the various scrutiny committees around Australia bring to their duties, they produce good results. Across the range of parliamentary committees they are the ones which most consistently and effectively keep legislation in line with civil and political rights.

It is in this area that the report, of which we are taking note, emphasises the value of a scrutiny of bills committee for this Parliament. The recommendation on page 129 of the report concludes:

Parliament, through the Committee system, could make a genuine contribution to improving the protection of human rights in NSW while at the same time improving and assisting the focus of debates on legislation.

That would be done through establishing a scrutiny of legislation committee. I turn briefly to the committee's specific model for a scrutiny of legislation committee. First, the report recommends the Senate model, which is more flexible and less prescriptive than the Queensland model for a scrutiny of legislation committee. In the report Professor Kinley describes the Queensland model as almost tantamount to a mini bill of rights. Professor Kinley also notes that the Queensland model has the weakness of focusing on 10 articulated rights, which has the tendency to cause the committee to focus on those rights to the exclusion of others. He sees that as a problem.

I think my earlier quote from Senator Cooney on the extensive range of matters considered by the Senate committee illustrates why it is important to build in flexibility. I think that the committee's reasoning in favour of the Senate model is sound. That is the way in which the Regulation Review Act in New South Wales is structured. We, like the Senate, have a number of legislated heads of jurisdiction, which provides flexibility. In my view, that is definitely the right way to go. So I think the committee has got that right. Second, this report

calls for a joint committee of both Houses of this Parliament. I agree that it would be preferable for it to be a joint committee. I quote from the report of the committee, of which we are taking note:

The protection of rights and liberties should be the responsibility of the whole Parliament.

The Regulation Review Committee is a joint committee. Ideally, a scrutiny of legislation committee would adopt the same model. Having a joint House committee promotes bipartisanship; at least that is the culture of the Regulation Review Committee that I witnessed in the last 2½ years. However, that very much depends on the personalities of the chair and serving committee members. The former member for Auburn, Peter Nagle, to give him his due, had plenty of detractors—some inside and many outside this Parliament—but he was a good chair of the Regulation Review Committee. He helped to promote a constructive and bipartisan culture in that committee.

Sadly, at present we do not have a new chair. This Government has taken quite some time—over four months—to sort out its factional problems and provide us with a new chair. However, if the new chair adopts the same sort of approach that was adopted by Peter Nagle it will continue to be quite a good committee. I think the joint model is a good one. If the Government does not agree—we will be waiting for its response to this report and I hope that we will not have to wait too long before we see a response—this House will have to consider what happened with the Senate experience in Canberra. I, for one, will not let the proposal languish for three years as, regrettably, it languished in the Senate.

It may well be appropriate, if the Government does not bite the bullet quickly, to consider setting up a committee of this House to consider scrutiny of legislation. Given the composition and complexity of this House that proposal would meet favour. That is something the Government should give expeditious consideration to if it wishes to consider the approach the committee has recommended. The Senate Scrutiny of Bills Committee has six members—three Government and three non-Government—with the chair a nominee of the Leader of the Opposition in the Senate. On that committee the chair has a deliberative and a casting vote. It is an interesting model. Nevertheless, it has still managed to maintain a bipartisan culture—at least that is the view of Senator Cooney and a number of other members who have served on that committee.

The final recommendation as to structure is that any scrutiny of legislation committee should be separate and should not consider both primary and delegated legislation, as is the case in Victoria and Queensland. Frankly, I am not fussed if the Government proposes only one committee. That would be workable so long as the committee was properly resourced. I note the Regulation Review Committee is currently considering the draft of its twenty-first report to this House in this term.

The Hon. Ron Dyer: A combined committee would be workable but it would impose an immense workload on the committee.

The Hon. DON HARWIN: It would be workable but it would be an extremely heavy workload, as the Hon. Ron Dyer reminds the House. It may be the consensus to have separate committees but it would be workable to have one committee. I agree with the committee's conclusion that this Parliament should establish a scrutiny of legislation committee. If that recommendation is agreed with, I hope it will be implemented quickly. It will make the work of the Standing Committee on Law and Justice on this issue worthwhile. It will justify the effort and resources that went into its establishment. It would prove most useful and valuable for the State and would, in the long term I am sure, make a real contribution to the protection of the rights and liberties of the citizens of New South Wales. I commend the report.

The Hon. PETER BREEN [3.02 p.m.]: I am pleased to have this opportunity to say a few words about the inquiry and report by the Standing Committee on Law and Justice into the question of a statutory bill of rights for New South Wales. The report has been widely praised in academic and legal circles for the comprehensive way it canvassed the issues. The Hon. Ron Dyer reminded me on the last occasion the report was discussed that Dr Ian Stewart, senior lecturer in law at Macquarie University, told students just last week that the report is the best resource available on the web in Australia on a bill of rights. That represents the appropriate level of praise for the report.

The Hon. Doug Moppett: A very high level of praise.

The Hon. PETER BREEN: Indeed. It is a very comprehensive report, and senior project officer Stephen Reynolds in particular is to be congratulated on his detailed analysis of the issues and writing skills. Stephen was supported in his work by David Blunt, Tanya Bosch and Phillipa Gately. My fellow committee

members are also to be commended for their even-handed and professional approach to the subject. The Hon. Ron Dyer is an excellent committee chairman, as honourable members would know, and his understanding of the issues provided a solid basis for the inquiry and its subsequent report. As honourable members know, I was unable to agree with the primary finding of the committee that a statutory bill of rights is not in the public interest. In my opinion, we have no benchmark for measuring the impact of legislation on human rights, either in New South Wales or elsewhere in the Commonwealth for that matter.

In the current session of Parliament, certain prisoners have been "cemented in" for life—to use the Premier's words—police search and seizure powers have been greatly expanded and private property has been taken by the Government without payment of just compensation. These are just a few of the actions of government that a bill of rights would curtail. In my dissenting report I quote Geoffrey Robertson, who points out that incorporation of the European Convention on Human Rights into British law under the United Kingdom Human Rights Act means that the courts will be equipped "with better principles and procedures for identifying and remedying abuses of power perpetrated against citizens by government departments". This is the whole point of a bill of rights. It is a line in the sand between citizens and governments.

The Hon. Doug Moppett: A pretty vague one.

The Hon. PETER BREEN: But it is better than what we have at the moment when the Government has ultimate authority and power over everything that comes to Parliament and is debated.

Reverend the Hon. Fred Nile: That is the whole point of democracy.

The Hon. PETER BREEN: Reverend the Hon. Fred Nile makes the point that in a democracy everything should be debated in Parliament, but there ought to be benchmarks.

Reverend the Hon. Fred Nile: The people elect parliamentarians to represent them.

The Hon. PETER BREEN: But there ought to be benchmarks, because Parliament has the ultimate authority and power to make laws about human rights, and there is no benchmark in the present system. What surprises me about our failure to recommend a statutory bill of rights is that such a bill is actually a conservative measure by the standard of modern democratic governments. In Australia we lead the common law world in radical legislation because our legal system fails to include the checks and balances of a statutory bill of rights. One example is the legislation dealing with rights of the terminally ill. Another is the legislation setting out the boundaries on in-vitro fertilisation. Legislation of this kind would be vastly different in a legal system where a bill of rights protected the right to life, for example.

Reverend the Hon. Fred Nile: It may work the other way, for example, the rights of a lesbian feminist.

The Hon. PETER BREEN: Reverend the Hon. Fred Nile argues about the rights of lesbians and feminists.

Reverend the Hon. Fred Nile: No, I said a lesbian feminist, with regard to the IVF issue.

The Hon. PETER BREEN: Again we have the most radical legislation in the democratic world on the IVF issue, because we do not have a bill of rights. Other countries and other parliaments are tempered by bills of rights, so they cannot canvass those types of issues. Whether that is a good or bad thing is debatable, but all jurisdictions in every other common law country of the democratic world have their own bill of rights, which sets boundaries on these issues. Australia in general and New South Wales in particular have progressively retreated from their principled stand on human rights since the Universal Declaration of Human Rights was adopted in 1948. Australia took an important part in the drafting of that landmark document through the work of Attorney General, Dr Herbert Vere Evatt. In 1947 and again in 1950 the McGirr Labor Government went to the electors in New South Wales with a proposal for a bill of rights. In his policy speech in 1947 Premier James McGirr said:

The Government has considered how best our essential democratic rights and freedom might be safeguarded. The Government has decided the time is right to consider the introduction of an Act of Civil Rights, Liberties and Freedoms ... The Act will contain a provision that these great rights will not be capable of amendment except with the consent of the people, such consent to be expressed by Referendum.

By 1956 the Liberal Party in New South Wales under Pat Morton had responded to the general call for a bill of rights. In his 1956 election policy speech Pat Morton said:

We propose to introduce a Bill of Rights which we will incorporate in the New South Wales Constitution. This Bill of Rights will define and protect great freedoms such as the freedom to work, freedom of speech, freedom of association and freedom of worship. We will write into the New South Wales Constitution the vital principle that private property cannot be acquired by governments except on just terms.

Only this morning we were debating the question of compensation on just terms in the context of the Government intervening in the hire car industry. Despite the efforts of Pat Morton in 1956, it remains the position that the New South Wales Constitution does not protect citizens from arbitrary acquisition of property by the Government. There is no constitutional requirement to pay compensation on just terms in New South Wales, unlike the Commonwealth Constitution. Pat Morton lost the 1956 election to Labor's Joe Cahill, and then he lost again in 1959 when he was succeeded by Bob Askin.

History records that the Askin Government of 1965 marked the end in New South Wales of any serious attempt to provide for compensation on just terms in the New South Wales Constitution, or the protection of any other basic human rights for that matter. The Australian Labor Party has persisted with its policy for a bill of rights first enunciated by Premier James McGirr in 1947. Today we can read on page 70 of the Labor Party's current policy document:

A Bill of Rights to be introduced consistent with the International Covenant on Civil and Political Rights and its provisions to overrule all other state legislation.

Administrative and judicial enforcement mechanisms to be established to ensure the observance of the provisions of the Bill of Rights.

This policy has remained on the books of the Labor Party for 54 years but has never been implemented by the parliamentary wing of the party. I believe the policy would qualify as a John Howard non-core policy. In fact, the first bill of rights introduced into a Parliament in Australia was the Constitution (Declaration of Rights) Bill presented by the Francis Nicklin Country-Liberal Government in 1959 in Queensland. That bill was shelved because of so-called constitutional problems. Although the idea of a bill of rights has had bipartisan support at various times in our history, we remain the only common law jurisdiction in the world that does not have a bill of rights.

Politics in Australia has moved seriously to the right in the past 54 years. While a bill of rights is nominally on the policy books of the Labor Party, apparently nobody expects the party to act on the policy. The present report before the House contains no surprises in its primary recommendation. As for the Liberal and National parties, the last time I heard any mention of a bill of rights was just before Pat Morton became the Minister responsible for roads in the first Askin Government of 1965. One consequence of this move to the right in Australian politics is that in my opinion politicians no longer reflect the values and aspirations of the people we represent. I have explained this in greater detail in my dissenting report but, briefly, the people of New South Wales and Australia have demonstrated time and time again that they support the idea of a bill of rights. If we were truly representative of the people, we would present the issue for consideration at a referendum.

This failure to represent the electorate is demonstrated in other ways. For example, most members of this Parliament own or have an interest in two houses. Many of us are landlords. I contend that because of our values as property owners we do not give due weight to the rights of tenants. As a matter of unspoken bipartisan policy, the rights of tenants are routinely ignored by this Parliament. The point is that we are not representative of the electorate because most people do not own or have an interest in two houses. The same might be said about our superannuation benefits. We do not represent or reflect what applies to the rest of the community, and this bill of rights issue is one more example. The move to the right in Australian politics has left large numbers of people unrepresented in this Parliament and without proper protections for their basic rights. I believe that minority groups in particular need the protection of a bill of rights.

Reverend the Hon. Fred Nile: The homosexual vilification bill provides protection.

The Hon. PETER BREEN: As Reverend the Hon. Fred Nile points out, the vilification of homosexuals is proscribed under New South Wales anti-discrimination laws.

Reverend the Hon. Fred Nile: That is a move to the left.

The Hon. PETER BREEN: The point is that protection against vilification for one group is all very well but other groups remain unprotected. For example, vilification of religious belief is not protected, so we find members of the Muslim community in New South Wales currently attempting to justify their existence in the face of the most primitive and hysterical forms of abuse. A bill of rights would not prevent this kind of behaviour in the short term, but hopefully in the long term people would learn that we live in a multicultural society in which no particular belief system has cornered the market in human wisdom and understanding, or even truth for that matter. All cultures and belief systems would be valued and respected to the extent that they reflect the inherent dignity of the human person. This is the kind of legal system a bill of rights might facilitate. I commend the report and the work of the Standing Committee on Law and Justice, and I urge honourable members at least to glance at my dissenting report.

Reverend the Hon. FRED NILE [3.14 p.m.]: We appreciate the opportunity at this time to respond to the report of the inquiry by the Legislative Council's Standing Committee on Law and Justice into a New South Wales bill of rights, and to put on record our concerns about ever having a bill of rights in New South Wales because of the many negative results that would come from such a bill of rights. I will outline some of the concerns of the Christian Democratic Party, which made a submission to the committee. Apparently, for some reason the submission was not identified in the submissions that were received. I understand that oversight will be rectified in a reprint of the report. In our submission we said that the Christian Democratic Party opposes any proposal to enact a bill of rights in New South Wales.

Our present legal system is based upon Christian values and principles. Australian law has its origins in English law, which were profoundly influenced by the Christian faith. For centuries England adopted a biblical world view and Christian ethic as a fundamental basis of law that was reliant on personal duty and responsibility. In fact, the Ten Commandments were the basis of the British common law, and were used as the measuring rod of all cases that came before the courts. The measuring rod was expanded over time to become the common law we currently have. My statement about the present legal system being based on a biblical world view and biblical principles cannot be refuted; it is a historical fact. Therefore, our legal system is a duty-based system of law that hinges on personal responsibility, the general understanding being to do unto others as you would have them do unto you.

We agree with the submission presented to the committee by Premier Bob Carr, and we thank the Premier for taking the trouble to present his views to the committee. We know that Premiers are very busy people with many responsibilities. Premier Carr could have left this to individual Government members, but I believe he showed leadership by making a submission. He showed that this important matter needed to be handled very carefully and that the committee had to make the right decision, that is, not to adopt a bill of rights in New South Wales. The Premier argued—and we agree with his arguments—that a bill of rights would hand over to our judicial system responsibility for making policy decisions, which is currently the responsibility of the Legislature. People may argue that judges are more balanced than members of Parliament and do not have any views.

The Hon. Ron Dyer: They are not elected by the people.

Reverend the Hon. FRED NILE: Judges are not elected by the people but they have strong views. One need only look to Justice Michael Kirby, who is virtually running a campaign. When he was President of the Law Reform Commission and then in the High Court he presented very strong views. I thank Justice Kirby for sending me over the years copies of speeches he has given all over the place, including at conventions in America and in the United Kingdom. Many of those speeches related to the HIV-AIDS issue or to homosexual rights. We often used to wonder why he took such an interest in those particular matters. As honourable members know, Justice Kirby's entry in a recent edition of *Who's Who in Australia* was amended to indicate that he had had a male partner since 1968. One could argue that his views are biased because of his particular lifestyle.

I could quote other District Court judges, Supreme Court judges and High Court judges who have strong views on various issues. Some judges have conservative views, and I agree with their views. Other judges have different views. It is dangerous to say that these issues should be decided by the judiciary; that under a bill of rights all these cases should come before judges, who will make a right and fair decision. They will make decisions that reflect their views. I disagree with the Hon. Peter Breen's suggestion that society is moving to the

Right; I believe it is moving to the Left. And because of that, there are now more permissive or trendy judges than there have ever been previously.

The Hon. Peter Breen: We should have a bill of rights. That will solve the problem.

Reverend the Hon. FRED NILE: No, we would not have a bill of rights—that is the whole point—because the trendy or permissive judges would be the ones who would be interpreting it. That is what is happening in Canada and in the United Kingdom. Judges interpret bills of rights in various ways. I am endeavouring to assemble research material on the outcomes. I was staggered to discover that after the bombing of the World Trade Center's twin towers in New York, every country in the world, with the exception of Canada, conducted civil prayer meetings or functions at its Houses of Parliament. The reason Canada did not have such functions was its charter of rights and freedoms, which provides that it is no longer possible for Canada to recite Christian prayers in any government building. Obviously, such prayers were said in government buildings in the United States.

I have been informed that some of the more active civil liberties groups in United States have launched a campaign to ban the words "God bless America", which appear everywhere in the United States. The words "In God We Trust" are engraved in stone on the walls of the United States Senate. No doubt argument will be advanced at some point about whether those words should be erased. The United States Supreme Court can display the Ten Commandments but US schools are not allowed to display them. That is a ridiculous state of affairs. That is just one example of an extreme outcome brought about by judges being influenced by their own prejudices when making decisions on very sensitive social issues.

It is not the case that a bill of rights presents a clear-cut legal argument. It is not as though a crime has been committed, all the evidence has been presented and the only decision to be made is whether a person is guilty or not. Judges can deal with that. They can weigh up the issues. The Christian Democratic Party would say that in most instances judges are impartial when deciding the guilt or otherwise of a person. In this case, we are asking judges to become involved in very complicated social issues. The Hon. Peter Breen referred to cases involving access to in-vitro fertilisation [IVF]. At present the courts are trying to decide how far IVF should go and who should be eligible for IVF. Everyone understood that when IVF was introduced all the arguments in favour of its introduction were based on providing assistance to infertile married couples. No-one ever dreamed that a single, lesbian feminist would demand the very same rights to IVF. I have no doubt that the courts, in making decisions that overrule decisions of the Parliament, will uphold a single, lesbian feminist's right to have access to an IVF procedure.

The Hon. Peter Breen: And the Federal Parliament can overrule the judges.

Reverend the Hon. FRED NILE: That is what will happen if we put such decisions in the hands of judges and the courts. The courts will be forced into the role of having to balance rights and interests. They will be requested to decide which human rights have priority over other human rights. Under a rights-based system, certain rights will conflict with established social standards, cultural mores, codes of conduct, legal rights, moral or ethical boundaries, existing laws and even other human rights. This will cause our legal system to grind to a halt as our courts are clogged with numerous applications that are based on rights.

The central aspect of rights based on law will be confrontation and a system that will force our judges to resolve these conflicts. The courts will be left to decide which social practices, morals, ethics, laws or other rights will give way to these new so-called human rights. Of concern is the fact that judges will make decisions based on their own bias or belief, or on the socially accepted norm of the day. Such decisions should be left to the elected law-makers in our parliaments. If members of Parliament go in a direction that is not in line with the mainstream views of the population, the population can vote them out. That is democracy. But people cannot vote out the judges.

The Hon. Peter Breen: But you can override them.

Reverend the Hon. FRED NILE: But you cannot vote them out of their positions.

The Hon. Peter Breen: You can override them.

Reverend the Hon. FRED NILE: The High Court will override them, and the High Court is another court with another set of judges.

The Hon. Peter Breen: The Commonwealth Parliament can override the High Court any day of the week.

Reverend the Hon. FRED NILE: It is very difficult to do that, and the Hon. Peter Breen knows that.

The Hon. Peter Breen: It is the law. The Commonwealth Parliament can override the High Court.

Reverend the Hon. FRED NILE: It is reluctant to do that.

The Hon. Peter Breen: But it can, any day of the week.

Reverend the Hon. FRED NILE: Our current system of duty-based law places responsibility upon its adherents to break away from self-focus and to consider the interests and welfare of others. This is contrasted with a rights-based system that focuses on "me and my rights". Our current system of law calls on people to take responsibility for their own actions. A bill of rights is a cop-out by abdication of our own personal responsibilities to decide right or wrong and by looking to the courts to decide that for us. The proposed bill of rights will help to foster an American-style culture of litigation. This is characterised by a system whereby people seek the courts' assistance in determining whose rights take a higher priority over other matters. A bill of rights will serve only to muddy the waters between our policy law-makers and the judiciary.

To avoid establishment of a litigious society, New South Wales should retain its duty-based system of law. Moral and ethical decisions on rights should not be handed over to the opinions of magistrates or judges or to ever-changing social norms. A fair democracy should not be controlled by unrepresentative judges to determine moral rights or to engineer social behaviour. Parliaments are elected to determine policy and to legislate. It should be left to the law-makers, our elected representatives, to make important policy decisions that affect the whole of our society.

I remember the words of Sir Adrian Solomons, who made a great contribution in his many years as a member to the Legislative Council. On one occasion when we were debating similar issues he encapsulated succinctly the principle that this Parliament is the highest court in the land. He said that we make the law and that other forums—such as courts—interpret the law and carry out the law. We should be careful not to transfer the role of making the law to the courts so that the courts perform both roles—that is, making the law and interpreting the law.

I am grateful for the even-handedness given in the report to information from other nations involved in the debate on bills of rights, which is being conducted worldwide. It is so often the case that a consequence of such debate is change in our society. Shifts in opinion occur in other nations and eventually that current of opinion reaches our shores. However, we must not be swamped by that opinion. Experience shows that countries that have been swamped by such opinion now regret it. I am sure that Canada regrets having a Charter of Rights and Freedoms. How can that be undone? Someone will have to begin a campaign to abolish the Canadian charter of rights and freedoms. Until that happens, Canada is stuck with it. Under the heading "Views on the Charter" the report makes the following observations:

There is a vast literature on the impact of the *Charter*, some hostile, some very positive. Perhaps the only point of agreement is that the *Charter*, unlike its statutory predecessor, *has* had a significant impact.

That is the whole point about the argument I am advancing. All charters or bills of rights have had an impact—that is for sure. The report goes on to state:

Those who believe the *Charter* has had a negative impact cite factors such as:

The politicisation of the judiciary

The major impact on government expenditure as a result of *Charter* decisions in the courts

The contest created between the executive and the judiciary created by the wording of the *Charter*

That was a point strongly emphasised by Premier Carr. He pointed out the difficulties associated with adopting a bill of rights, especially one containing the right words. It is almost beyond our skills to draw up a bill of rights with adequate wording. There will always be argument about what the words mean. The report goes on to state:

The *Charter* has been of most value—

and I would like all honourable members to listen to this point:

—to criminal lawyers in finding new means for clients to evade conviction.

Who would say that that is a great, progressive step?

The Hon. Peter Breen: The criminals would say it.

Reverend the Hon. FRED NILE: What sane member of Parliament would say that? What sane person in the community who has been a victim of a criminal would not say, "Now that I understand how it works, I do not want a charter of rights and freedoms if it helps criminals to evade conviction." The remaining factor cited in the report is:

The Charter has led to an explosion in litigation.

That is what I have been saying. There has been considerable debate on what the charter means, and the very same arguments would occur in New South Wales if a charter or bill of rights were adopted. The United Kingdom Human Rights Act is causing serious problems already. In February 2000, when we were conducting research into drugs, we were invited to be guests of the House of Lords and the House of Commons. It just so happened that we were present when they were adopting a new bill that related to their armed forces—the Army, Navy and Air Force. They were trying to work out how to relate the laws and regulations of the armed services to the European Convention on Human Rights and Fundamental Freedoms.

The Act literally provides that a private not happy with his or her officer can apply to the court. They were trying to work out what that would do to the discipline of a military force, especially if it were involved in war—for example, some British servicemen will soon be involved in Afghanistan, if they are not already. If a person objects to an officer's order, the Act provides for an appeal to be lodged under the European Convention on Human Rights and Fundamental Freedoms. It cannot be said that that applies just to this section of the community; it applies to everybody.

Sweden has been a very responsible society in recent years. Some years ago it was radical—in the 1960s and so on—but it always had strict laws in relation to alcohol consumption. It realised that alcohol, as we know, was its number one social problem. Apparently, people require a licence to consume alcohol. Sweden now has similar strict laws in relation to drugs. The argument is that because Sweden is coming under the European Convention on Human Rights and Fundamental Freedoms its strict laws would stop people exercising that right.

[Time for debate expired.]

HARNESS RACING NEW SOUTH WALES AMENDMENT (RULES) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. MALCOLM JONES [3.30 p.m.]: It would be most appropriate for international thoroughbred racing rules to be applied to harness racing, as opposed to Harness Racing New South Wales running its own show. Horses submitted to compete with a plasma total carbon dioxide [TCO₂] reading in excess of 36.2 millimoles per litre automatically result in the trainers being in breach of the rules and likely to face a 12-month suspension from earning their livelihood. Trainers, by their very nature, have quite an expensive infrastructure and look after many horses. If they are unable to compete it is an expensive exercise for them; it has the potential to result in bankruptcy. This is compounded by the fact that the harness racing stewards act as police, judge, jury and sentencer. Trainers have no appeal mechanism against penalties: The sentence is final and there is no recourse to natural justice.

This is compounded further by the fact that they cannot even have a legal representative at the hearing. It really is a court star chamber: It has the potential to remove a trainer's livelihood and in many instances it has done so. This question of absolute liability is a scandal and should be addressed. If we pass this bill it will endorse a bad regulation. It will be backdated to January 1999 and will enforce regulations to date. I am sure that most honourable members would agree that retrospective legislation is rarely accepted in this place. This is a bad regulation because it denies appropriate rights, as found by the Regulation Review Committee. The committee's recommendation No. 7 states:

The Committee recommends that Harness Racing New South Wales review the Harness Racing Rules with a view to amending them to meet concern expressed by Mr Justice Young in *Gleeson v Harness Racing Authority of NSW* that it was unsatisfactory that rules are made which give the same people the power to adjudicate and the power to investigate. The Committee recommends, in that regard, that the person performing the role of adjudicator be legally qualified and at arms length from pool of stewards.

That is in line with common methods of regulating in industry. Recommendation No. 6 states:

The Committee recommends that the merits of retaining the current restriction on legal representation at stewards' inquiries be examined by Harness Racing New South Wales and that a report be prepared for the Minister for tabling in Parliament. That report should take in a review of the comparable provisions of sporting codes in other Australian states and relevant overseas jurisdictions.

It is not appropriate that Harness Racing New South Wales is answerable to itself, as the Minister allows it to be and as this regulation will endorse. It strikes me that the Minister has prepared this bill without due consideration to either evidence that was given at the hearings—I know his representatives were there—or, alternatively, the recommendations of the Regulation Review Committee. I suggest that the Minister read the committee report and attend to the recommendations, or at least address them in some way, prior to rushing in this bill to make good bad regulations and law. It is a travesty of justice for those who have been damaged by this bad law.

I reiterate: by passing this bill we will endorse bad law, which is simply not right or fair. I have mentioned already that the international regulations that govern thoroughbred racing are highly appropriate. Horses from New Zealand, Ireland and the United Kingdom come here to compete and, similarly, our horses travel overseas to compete. Therefore, there must be internationally recognised standards. It is inappropriate for harness racing to go off by itself and make its own rules and regulations, particularly given the evidence submitted at the committee hearings. I make it clear that I have never been to, nor bet on, harness racing or the trots. Therefore, I have no particular axe to grind in that regard. As a member of the Outdoor Recreation Party I encourage people to enjoy their recreation, but I also like people to enjoy their livelihoods. What is happening under this regulation is simply not fair; it is wrong.

This bill is bad legislation. The Opposition, in its wisdom, will support the Government's bill, but it is the wrong instrument, a bad instrument. The Hon. Don Harwin is a member of the Regulation Review Committee and I am interested to hear his comments, particularly in light of the Opposition's view. For the benefit of honourable members, the name of the report to which I have referred is the "Report on the Harness Racing New South Wales (Appeals) Regulation 1999". I will not be supporting the bill.

Reverend the Hon. FRED NILE [3.39 p.m.]: The Christian Democratic Party supports the Harness Racing New South Wales Amendment (Rules) Bill, but agrees and sympathises with the argument presented by the Hon. Malcolm Jones. There is no doubt that the purpose of this retrospective legislation is to tidy up the law enacted in 1998. At the time of the 1998 amendments the words and figures "(section 27 (2) excepted)" were inadvertently omitted. The insertion of those words would reinstate the intention of the Act that rules can be made if no regulation has previously been made on a specific matter. The Government's legal advice indicates that there are precedents of drafting omissions, similar to the drafting omission that occurred in this case, and the courts have recognised the drafting errors and the intention of Parliament, and have accordingly construed the relevant provision as though the omitted words were in place. Given that when the bill was originally introduced, debated and passed it was clearly stated that that was how the bill could be interpreted, the courts could take that view.

In order to remove doubt, it appears that the Government has no choice but to reinsert the words in the Act that were omitted by mistake. However, such situations are not clear-cut, and if the words are not reinserted it would be open to a court to decide that the drafting error operated to invalidate certain harness racing rules. The prospect of legal challenge to existing or future Harness Racing New South Wales decisions under a suspect rule would have severe adverse consequences to the regulatory function, and also to the viability of the industry. Current statistics show that many thousands of persons depend on the harness racing industry for their livelihood. Some 40 clubs conduct harness racing in New South Wales, and the industry has 2,500 licensed participants and more than 10,000 owners of racing standardbreds and numerous breeding establishments with significant funds invested in bloodstock and infrastructure. I have not discussed the legislation with my brother, who is involved in harness racing, and I do not in any way seek to represent his views on the matter. However, the Government's introduction of the bill seems to be a logical solution to rectifying what was simply a drafting error.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.42 p.m.], in reply: I thank honourable members for their contributions to this debate. All honourable members who have spoken have shown varying degrees of passion in relation to this issue. The proposed amendment simply restores words omitted in the restatement of the existing rule-making functions by the Harness Racing New South Wales Amendment Act 1998. The restoration of these words will reinstate the intention of the Act that rules can be made if no regulation has previously been made on a specific matter. There are precedents in relation to drafting omissions in legislation, in which the courts have recognised the drafting error and have interpreted the relevant provision with the intent of the Parliament in mind. However, it is felt that, for more abundant caution and to put the matter beyond doubt, it is necessary to reinsert the words as proposed in the bill. The bill will give greater certainty in respect of the operation of the rule-making powers in the Act, which will assist in the proper regulation and administration of this State's harness racing industry.

I wish to respond to comments by the Hon. Greg Pearce regarding the Regulation Review Committee. The report of the Regulation Review Committee in relation to the Harness Racing New South Wales (Appeals) Regulation 1999 is acknowledged. The recommendations of that report are receiving close consideration and a Government response will be available later this year. Nevertheless, the first priority must be to correct the drafting error and restore the Act to the position intended by Parliament at the time of the 1998 amendments. This is to ensure that there is appropriate business and regulatory certainty. The rule of law in relation to the regulation of harness racing would be severely undermined if the harness rules of racing were found to be invalid. The proposal contained in the bill is intended to put the issue beyond doubt. For obvious reasons, it is necessary to do this now. As has been said earlier, the reform proposals put forward by the Regulation Review Committee are a separate matter. They will be addressed in the normal way, with each recommendation receiving the benefit of substantive consideration in the Government response that is being prepared.

I now wish to respond to comments of the Hon. Greg Pearce relating to the state of the racing industry. The Government is not about imposing rationalisation on the racing industry. The commercial wellbeing of the racing industry, and its strategic direction and future viability, are matters for the three controlling bodies of racing. The Government is aware that a number of public statements were made during mid-2001 to the effect that the New South Wales racing industry will face serious threats to its long-term viability unless certain measures are introduced to streamline the industry and reduce costs. The sources of these statements included an independent report released in May 2001 by consultants Salomon Smith Barney. The report suggested that the New South Wales racing industry needed to undergo structural change to improve its viability. For example, the TAB has suggested that the interests of the racing industry may not be best served by the significant proportion of non-TAB racing that is conducted for substantial prize money, particularly in the thoroughbred racing sector.

TAB Ltd also perceives that there have been significant increases in the administration costs of the racing industry over the past few years. Many of the suggestions by the TAB relate to commercial aspects of the racing industry and are not matters in which the Government has any direct involvement. The Government is aware that some sections of the racing industry have argued that many of the core suggestions by TAB Ltd are seated almost solely in economic rationalism and do not fully take into account the reality of issues such as some of the qualitative incentives in racehorse ownership and participation in racing generally. This is particularly so in the case of one of the most contentious specific issues—non-TAB Saturday afternoon racing for substantial prize money in country regions.

In many ways, under the current industry financial arrangements applicable in the two jurisdictions, New South Wales racing will continue to find it difficult to compete with the Victorian industry. The biggest single underlying cause of this is the ongoing disparity in gaming revenues enjoyed by the respective racing industries. From time to time comments are made in the vein of how nice it would be if something could be done to address this disparity via immediately diverting further gaming revenue in this State to the racing industry. I suggest that this could only happen by one of two means. The first would involve handing part of the Government's tax revenues from gaming to the racing industry. As a matter of fiscal reality, this would need to be at the expense of spending in areas such as health and education. This would clearly be contrary to public perceptions of relative priorities. I am here referring to the comments of the Hon. Greg Pearce.

The second means of diverting further gaming revenue to the racing industry would be to say to licensed clubs or hotels that they should hand over some of their gaming revenues to the racing industry. It would seem unlikely that those sectors would view such a proposal favourably. The Government is also aware that all three codes of racing are currently facing challenges in areas such as attendance levels, as they compete in a fiercely competitive environment for the entertainment dollar. In response to the Minister's request in June 2001, the three controlling bodies of racing provided him with detailed reports on the current financial state of their respective race clubs. From these reports, two points are clear. First, a small number of the State's race

clubs are currently facing some financial hurdles. For example, some of the State's harness racing clubs have indicated that the level of drivers' workers compensation premiums represents a significant drain on finances.

Second, the controlling bodies are closely monitoring the financial situation with respect to some of the race clubs. The Minister is confident in stating that all three racing codes have at their disposal skilled and experienced finance and management personnel ready and able to provide guidance and assistance to the State's race clubs. This should ensure that race clubs are able to deal effectively with potential financial concerns before they materialise as more serious problems.

In relation to the issues raised by the Hon. Malcolm Jones and the Hon. Ian Cohen, it is widely recognised that, in the interests of racing's integrity and maintaining the confidence of the betting public, there is no option but to insist that a trainer is responsible for a horse registered in his or her name. Anybody who takes out a harness racing trainer's licence effectively agrees to be bound by that aspect of the rules. This notion of strict liability for the trainers of racing animals is embedded in the relevant rules applying to the three codes of racing around Australia and in many other countries. In October 2001 the Australian Harness Racing Council established a high-level committee to examine the aspects associated with the plasma total carbon dioxide [TCO₂] testing regime. The establishment of this committee is indicative of the desire of harness racing to monitor and evaluate the fairness and consistency of its drug regulatory regime.

The committee reported to the Board of the Australian Harness Racing Council during April 2001. As a direct consequence of the report, the Australian Rules of Harness Racing have been amended to provide for a revised permissible TCO₂ level of 36 millimoles—with effect from 1 May 2001. My colleagues opposite might take note that this revised level is now uniform in all Australian harness racing jurisdictions, including New South Wales. Provision is made under the Harness Racing New South Wales Act for the appointment of the Harness Racing Appeals Tribunal. The tribunal consists of a District Court judge appointed by the Minister on the recommendation of the Attorney General.

The Hon. Malcolm Jones: When was that published?

The Hon. IAN MACDONALD: I will deal with that shortly. Any person aggrieved by a decision of the stewards may appeal to the tribunal. I am sure that honourable would know that it was formed in 1981. The Harness Racing New South Wales Amendment (Rules) Bill is simply designed to correct the drafting error that occurred in 1998. Parliamentary Counsel and the Crown Solicitor have confirmed that it would be prudent to correct the drafting error and put the issue beyond doubt. I have dealt with the contributions of honourable members in great detail and with the due respect they so richly deserve. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

APPRENTICESHIP AND TRAINEESHIP BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.53 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The issue of modernising and streamlining the apprenticeship and traineeship system in this State is an important matter. It is important for businesses, particularly small businesses, which rely on training new workers for the long-term viability of their industries. It is important for unions, which play a crucial role in supporting and developing trades and vocations. And it is important to the young people of New South Wales, who gain skills and start on a career thanks to an apprenticeship or traineeship. Apprenticeships and traineeships are important because they are about jobs—about skills and careers. Over the past five years the number of people undertaking an apprenticeship or traineeship has grown by 83 per cent—from 50,270 to 92,370. In fact, in the past 12 months alone apprenticeships and traineeships have grown by more than 16 per cent. So more than 12,860 additional people have benefited from gaining new skills in real jobs in the last year. And it is young people who benefit most: almost 63 per cent of those apprentices and trainees are under the age of 25.

Because of the rate of growth and because of the importance of jobs for young people, a year ago I initiated a comprehensive review of the New South Wales apprenticeship and traineeship system. The legislation I am introducing today is the result of that review. It involved consultation with employers associations, unions, training organisations and government agencies. More than

1,000 people and organisations were invited to comment on the changes needed to apprenticeship and traineeship legislation. Ten public forums were attended by more than 350 people in Sydney and across New South Wales. The results of the review were loud and clear. Employers, unions and training providers alike highlighted pressures on the New South Wales apprenticeship and traineeship system: the emergence of the knowledge economy, with scientific and technological advances; outsourcing, deregulation, capitalisation of the labour market; and more students staying on to complete the Higher School Certificate and gaining vocational skills while at study.

On top of changes in the economy, the nature of vocational education and training has changed substantially over the past decade. A national training system has been established to promote apprenticeships and traineeships across the nation. Apprenticeship and traineeship courses can now be delivered entirely in the workplace, customised to individual employer needs. Workers already in work can gain new skills by taking on a traineeship without changing jobs. Trainees can study their courses either full time or part time. And new industries are establishing traineeships regularly. For example, I recently approved new traineeships in information technology and local government. But the most important message from the review of the New South Wales apprenticeship and traineeship system was that the 12-year-old Industrial and Commercial Training Act has not kept pace with the rapid rate of change.

The 1989 Act requires complex administrative procedures that bury employers—particularly small business owners—and young people in paperwork. This is turning people away from the system. The lack of flexibility in the duration of training because of the indenture process is also discouraging young people and employers. The current legislation makes the introduction of new types of apprenticeships and traineeships difficult and complex. Some people in industry have criticised the New South Wales legislation for causing delays in implementing new national training packages. The need to simplify and modernise the legislation, to introduce more flexibility into apprenticeships and traineeships, is obvious. The challenge in reforming the 1989 Act has been to introduce reform while preserving the strength of the New South Wales system: protecting young workers in apprenticeships and traineeships from exploitation; maintaining a collaborative relationship between industry, unions and training providers in approving new apprenticeships and traineeships; and retaining a strong internal dispute resolution body and appeals mechanism for apprentices, trainees and their employers.

The most important challenge is ensuring that the quality of the New South Wales apprenticeship and traineeship system is not compromised so that unscrupulous employers or training providers can take on an apprentice or trainee, get the Commonwealth subsidy payment and then not deliver any training. There have been countless cases in other States of exactly this occurring. But our legislation has, thankfully, prevented that from occurring in New South Wales. The legislation that has been drafted has achieved this while retaining the strengths and reforming the weaknesses of the system. The draft bill is widely supported by the Australian Industry Group, Australian Business Ltd, the Australian Retailers Association, the Labor Council of New South Wales, the Board of Vocational Education and Training and the TAFE Commission Board. In drafting the legislation the Government has taken care to ensure that the concerns of industry and the union movement have been addressed.

Let me turn now to the details of the legislation. The bill will repeal the Industrial and Commercial Training Act 1989 and replace it with a bill that addresses 10 key areas of reform by modernising terms and references, reforming declaration of vocations, providing greater flexibility in training arrangements, simplifying the establishment of apprenticeships and traineeships, strengthening employers' duties under host employment arrangements, introducing registration of group training organisations, including provisions for existing worker trainees, clarifying processes for disputes, complaints and appeals, introducing a new provision for prohibited employers and making provisions for electronic communications and fees.

Outdated terminology will be updated to reflect developments in the national training system. For example, the bill now recognises the role of registered training organisations, training contracts and group training organisations—nomenclature that did not exist 12 years ago. Clause 5 replaces the current process of declaring trades and callings with a more streamlined process whereby the Commissioner for Vocational Training recognises trade and traineeship vocations. Currently, the Minister declares trades and callings, but the vocational training orders must be issued by the Director-General and then implemented by the commissioner.

The new approach streamlines this by providing the power to recognise vocations and, under clause 6, to issue vocational training orders to the commissioner. Of course, this is not an unfettered power. The commissioner's powers must only be exercised in accordance with the guidelines issued by the director-general, who acts under the authority of the Minister. The new provisions ensure that industry has an ongoing involvement in identifying training arrangements and supporting better implementation of national training packages. It also provides greater flexibility in establishing training arrangements for apprenticeships and traineeships. Vocational training orders specify the following matters in relation to the required training: the appropriate term for apprenticeships and traineeships, conditions under which the term may vary, the qualifications to be awarded, any additional training to be provided, and an appropriate probationary period.

Clause 7 simplifies the process of establishing an apprenticeship or traineeship in New South Wales by introducing a one-step process to establish a training contract. This replaces the current requirement to first submit an application and to then establish indentures—a process that can take several months. Under the new arrangements an application to establish an apprenticeship or traineeship will be accompanied by a training contract signed by the parties. The legislation also introduces a requirement for the submission of a training plan endorsed by a registered training organisation. This will strengthen the quality of training arrangements by setting out what kind of training will be provided and when and where it will be delivered.

The training contract, when approved, is binding for the employer and apprentice or trainee on the date the probationary period expires for the specified term in the same way as the current indenture is. During the probationary period, either the employer or the apprentice or trainee may withdraw from the apprenticeship or traineeship by notifying the commissioner in writing. The new legislation strengthens employers' responsibilities to manage host employment arrangements where an apprentice or trainee is placed with a host employer through group training or labour hire arrangements. These arrangements have become very popular over the past few years, with the establishment of more than 90 group training companies in New South Wales. Under host employment arrangements, employers remain responsible for fulfilling their obligations for all hosted apprentices and trainees.

In particular, employers must ensure that the apprentice or trainee is placed with a host employer who can provide appropriate work-based training, properly supervise any host employer and ensure the apprentice or trainee has time to undertake training. Although group training organisations have become popular, they have never been regulated. The bill allows group training organisations to be registered as meeting minimum operating standards. I point out that registration is optional, but the Government envisages that registration will become a requirement for access to Commonwealth and State funding. Although funding will not follow automatically, I am sure that most group training companies will seek registration. These provisions have been developed in consultation with the peak body and group training organisations, and are strongly supported within the group training industry.

When the Commonwealth Government introduced existing worker traineeships in 1999 the New South Wales Government introduced administrative arrangements to guarantee workers' industrial rights. The bill now incorporates these administrative arrangements into statute to further secure their conditions of employment. Where a person becomes a registered existing worker trainee their conditions of employment, superannuation, accrual of leave and other entitlements are protected. Existing worker trainees are entitled to remain employed and retain their rights, including their right under the Industrial Relations Act 1996 to access the Industrial Relations Commission.

The bill replaces the existing Vocational Training Board with a Vocational Training Tribunal. It is considered that the term "tribunal" more accurately reflects the function of this body. Under the current Act more than 70 members are appointed to the Vocational Training Board by the Minister, but the board does not have a policy role and does not ever meet as a full board. Rather, panels of four members are convened, consisting of relevant industry, union and training representatives and presided over by the commissioner or a delegate. This arrangement has worked well—it ensures that all interests with appropriate expertise are represented, but in a manageable and relatively informal format. The Government believes that it is appropriate to maintain that arrangement, but to clarify it. The new Vocational Training Tribunal will be composed of four members appointed by the director-general and convened as necessary.

For example, if an apprentice in the hospitality industry were to have a dispute with their employer, a panel consisting of a representative of the Australian Hotels Association, the Liquor, Hospitality and Miscellaneous Workers Union, TAFE New South Wales and the commissioner could be convened. On the other hand, if it were a hairdressing apprentice, a panel relevant to that industry could be convened. The functions of the tribunal and appeals panel remain the same as under current legislation. Taking into account the strong views of many during consultation, I can confirm that right of appeal by leave to the Industrial Relations Commission will be retained.

The current legislation does not provide appropriate sanctions against unscrupulous employers. The bill allows the Vocational Training Tribunal, in determining a complaint against an employer, to declare an employer as a "prohibited employer". This may be either indefinitely or for a period and may authorise transfer of existing apprentices and trainees to another employer. Let me make it clear: this provision will only be used where employers wilfully breach their obligations under the Act, and I would hope that will be on a very irregular basis.

The Government plans to introduce electronic lodgment of training contracts and training plans by March next year. This will mean for most employers that the process of taking on a new apprentice or trainee is greatly simplified—reducing paperwork, time and effort. The bill enables this by providing regulatory power to enable electronic record keeping, digital signatures and the computerised lodgment of documents. Finally, regulations may create a schedule of fees for particular services. While no additional fees are envisaged at this stage, the current legislation does not provide the power to charge them should a fee become necessary. I assure honourable members that this Government will not charge fees for apprentices or trainees to access the tribunal or appeal panel.

These reforms have the support of employer associations, industry peak bodies, unions, employers large and small, group training companies, training organisations and government agencies. The new legislation removes barriers to more young people accessing training. It removes barriers to employers taking on more apprentices and trainees. I am delighted with the outcome of the Government's review of the apprenticeship and traineeship system. I firmly believe that the new legislation builds on the strengths of the 1989 Act while fixing the problems and ensuring its relevance to meeting the training needs of our current and future industries. I commend the bill to the House.

The Hon. PATRICIA FORSYTHE [3.54 p.m.]: This is perhaps the single most significant bill that will be introduced in this Chamber this session. I note that there are fewer members in the Chamber than is worthy of a bill of such importance, not only to New South Wales but to the broader training regime across Australia. The bill is the end result of the agreement between Commonwealth and State governments that underpins modern Australian training. I am certainly pleased on behalf of the Opposition to support it. I use those words quite deliberately because from time to time the Opposition indicates that it will not oppose something, but on this occasion I take it further and indicate our strong support for this legislation.

It is appropriate to update apprenticeships and traineeships with a more modern and streamlined approach. This bill will update and replace the 1989 Industrial and Commercial Training Act and will introduce a more flexible regime for employers and employees. I note that yesterday, in answer to a question, the Special Minister of State referred to the Olympics and the strong relationship that emerged between employers, government and employees. I said at the time that it was appropriate for this economy, as well as a model that could be applied to other States in the future. This legislation is a perfect example of what I had in mind.

The Government and I acknowledged that the Industrial and Commercial Training Act 1989 needed to be updated. A significant process of consultation and review went ahead in an appropriate manner when all key players were brought together. I also acknowledge that the Government, unlike with some bills and some departments, was pleased to provide me with a briefing some time ago. At that time I indicated to the

Government that, given the strong support of which I was aware from employer groups, employees and the Labor Council in particular, this legislation would have the support of the Opposition. This legislation should represent a bipartisan approach to something that is above politics to provide a training regime for New South Wales for the future.

I have no doubt that this State must achieve its full economic potential to move forward. We need to ensure that our apprenticeships and traineeships provide us with a skilled work force that will be obtained if we offer an accessible system to people, not merely at the end of their schools days but throughout their life. In this country in the past decade there has been a shift from the notion that when a person completed school that person trained in an occupation and stayed in that occupation throughout his or her life, without retraining. That is not a reality of modern economic life. People need to retrain. This legislation underpins the capacity for employees to seek to retrain and provides for flexibility in the training offered by employers. I will refer to that issue further when I look at the objects of the bill.

As I said, if we want to move forward and achieve our full economic potential it is absolutely vital that our training regime provides for the development of skills and for a flexible workforce, which can move in and out of a variety of jobs with different skills. Employers must be able to create a training regime appropriate to their industry. In about 1994, when the Coalition was in government, I visited a goldmine at Parkes. At the time that industry needed miners to be trained in underground mining and in open-cut mining, and in a variety of different ways. A training package was developed for that industry to incorporate skills that were applicable to both forms of mining. Flexibility of that sort is needed in many industries in this day and age. What is proposed in this legislation goes a long way towards achieving that.

It is appropriate that I deal with some of the key elements in this legislation. Before doing so I want to refer to the National Centre for Vocational Education Research and to the work that it has been doing in relation to apprenticeships. Many people think of apprenticeships in a narrow way. They refer to them as a longstanding system of combining training and employment so that people entering an occupation receive instruction in the specific skills needed while working in a particular occupation. Apprenticeships, as we know, were in general confined to a certain number of trades. Traditionally they were associated with young people leaving school. Apprenticeships have been part of the training regime in Australia for a long period—since the earliest years of the development of the Australian economy.

In 1994 requirements for formal off-the-job training in apprenticeships were relaxed and other flexibilities were introduced to expand the ways in which apprenticeship training was offered. That was recognised in the 1994 Australian National Training Authority agreement, to which every government in Australia was a signatory. In the second half of the 1990s we saw a strong move towards changing a rigid process into a far more relaxed process. As I said earlier, traditionally apprenticeships comprised a narrow band of jobs, perhaps 14 per cent of all jobs in Australia. Women were always involved in small and specific groups—usually hairdressing or the hospitality industry.

The word "traineeships" and the use of that word have become important. Traineeships were introduced in 1985 to complement traditional traineeships by extending the coverage of apprenticeship-type training and employment to a much wider group of jobs across the labour market. Traditionally, they were 12-month contracts which provided both employment and off-the-job formal training. We often associated TAFE with both apprenticeships and traineeships. In the 1990s and in particular in the last couple of years new apprenticeships have emerged. Many statistics that have been bandied about referred to significant increases in new apprenticeships.

We are now talking about a single integrated system—that is, people undertaking training and employment in apprenticeships or, more recently, in traineeships. That single, integrated system of employment and training incorporates what were formerly our apprenticeship and traineeship systems. New apprenticeships cover all occupations where a contract of training applies and they can be applied to varying training periods—usually from one to four years—and for various vocational qualification levels, from certificate to diploma. The move to bring those concepts together, probably more than anything else, required a review of the legislation from 1989, which subsequently led to the Apprenticeship and Traineeship Bill.

As I said earlier, the Government embarked on a process of consultation. In October last year it released a paper and undertook a process of consultation with all key stakeholders. That appropriate form of consultation has led to widespread feedback. I have had feedback in particular from business groups about the positive way in which outcomes were achieved that met the requirements of businesses and employees. The Opposition is concerned to ensure that, at the end of the day, as many barriers as possible are lifted to enable

employers to offer traineeships. Much of the paperwork and bureaucracy that underpin the existing system must be reduced. Unless that is done there will be no incentive to employ people in a training regime. If we have to go through an enormous bureaucratic process every time we want to employ someone the incentive will be reduced.

This legislation provides greater flexibility and industry involvement. It certainly streamlines and simplifies administrative arrangements for apprenticeships and traineeships. At the same time it recognises that we must protect the interests of employees. That will be done, first, through the development of a training plan, and, second, through a contract between employers and employees. As I said earlier, the Opposition is often seen to be doing the bidding of business. At the time that the workers compensation legislation was debated in this Chamber members of the Opposition said that they were concerned also about looking after the interests of employees. Under this legislation that means that dubious employers, shonky employers or employers with a poor reputation may be denied the opportunity to employ trainees.

This legislation establishes a clear system within which problems will be able to be resolved. There will also be a role for the newly created Vocational Training Tribunal to hear complaints and disputes as well as the usual approved variations in contracts. To me this legislation is about the future. I refer again to the work of the National Centre for Vocational Education Research. What emerging issues did it identify in relation to apprenticeships? It is worth noting that that centre initially suggested that apprenticeships would reach 275,000. The centre has now revised that figure to 280,000. Numbers are increasing. They were expected to reach 295,000 in December 2000. That growth in apprenticeships is one of the untold success stories of the Howard Government. The number of people who have embarked on new apprenticeships in the last few years has literally gone through the roof. The graph shows a consistent upward pattern that can only be in the best interests of Australia. The centre states:

- The rapid expansion of the system beyond the traditional trades, far from being a problem, means that new apprenticeships now reflect the structure of the Australian labour market better than ever before.
- The opening up of the system to people of all ages has not meant a reduction of opportunities for young people...
- Over 90% of new apprentices are employed three months after completion of their apprenticeship.

In the last few years the number of people offering training has increased significantly. In country areas there has been enormous growth in this industry. Training is now being offered by a number of training companies. Rather than tying persons to the old master-apprentice system, the training system has now been opened up. The centre makes the following point:

- The long-term labour market prospects of apprentices at the equivalent of Certificate III level or higher are second only to university graduates in terms of the highest rates of employment and the lowest rates of unemployment.

Obtaining a traineeship and undertaking training can only lead to success in the future. That is the message that we have to take to the community. We must say to people that if they undertake a period of training their future prospects will be considerably enhanced. The centre also states:

- The analysis suggests there is potential for the size of the system to grow to over 400,000 apprenticeships.

That will happen only if we have strong legislation underpinning that system. That is why the Opposition is so keen to support this legislation. Some aspects of the current training regime and agreements have not yet achieved their potential. Since 1997 Ministers with the responsibility for training have agreed on what they call a user choice policy in vocational education and training. That should be part of this legislation. I deal now with what the Australian Chamber of Commerce and Industry said in its *Review* magazine dated May 2001. It suggested that we have not yet reached the potential that we have been promised. I quote briefly from that magazine, which states:

Under User Choice, public funding for training would flow to an individual training provider as selected by the employers involved in New Apprenticeships. This shift in funding arrangements promised to:

- allow employers to select the provider of their choice;
- empower employers to negotiate about aspects of training including content, location and timing; and
- provide a greater level of contestability amongst training providers, therefore improving responsiveness and diversity between public and private providers

The magazine then states that while user choice has been agreed to it has not yet delivered all the outcomes promised. A survey of employers has given a strong indication that user choice flexibilities were a major factor

in the decision to take on new apprenticeships. More than 80 per cent of respondents felt that user choice was important or very important to their businesses. The survey respondents were asked how important are the flexibilities offered by user choice. They suggested that customisation of training was the most important. More than 90 per cent rated it as important to their business.

Even among those employers who had not known that customisation was possible, and those who had not yet been able to arrange it, being able to mix and match competencies to ensure specific skill needs of their businesses were met sparked a particular enthusiasm. It appears that employers view user choice flexibilities as offering a high level of responsiveness and relevance to changing technologies and future industry skill requirements. I say that because without this legislation that concept of user choice—which was agreed to by all Ministers, and certainly signed up to by New South Wales in 1997—could not be achieved.

The legislation is designed to provide greater flexibility. It is meant to streamline administrative arrangements. It ensures quality of training outcomes for employers and apprentices and establishes a new Vocational Training Tribunal, which better reflects the work undertaken by the existing Vocational Training Board. When we look at some of the other provisions of the legislation we can see how we are moving into a more modern process. For instance, the concept of trades and callings in existing legislation has been replaced by training outcomes. This is an indication of the more modern approach.

At the end of the day this is about employers recognising the skill needs of their work force and then being able to design courses appropriate to the needs of their employees, registering the training regime and then being able to work to achieve appropriate training arrangements by contract with their employees. This is significant legislation of more than 60 pages. I will probably not do it justice, but the Minister's second reading speech mentioned its key points. I am satisfied that on the one hand it provides better opportunities for employers. On the other hand it certainly provides better safeguards for employers. In the establishment of training programs it meets the requirements that were examined in the various Australian National Training Association [ANTA] agreements.

There is no doubt, with today's funding and innovation, that this legislation is significantly important. I hope that we match this legislation with funding so that we move forward not only with the framework for legislation but with the funding that will underpin it. The Commonwealth has promised that recurrent funding under the ANTA agreement for 2001-03—\$50 million in 2001, \$75 million in 2002, and \$100 million in 2003—is available on the proviso that the funds are matched dollar for dollar with State-sourced recurrent funding. All the good legislation in the world will not take us forward unless we have funding to support it. I welcome the legislation.

I accept that the system we have in place, although appropriate in 1999, has been superseded as a result of considerable changes in the training regime and the agreement between State and Federal governments. This legislation is about the future. It is important that we stand as one in saying that we want to see a strong, skilled, flexible work force. Underpinning the Treasurer's comments in this place about attracting firms to New South Wales or to Sydney is the message that New South Wales has people with certain skills—be they language skills, computer skills, or skills in a variety of areas—or has the capacity to offer training to meet the skill requirements of those firms. Unless we can say to companies around the world that we have the skilled work force or the capacity to grow that work force and introduce a training regime to meet the skill requirements, there is no point trying to sell New South Wales as a place to do business.

The one thing that will support our capacity to be on the world stage, to be a major player as a financial or information technology centre, is our capacity to offer a skilled work force. This legislation is essential from that point of view because of the recognition that the existing scheme is far too rigid, but at the same time it ensures, through appropriate contracts and training plans, a safeguard for employees to match the flexibility that is being given to training providers and employers. I am pleased to commend the legislation and to indicate the strong support the Opposition is giving to this legislation.

Reverend the Hon. FRED NILE [4.16 p.m.]: The Christian Democratic Party is very pleased to support the Apprenticeship and Traineeship Bill. This is a most important bill. Our party has always put great emphasis on the importance of apprenticeships. Many of our supporters, if not the majority, are involved with apprenticeships. They are either the fathers, as tradesmen, or their sons and/or daughters, as apprentices. I have said on other occasions that the Christian Democratic Party represents the working class more than the Australian Labor Party does. Those are the types of people we attract. People at our meetings are working-class people who are very concerned about apprenticeships. There are not too many who arrive in a Mercedes-Benz.

The Hon. Patricia Forsythe: That is for the Labor Party.

Reverend the Hon. FRED NILE: That is for the Labor Party, yes. The purpose of the bill is to repeal the Industrial and Commercial Training Act and replace it with a simplified and modernised legislative framework for the apprenticeship and traineeship system in New South Wales; to continue to ensure its relevance to industry and the community and to maintain protection for the apprentices and trainees. It is important that the opportunities for apprenticeships be expanded. I often hear reports that some young men want to take up apprenticeships but it is not possible for them to do so. I have also heard from unions, particularly industry unions, that some companies which should be taking on apprentices do not take them on, or they benefit by employing tradesmen after another company has invested a lot of time and money training them and helping them to complete their apprenticeships. I support the traineeship levy, to which every company should contribute. That would stop the big companies ripping off the conscientious companies that train apprentices.

The legislation will provide greater flexibility in industry involvement in determining training arrangements for apprenticeships. It will also simplify and streamline administrative arrangements for apprenticeships, ensure the quality of training outcomes for employers, apprentices and trainees with the introduction of a training plan, and strengthen the accountability of employers to manage host employment arrangements, where apprentices and trainees are placed with host employers. It will replace the Vocational Training Board with a new Vocational Training Tribunal and retain protection for young people entering into apprenticeships and traineeships. It will introduce new provisions to protect the industrial rights of workers undertaking an existing worker traineeship and will introduce a new provision for prohibited employers, where employers lawfully breach their obligations under the Act. This legislation has the support of the Labor Council and relevant unions, as well as Australian Business Limited, the Australian Industry Group, the Australian Retailers Association, the Board of Vocational Education and Training and the TAFE Commission Board. All those who support the legislation have been involved in its production. We are pleased to support the bill before the House.

The Hon. RICHARD JONES [4.20 p.m.]: I share the view of the Hon. Patricia Forsythe. This bill is so important that it needs a higher level of debate and interest from members of the House. This is extremely important legislation, because it shows the way forward for our young people. It updates the apprenticeship and training legislation to conform with modern practice; it simplifies the paperwork for apprentice and employer, thus removing a discouragement to setting up an apprenticeship; and it protects apprentices against unscrupulous employers who could use apprentices as cheap labour and not provide appropriate training. It has been prepared on the basis of extensive consultation with the relevant parties—unions, employer bodies and educators, including TAFE. I congratulate the Government on this important legislation. I hope that many young people will take advantage of this in the future, and that the quality of training will be enhanced tremendously.

Ms LEE RHIANNON [4.21 p.m.]: The Greens will not oppose this bill but I put on record a number of shortcomings in the proposed legislation. The Minister in his second reading speech made great play of the apparent increase in the number of apprenticeships and traineeships in New South Wales. We were told that there has been an extraordinary increase of 83 per cent in numbers. That figure sounds impressive but it marks the decline that is occurring in aspects of the apprenticeship system in New South Wales. What would be more meaningful for this debate is a breakdown of the number of people involved in four-year apprenticeships and apprenticeships of different durations. We need to be able to compare the figures over, say, a five-year period. When I was preparing for this debate I was informed that some 531 places for four-year apprenticeships had been lost in recent times. I understand that some worrying trends are occurring because of what I describe as an easy-street approach by this Government to this important aspect of public education.

In his second reading speech the Minister made great play of the review of apprenticeships and traineeships. He told us about the 10 public forums, the 350 people who attended, and how the Government listened to their concerns and then responded. And now we have the legislation. It sounds like the very model of how the Carr Government should behave: no last-minute consultation and the rushed legislation that we are so used to in this place. The Minister for Education and Training said strongly that this legislation is about protecting young people in apprenticeships and traineeships from exploitation. But it is not all as cosy as the Minister would like us to believe. Considerable concern remains amongst those involved in delivering apprenticeship and traineeship schemes.

I shall raise some concerns as they highlight some of the bill's deficiencies. The Minister's spin is that great flexibility is needed in order to keep young people in these schemes. Anything that cuts down on paperwork is welcomed and anything that assists employees and employers is certainly necessary. However, in

the name of flexibility, we are seeing a breakdown in the number of four-year apprenticeships, and this, as the figures I gave earlier clearly indicate, needs to be addressed. I understand that some participants in the much-touted consultations strongly urged the Government to provide greater support for long-term apprenticeships. The present system—and this will be exacerbated when this legislation is put into force—is not lifting the skills base in our community. Indeed, the Greens believe that the skills base will be pushed down when this legislation is in place.

One of the major shortcomings of the legislation is its failure to deal with private providers. This bill should specify what will happen to private providers who do not undertake the training they are paid to provide. I understand that this is not an uncommon problem and that examples were given at the government consultations of young people left high and dry when their teachers from the private sector did not take them through the whole course. The Greens want to know where are the details of what will happen to private providers who are not up to the job? Where is it set out that all apprentices will receive proper and adequate education? Where is it stated that private providers who do not do the job will be deregistered? Where is it stated that failed private providers will be prohibited from taking on further apprentices? Where in this legislation are the details about the fines that will be imposed on private providers who fail to do their job? Those details cannot be found in the bill.

As I said, the Minister told us how concerned he is about young people being exploited, but without the detail the rhetoric does not wash. The Government has shown that it has no backbone on the need for clear and strict standards with regard to these private providers. The Greens are also concerned that the Government is opening up the market to group training companies, that is, those bodies that act as intermediaries between apprentices and training providers. For decades we have had a system of employees and employers dealing directly with TAFE. Overall, this has worked quite well. However, like anything else, there is room for improvement, but the new system leaves us with many concerns.

Group training companies are acting as brokers between those who want to undertake a course and those who can provide the training. These companies need to be regulated. They are using government money but no-one knows if the results live up to the promises. Now we have the added dubious practice of training companies acting as training providers. Some companies are sitting on a nice little earner: they apply for and receive their government handout to find trainers. Lo and behold! Suddenly they realise that they can do the training themselves. There is nothing to stop them. There is no law requiring certain standards. So these companies naturally think about double dipping, about reinventing themselves as trainers. The Greens believe that regulations relating to those companies are necessary.

The Minister also made great play about the new system making it easier for people entering apprenticeships and traineeships. Reducing the paperwork is one thing but that is not the main concern of those who want to become apprentices. They want a place where they can access their course without having to travel for hours. People in much of rural and regional New South Wales are particularly disadvantaged when they want to take on an apprenticeship or traineeship. But increasingly so are people in large cities as the variety of traditional service courses are cut back and certain courses are limited to just a few TAFEs. Clearly, more courses are available, but there are fewer four-year courses in a variety of the traditional occupations.

Then there are the problems of employers who are willing to do the right thing and take on apprentices. This is well illustrated in the construction industry with regard to apprenticeships. Some companies have demonstrated that they are willing to take on young people as apprentices, but in reality fewer builders are doing so. I understand that the system often works as a disincentive for many companies. By that I mean that companies that have taken on apprentices find that they are at a financial disadvantage because the companies that do not take on apprentices are able to undercut them, particularly when tendering for new jobs.

In that context, a company that is worth examining is Meriton. The company is well known to every Sydneysider. Mr Triguboff, one of Australia's richest men, is the head of that company, which has built thousands of apartments, perhaps tens of thousands of apartments for all I know. For approximately 20 years the company has been undertaking construction and development throughout Sydney and has pushed through a great deal of development in many suburbs.

Do honourable members know how many apprentices Meriton has taken on? When I was first asked that question, I must admit that I did not know the answer but I guessed from the manner in which the question was asked that the answer would involve low figures. Over 20 years, Meriton has never taken on an apprentice—not even one—and that is just unacceptable. A company of its size, which makes huge profits in this city, should be obliged to do the right thing in the interests of the future development of young people and

ensure that Australia has sufficient tradespeople. The company should be obliged to provide training and to induct young people into traineeships or apprenticeships.

I understand that there is even a requirement on State Government sites for a ratio of tradespeople to apprentices to be in existence. However, I have heard that the ratio is not being applied. A stark example is the Sydney Harbour Bridge. Clearly that is a Government site; the Roads and Traffic Authority [RTA] is in charge of the site. Given that 80 full-time painters are employed, if the system is working properly, there should be approximately 20 apprentices at that site. But how many apprentices are there? Zero; absolutely none. It is an apprentice-free zone. One is left wondering whether anyone in the Government cares. Does anybody in this Government monitor these matters? It is one thing to hear the propaganda and fine rhetoric, it is another to hear that the Government is doing the right thing at times. As a result of increasing difficulties relating to ensuring that there will be sufficient apprentices, the Construction, Forestry, Mining and Energy Union [CFMEU] has proposed that one-quarter of one per cent of expenditure be paid into a training levy by the developers.

The Hon. Patricia Forsythe: Good.

Ms LEE RHIANNON: I acknowledge the interjection of the Hon. Patricia Forsythe and I hope that she conveys her opinion to many of the companies that seem to be resisting the proposal. This bill should be all about protecting apprentices and strengthening the apprenticeships and traineeships scheme to make it a world-class education system. On that score, the scheme fails. Perhaps it deserves 50 marks out of 100 because it certainly has some good points, but it does not plug the loopholes to ensure the creation of many apprenticeships and traineeships across the board instead of one-year courses that are not delivering an improved skills base for New South Wales, but whose figures look impressive.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.32 p.m.]: The Australian Democrats support the bill. I am quite concerned about the decrease in the number of apprenticeships in Australia. When I was employed at Sydney Water, its streamlined corporatisation plan provided for 150 apprentices who were extremely well trained and well supported. That scheme has been ended. The influence of financial stringency on apprentice training has been marked, and I believe that there may be a danger of an increasing shortage of skills in Australia in the future.

The Hon. Patricia Forsythe: The number of apprentices is increasing.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is, at last, but there was a time when there was a lag and that may lead to future problems. The bill is part of a process that will implement a nationwide uniform apprenticeship and traineeship training scheme. It makes sense because it would be an anachronism for States to retain different training schemes when people increasingly travel interstate to find employment. The Australian Democrats believe in a unitary system of industrial relations; indeed, we stand for abolition of State governments and their replacement with regional government, but that is by the bye. The flexibility afforded by the bill is designed to better suit the interests of employers and trainees.

The bill repeals the Industrial and Commercial Training Act 1989 and transfers some provisions of the current Act while expanding others and incorporating new provisions. In effect, the bill creates a new structure for the regulation and development of apprenticeship and traineeship schemes in New South Wales. Part 2 deals with the establishment of the new training scheme and certification of trade vocations. Under clause 5, the Commissioner for Vocational Training will be able to designate any vocation to be a recognised trade in connection with the establishment of apprenticeships by placing an order in the *Government Gazette*. The provision recognises and facilitates both current and future vocations as they develop and change in the work force. As a new skill is developed and as technology advances the changes can be efficiently recognised.

Under this bill, registered training organisations, contracted training service providers and group training organisations can be recognised by the commissioner. The growth of such organisations cannot be ignored. They cater for the changing demands of modern workplaces. By virtue of clause 6 (3) the commissioner must consult with relevant industry groups and comply with vocational training guidelines when making a vocational training order. This will ensure that actual consultation will occur between the parties. Notices of the training orders will be published in the *Government Gazette*. Clause 6 (6) provides that copies of the training orders will also be publicly available on the Internet to ensure easy access for interested parties.

Part 2, division 2, deals with the establishment of apprenticeships and traineeships. An employer who hires an apprentice or a trainee may apply to the commissioner to establish an apprenticeship or traineeship in a

trade within 28 days of the date of commencement of the trainee's or apprentice's employment. If an employer fails to do so, a penalty of \$2,000 may apply. Under clause 7 (6) a prohibited employer is not permitted to make an application. If the commissioner or a tribunal is satisfied that a traineeship or apprenticeship is inappropriate in the circumstances of a case under consideration, an application may be dismissed. Hopefully that will ensure that the trainee or apprentice will be protected from dodgy employers who dangle in front of young workers the promise of a trade ticket.

I note that the Australian Democrats industrial relations policy is based on a concern that youth wages are leading to age-based discrimination, which is being used as an excuse not to pay reasonable wages for work that has been carried out. Obviously members of the Australian Democrats are concerned that so-called training positions are part of the devices that are being used to underpay people and believe that, in a reasonable industrial relations environment, that does not give people a fair go. Part 3 provides that people who have received trade training or who have completed a service apprenticeship in the defence forces will receive the same trade certificates as a civilian trades-person receives. The commissioner will establish a process for this to become a reality in consultation with the tribunal and representatives of the Australian defence forces.

The tribunal will also be empowered to recognise trade qualifications that have been obtained in other jurisdictions. The commissioner will maintain a register of the tribunal's determinations made under part 3 of the bill to provide for consistent recognition of interstate qualifications. Part 4 of the bill deals with proceedings with respect to disputes between the parties and the administration of disciplinary matters that are heard by the commission and the tribunal. There is not an automatic right to legal representation before the tribunal, except by consent of the tribunal and the other party to the proceedings. However, clause 45 states that unions will be able to represent parties. The Crown, a corporation and the union are entitled to legal representation.

A conciliation process is provided in clause 50. Appeals against a determination can be made to the appeals tribunal or to the Industrial Relations Commission under the circumstances outlined in clause 55. As far as the Australian Democrats are concerned, this bill is reasonably well balanced. We believe that it does not place any disproportionate burden, advantage or disadvantage on employers, employees, training institutions, unions or the Industrial Relations Commission. For those reasons, the Australian Democrats support the bill.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.38 p.m.], in reply: I thank honourable members for their contributions to the debate on this important change in the apprenticeships and training regime of this State. In response to some comments made by the Hon. Lee Rhiannon, I point out, first, that private training organisations are dealt with in the bill, which provides details of training requirements for all apprenticeships and traineeships. Clause 6 enables the commissioner to make vocational training orders in consultation with industry. All public and private training providers that deliver apprenticeships and traineeships training are required to comply with the relevant vocational training order. In addition, the bill requires all training to be delivered by a registered training organisation with the New South Wales Vocational Education and Training Accreditation Board [VETAB]. Registered providers with VETAB, whether public or private, must meet national standards for registration.

Section 14 deals with strengthening employers' duties under host employment arrangements—group training. The bill strengthens employers' responsibilities to manage host employment arrangements where an apprentice or trainee is placed with a host employer through a group training or labour hire arrangement. Under a host employment arrangement the employer remains responsible for fulfilling the obligations of the employer for all hosted apprentices and trainees. In particular, the employer must ensure the apprentice or trainee is placed with a host employer or employers who can provide the appropriate work-based training. The employer must also properly supervise any host employer, ensure that the apprentice or trainee is released to undertake training by the registered training organisation, and monitor their attendance and participation.

Section 30 refers to group training organisations. The bill allows for the registration of group training organisations under minimum operating standards specified in vocational training guidelines issued by the director-general. The commissioner may register a group training organisation if satisfied that the organisation meets the minimum operating standards. The bill does not require group training organisations to be registered. This provision will support the introduction of quality arrangements for group training organisations that have been developed and piloted in consultation with key industry players. Organisations wishing to apply for government funding will be required to be registered to meet eligibility criteria. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PUBLIC FINANCE AND AUDIT AMENDMENT (AUDITOR-GENERAL) BILL

The DEPUTY-PRESIDENT (The Hon. Helen Sham-Ho): I report the receipt of the following message from the Legislative Assembly:

MADAM PRESIDENT

The Legislative Assembly has considered the Legislative Council's message and schedule dated 17 October 2001 requesting the concurrence of the Legislative Assembly with the amendments to the Public Finance and Audit Amendment (Auditor-General) Bill, and informs the Legislative Council as follows—

Amendment No. 1 The Legislative Assembly disagrees with the proposed amendment because—

It would give the Auditor-General an unfettered mandate to traverse areas in which audit officers have no special expertise; and

It would conflict or overlap with the mandates of Parliament itself, the Ombudsman, the Independent Commission Against Corruption, the Police Integrity Commission, the Administrative Decisions Tribunal and other independent watchdogs.

Amendment No. 2 The Legislative Assembly disagrees with the proposed amendment because—

It would politicise the role of the Auditor-General;

It would remove the Auditor-General's discretion to conduct audits requested by a House of Parliament; and

It would severely restrict the Auditor-General's independence and capacity to direct and prioritise the resources of his office.

Amendment No. 3 The Legislative Assembly agrees to the proposed amendment.

Amendment No. 4 The Legislative Assembly disagrees with the proposed amendment because—

It would lead to the Auditor-General being given access to fewer documents;

The Government would have to change its current practice of permitting the Auditor-General to have access to Cabinet documents and documents subject to legal professional privilege, to which the Auditor-General currently has no legal entitlements; and

Public accountability will be the loser if the Auditor-General is given access to less information.

Amendment No. 5 The Legislative Assembly agrees to the proposed amendment.

Amendment No. 6 The Legislative Assembly agrees to the proposed amendment.

Amendment No. 7 The Legislative Assembly agrees to the proposed amendment.

Amendment No. 8 The Legislative Assembly agrees to the proposed amendment.

The Legislative Assembly requests the concurrence of the Legislative Council in its disagreement to amendment numbers 1, 2 and 4.

Legislative Assembly
24 October 2001

J. H. MURRAY
Speaker

Consideration of message deferred.

ADJOURNMENT

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.42 p.m.]: I move:

That this House do now adjourn.

HOMELESSNESS

The Hon. GREG PEARCE [4.42 p.m.]: I express my dismay at the inactivity of the Carr Government in relation to the homeless in this State. Every night when we leave this Chamber we are exposed to the disgraceful situation of the presence of the 20 or more homeless men and boys who sleep outside Parliament House, just below the Premier's office. Perhaps the Premier has not seen the problem from the safety of his limousine. The Labor Government is allowing the homeless in inner Sydney to languish for want of policy and action. What is being done in inner eastern Sydney to alleviate the plight of the homeless and the community in

which they live? Is the Government looking at this problem from an interagency point of view in order to provide the homeless in the inner east with the support, treatment and transitional housing that they may need?

Urgent action is needed in Woolloomooloo to deal with the homeless and rough sleepers. Over the last several months there has been increasing agitation by the community within the South Sydney City Council area about this issue. A number of members of Parliament sought to draw attention to the plight of these people by hosting a summit in May this year. Community members are finding that they are unable to access their local shops after hours because of the antisocial behaviour of the rough sleepers who congregate at Tom Uren Square. Staff and others leaving this Parliament are confronted and concerned by this problem. Could we be informed what the Government intends to do to ensure that the necessary work is undertaken to resolve this continuing social problem in the area?

The very active Councillor Shayne Mallard of South Sydney City Council has been trying to get some form of action from the State Government, but it has been slow in responding. I ask this House why this should be. It seems as though the needs of the area are being ignored. Experience from overseas indicates that one of the possible, though not the best, solutions to the problem is to use boarding houses to accommodate these people, who often are in some form of transition from gaol, drug and alcohol addiction, family breakdown and so on. The other major factor that has appeared in research is that many of these individuals have no family support of any kind. A great deal of work is needed by the various agencies to try to get them into accommodation and in many cases into drug and alcohol detoxification and rehabilitation programs on a long-term basis.

We have heard that the Eastern Sydney Area Health Service has been convening interagency meetings on the matter involving many people, but we are not sure what has happened as a result. Has it led to any new initiatives, concrete action or intervention? I believe the answer is no. Is it just another Department of Health committee going nowhere but costing a lot? What resources have been devoted recently to this task, and are the people on the streets adequately covered from basic infectious diseases like hepatitis C? Are they adequately counselled with some health monitoring to assess if they need any medical or psychiatric support, or medication and treatment monitoring? Despite a few efforts around the time of the Olympics when some trial projects were conducted with the St Vincent de Paul Society, with some success, very little has been achieved.

I am told that there are an estimated 15,000 homeless people in New South Wales and 8,000 in the Sydney area. Over 700 people sleep rough at any one time in inner Sydney and I understand also that more than 35,000 requests for accommodation assistance and support could not be met in 1998-99—we do not yet know the 1999-2000 figures. I am told also that four groups in inner Sydney sleep rough, all need different solutions and all are reasonably well known. Reverend Ray Richmond from the Wayside Chapel has indicated that the problem stems back to the Richmond report of the early 1980s which dealt with deinstitutionalised people with chronic mental health problems and drug and alcohol dependency problems. That is the same Dr Richmond who now heads the Government's Post Olympics Authority.

We are told that case management is available to assist homeless people. However, it is not available for people with mental illness or who are drug and alcohol dependent. How upside down is that logic? The inner city area has a severe lack of affordable housing. We demand that the Government stop talking and start acting to effect some real meaningful policies. For a society of this sophistication it is completely unacceptable that these problems remain unresolved. The Labor Government should be ashamed of its inactivity in this area. The Premier should be taken to the balcony of his suite, forced to look down to see the plight of these people and then required to do something about it.

INTERNATIONAL CRIMINAL COURT

Reverend the Hon. FRED NILE [4.47 p.m.]: I raise concerns about the proposed international criminal court and the decision by Australia to ratify the United Nations statute or convention for an international criminal court. Two prominent Queens Counsels, Charles Francis and Dr Ian Spry, have said that there are some serious constitutional matters involved that could give the impression that Australia is going against its Constitution; that it cannot become part of the international criminal court unless the Constitution is amended to make it possible. The legal opinion stated:

In our opinion the Commonwealth is not empowered by the Australian Constitution to ratify the Statute, and indeed express terms of the Statute are contrary to the Constitution.

First, we note that the proposed International Criminal Court (the I.C.C.), to be set up in The Hague, will have an extraordinarily wide jurisdiction which is in many respects vague and uncertain. Crimes against humanity are to extend to various inhumane acts causing great suffering or serious injury to mental or physical health, genocide is to extend to various acts causing serious bodily

or mental harm to members of a group and war crimes are to extend to outrages upon personal dignity, in particular humiliating and degrading treatment.

The statute of the International Criminal Court obviously goes much further than anyone imagined when we talk about international crimes or crimes against humanity. The joint legal opinion continues:

The I.C.C. will, in its sole discretion, be able to over-ride national courts (including the High Court) by the simple device of finding (on any ground, whether well-founded or not) that the relevant state is unwilling or unable genuinely to carry out a prosecution. The official capacity (such as that of a government minister, legislator or public servant) of a person will not exempt him from criminal liability, nor will any immunities that are conferred upon him by national legislation.

Secondly, the I.C.C. Statute is clearly inconsistent with section 49 of the Australian Constitution. That section provides for powers, privileges and immunities of the members of the Commonwealth Parliament. In effect, section 49 prevents legislators from being sued or prosecuted for carrying out their functions. Therefore ratification of the I.C.C. Statute's attempted negation of this Constitutional protection is prevented by the Constitution. Indeed, ratification of any provisions removing section 49 protection could not be achieved without an amendment of the Constitution under section 128.

Thirdly, for convenience we set out a relevant passage from the I.C.C. Ratification Manual which deals with the manner in which a constitutional amendment was effected in France in view of three areas of conflict between the I.C.C. Statute and the French Constitution.

For example, the Constitutional Council of France identified three potential areas of conflict between the Rome Statute and the French Constitution... The French Government decided to adopt the following constitutional provision, which addressed all three areas of conflict: The Republic may recognise the jurisdiction of the International Criminal Court as provided by the treaty signed on 18 July 1998... The advantage of this type of constitutional reform is that it implicitly amended the constitutional provisions in question, without opening an extensive public debate on the merits of the provisions themselves.

Fourthly, the foregoing is sufficient to demonstrate that a section 128 amendment to the Constitution is required for any ratification of the I.C.C. Statute. However, in addition, further constitutional objections should be raised.

Those further constitutional objections are outlined in the document. The legal opinion concludes:

For the reasons that we have set out in regard to section 49, section 51 and chapter III of the Constitution a treaty purportedly removing the legislative protection set out in section 49 and purporting to confer the extremely wide powers that are set out in the I.C.C. Statute cannot validly be ratified without first amending the Constitution appropriately under section 128.

I urge all honourable members to investigate this issue regarding the International Criminal Court, which would seriously affect Australia's independence and sovereignty. Much debate has taken place in the community on the republican issue, with one section of the community wanting a republic so that Australia may be more independent. The same people sometimes suggest that Australia should be subject to all these international conventions and international courts. However, this would supplant the judicial system that is applicable to our nation. I therefore utter words of great warning about moving in the direction of an international criminal court.

BIOLOGICAL WARFARE

The Hon. JOHN HATZISTERGOS [4.52 p.m.]: The threat of biological weapons has received little international attention compared with other weapons of mass destruction. Concern about nuclear and chemical weapons has tended to dominate efforts in non-proliferation research and policymaking. The recent anthrax scares in the United States are a new manifestation of a very old problem. Biological warfare has been around ever since the catapulting of diseased carcasses over castle walls. During the Cold War there was great concern that biological weapons might be used by one State against another. However, in the last decade since the end of the Cold War, potential users of germ warfare have expanded to include a wide range of non-State actors: international terrorist groups, domestic extremists, religious cults and even individuals.

Although the world has so far been spared a major biological attack, it would be correct to assume that an act of large-scale bioterrorism would result in millions of casualties. There is cruel irony in the fact that in the months before 11 September the United States refused to support a draft regime for verifying compliance with the 1972 Biological Weapons Convention. It was later revealed that the Americans themselves had been conducting large-scale, covert research into biological warfare. For the sake of national and international security, the United States must now renew its commitment to biological arms control through the device of international law.

Under the 1972 Convention, member States undertake never to develop, produce, stockpile or otherwise acquire or retain biological agents or toxins, or their delivery systems. Unfortunately, this treaty contains no legally binding instrument for verifying compliance with its provisions. This fundamental weakness has contributed to a destabilisation of confidence in the convention caused by unverifiable allegations of germ warfare experimentation over the past 25 years. Even without an effective verification regime, the convention

has established an international norm to bar the possession of biological weapons. However, against the threat of a determined entity seeking a biological warfare program, norms and symbols are far from enough.

Legal and moral inhibitions alone cannot hope to restrain the development and use of germ warfare. Historically, no weapon has ever been invented which was too awful to use, even on civilian targets. In addressing the problem of germ warfare, security decision makers need to look beyond military solutions. During the Cold War the grand strategy of arms control was deterrence theory. There are fundamental difficulties with such a strategy in today's security environment. An enemy is not deterred if the threat of retaliation is not credible. Retaliation necessarily required that the victim know who launched an attack and where they are situated. Against tiny, nihilistic, non-State terrorist groups, deterrence theory makes no sense.

Medical defensive measures such as vaccinations are also no solution to the threat of germ warfare. While medical protection may be possible if the specific biological agent is known beforehand, uncertainty and surprise are more likely to be the case. In the case of a common germ warfare agent like anthrax, a population could be immunised against one particular strain of that bacteria yet still be vulnerable to anthrax of a different kind. In the medical battle against biological weapons, the available defensive measures could never match the range of offensive possibilities.

And so the solution must lie in preventing a biological attack from occurring in the first place. This is where international law may play a functional and protective role in the struggle against biological proliferation. Part of a Biological Weapons Convention verification regime would be the requirement that member States declare all biotechnology facilities within their territory capable of supporting a large-scale germ warfare program. States would then have to submit to inspections, both routine and short notice, by an international team of experts. Any unusual outbreaks of disease within a country would also attract an international investigation to establish whether biological weapons have been used.

The political and legal challenge is to balance international security needs with national concerns over sovereignty. An effective Biological Weapons Convention will also require co-operation from large pharmaceutical companies, whose facilities would have to be monitored. The biotechnology industry is the fastest growing in the world, so companies will naturally be protective of their endeavours in research and development. However, trial inspections of biological facilities in the United Kingdom have demonstrated that compliance with the convention can be verified without jeopardising confidential business information. Recent events have made us all acutely aware that the threat of biological weapons is real. Yet there is presently no means of knowing whether a country is in breach of the international ban on these horrific instruments of mass destruction.

Australia has led the world in arguing that a workable Biological Weapons Convention is possible and desirable. If the world is to be spared the threat of bioterrorism particularly, countries like Australia must lead the way towards establishing the convention as a strong and verifiable treaty. To avoid the terror of germ warfare in the long term, we need a renewed and co-operative commitment to arms control and the rule of international law.

Mr JOSEPH GERSTEN REFUGEE STATUS

Ms LEE RHIANNON [4.57 p.m.]: I wish to bring to the attention of the House the case of Mr Joseph Gersten, who has applied for refugee status in Australia. Mr Gersten spent 20 years in public life in Florida, in the United States of America. He spent six terms in the Florida Parliament and in the late 1980s and early 1990s was a Commissioner of Dade County, which includes the city of Miami. In Miami, as head of the Dade Finance Committee, Mr Gersten introduced numerous reforms aimed at more transparent and less corrupt government.

As many honourable members would be aware, Miami has a notorious history of entrenched corruption. Mr Gersten undertook undercover investigations into corruption at Miami Airport and Seaport, investigating money laundering by corrupt officials that seemed to be linked to the huge cocaine smuggling operations from Colombia. The individuals seemingly involved were, or were connected to, high-profile public officials.

In 1992, just after he announced his candidacy for mayor of the county, Mr Gersten's political career was ruined by a suspicious scandal that ensued after the theft of his car. Criminals claimed that they had stolen the car from him whilst he was in a crack den with prostitutes. Mr Gersten has always denied the allegations. Many suspicious events at the time suggested that he was being framed by political enemies in order to get him off the political scene in Miami. Selective leaks from the Dade State Attorney's office, in charge of the investigation, resulted in a media circus that seriously damaged his reputation—and ultimately lost him political

office—in spite of the fact that the emerging evidence cleared him of the allegations and he was not, and could not have been, charged.

However, due to manipulation of the legal process by the authorities, Mr Gersten was gaoled, potentially indefinitely in civil contempt. That was in spite of the fact he had not been charged with, let alone convicted of, a crime. The investigation was being co-ordinated by his long-time political enemy Janet Reno. She was made United States Attorney General in 1993. That put her in a strategic position with regard to the Gersten case. She was in charge of the United States Department of Justice and the Federal Bureau of Investigation, amongst other institutions. Mr Gersten legally came to Australia in late 1993. He attempted to start a new life in Australia but he has been constantly thwarted by the actions of local authorities. He is currently applying for refugee status. In April 2000 Mr Gersten received documents through a bureaucratic bungle. Those documents showed that there were secret communications for United States authorities designed to harm him. They were taken to Congress, which began an investigation based on concerns about what was in the documents. It tried to establish what was really occurring in this case.

The work of a committee of Congress eventually resulted in the files being prised open. What was found was most telling. Analysis of those files shows that Gersten could not have been in the crack den on the night in question, as the evidence proved it to be impossible, and that there had been a simultaneous attempt to falsely frame him for a murder. One of the State's key witnesses and the FBI were implicated in this. Other files showed that there were continuing attempts to improperly influence the Australian authorities to act against him. Since then, Gersten has not been able to put this fresh evidence before an Australian court in support of his refugee application, because of limitations in the legal process.

Only the Minister for Immigration, Mr Ruddock, has the discretionary power to allow the new evidence to be reviewed. Earlier this year the relevant Congressional committee—the Committee on Government Reform—produced a report entitled "The Joseph Gersten Case: A Study of the Abuse of Government Power". Contrary to the specific recommendations of this committee to Congress, no action has been taken in the United States, or here, to investigate the corrupt dealings that have occurred. Today I wrote to Minister Ruddock asking that he allow fresh evidence to be reviewed with respect to Mr Gersten's refugee application. I urge other honourable members also to write to the Minister about this matter.

SAVE THE PLANET CAMPAIGN

The Hon. IAN COHEN [5.02 p.m.]: Today I was host to two young men, T. Srinivasa Rao and R Gnanasekaran, from India who have been travelling the world for 15 years. The message of those Indian environmentalists is "Mission Save Earth". I had lunch with them today and they were quite inspiring. They discussed how they were dealing with the situation in India, which many honourable members might imagine would be an absolutely impossible task. Nevertheless, it is interesting that whilst there are problems in India there are many people who can do something about them. These two adventurous environmentalists have travelled around the world three times. First, between 1986 and 1989, they travelled by bicycle, covering 38 countries and 65,000 kilometres. Second, between 1990 and 1993 they travelled in a small four-wheel drive, covering 70 countries in all six continents and 160,000 kilometres. Third, between 1996 and 1998 they travelled by car, covering 55,000 kilometres. Those distances include kilometres covered over land alone, not by air.

They successfully completed all three tours for the welfare of mankind in general: to propagate the message of nuclear disarmament and world peace, to campaign for environmental protection and to save Antarctica from global warming respectively. During the three tours they met members of the public, students, presidents, prime ministers, governors and mayors of the various countries they visited. At the conclusion of each of their tours they submitted charters of memorandum to the then United Nations Secretaries General, Mr Javier Perez De Cueller, Dr Boutros Boutros Ghali and Mr Kofi Annan. In continuation of those missions, they are once again undertaking a world tour, a save the planet campaign, which will cover five continents in two years. At present they are travelling throughout Australia. They have a book entitled *Mission Save Earth*, which contains pictures of them with everyone from Kofi Annan to former Australian Prime Ministers and overseas dignitaries.

They have had a significant effect in India. I was heartened to learn that any individual can petition the Indian Government immediately in relation to pollution. The matter then has to go to the High Court in any State in which it can be undertaken. Thousands of petitions are occurring at any time in India and they must be disposed of within three months. That means that courts give notice that any polluting industry has to shut down or fix up their pollution processes. They must comply with that environmental law within six months. After the

1992 Rio convention, in Delhi 10-year-old vehicles are banned, buses run on compressed natural gas and auto rickshaws have a special green sticker and run on CNG. If a person has a plastic bag in any of the major cities a rupee penalty equivalent to a \$200 fine is imposed. At Hillstation plastics are banned and only cloth and jute bags are allowed.

Tamil Nadu, Madras, Bombay and Calcutta have all banned plastic chi cups. Some 60 million people live in Tamil Nadu so it is quite a significant change in their habit in recent years, with the many millions of chi cups being used on a daily basis. They insist on European standard two catalytic converters on all motor vehicles. India is the only place in the developing world that is using unleaded petrol. Jute bags made in India can last up to three years and are replacing plastic bags. That puts Australia to shame, especially with respect to the judicial developments that I have been told about by these two men. They are making a positive contribution to lowering pollution on a global scale. If India can do it, a western country such as Australia can make far greater efforts. We should look at container deposit legislation and use fewer throw-away plastics. Those measures would help to resolve some of the basic problems faced by our environment today.

BALIBO FIVE BOOK LAUNCH

The Hon. PETER PRIMROSE [5.07 p.m.]: Last night I had the pleasure of hosting the Sydney launch of a book by Jill Jolliffe which seeks to expose what really happened to the Balibo Five, the Australian journalists who were killed by the invading Indonesian Army in 1975. The deaths of her colleagues remained an unfinished story for her, and she was incensed that the Indonesians believed they had got away with it. The results of her efforts over the past quarter of a century include a Logie award-winning *Foreign Correspondent* program in 1998, and now her latest book, *Cover-up, The Inside Story of the Balibo Five*, an exposé of the political camouflage of the murders of the journalists.

Jill Jolliffe's professional career began almost accidentally during a trip to East Timor in early 1975. In September of that year, Balibo was one of the first places in the front-line of that war zone which she was to visit as a young journalist. From that time until the full Indonesian invasion of the territory in December, she worked as a correspondent for Reuters. She was evacuated by the International Red Cross a few days before the Indonesian paratroop landing in Dili, and she received high praise from Reuters for her coverage. It should also be noted that, together with Michael Richardson, she was the last journalist to leave Dili, only days prior to the assault. To have held her nerve in Dili as long as she did, ominous as the situation was increasingly becoming in those last weeks, says much about Jill's tenacity and mettle.

Michael Richardson and Jill were farewelled at Dili airport by a colleague, Roger East, the only journalist who decided to stay. In coming days he would be executed at Dili wharf in the aftermath of the Indonesian assault on the capital. At the Turismo Hotel in early October—only a few months beforehand—Jill met both groups of people who, after their tragic deaths, came to be known as the Balibo Five. Jill already knew Brian Peters, but she quickly developed a rapport with the other four journalists. They discussed the situation and exchanged notes.

Before eventually making their way to Balibo, members of the Channel 9 crew asked Jill to come along. Just weeks beforehand Jill had returned from Balibo, where she travelled with the Fretilin border patrol and had come under fire from the Indonesian side. While in Balibo Jill slept in the house in which the journalists would meet their fate only weeks later. But for Jill's decision to stay in Dili the Balibo Five could easily have become the Balibo Six. Jill was among the first of the journalists to interview the Fretilin defenders of Balibo who had retreated and returned to Dili—some of the first eye witnesses to the journalists' demise. Over the years Jill discovered many other important eye witnesses to events that had transpired.

It seems incredible today that, for more than 20 years, the official line we were fed was that the journalists had been killed in crossfire by rival Timorese factions. As Jill demonstrates in her book, that is both incredible and implausible. I acknowledge the role of the Australian trade union movement for having historically done the right thing by East Timor in relation to the Balibo issue. I was glad that Maurie O'Sullivan, President of the Public Service Association, was able to attend the launch last night. Representatives of the Construction, Forestry, Mining and Energy Union—a union that has been associated with East Timor for a long time—and members of many other trade unions and community organisations were also present at the launch. Justice John Dowd attended the launch of Jill Jolliffe's book. I acknowledge the hard work of Justice John Dowd over many years in relation to this issue.

Motion agreed to.

House adjourned at 5.12 p.m.
