LEGISLATIVE COUNCIL

Wednesday 23 October 2002

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

The President offered the Prayers.

AUDIT OFFICE

Report

The President tabled, pursuant to the Public Finance and Audit Act 1983, the performance audit report entitled "Outsourcing Information Technology in the NSW Public Sector", dated October 2002.

Ordered to be printed.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Report

The President announced, pursuant to the Commission for Children and Young People Act 1998, the receipt of a report entitled "Report of an Inquiry into the Best Means of Assisting Children and Young People with No-one to Turn to", dated October 2002.

The President announced that she had authorised that the report be made public.

EASTERN CAPE PROVINCIAL LEGISLATURE, SOUTH AFRICA

The PRESIDENT: I am pleased to inform the House that the Legislative Council has been successful in an application to provide technical assistance to the Eastern Cape Provincial Legislature, South Africa. Mr John Evans, Clerk of the Parliaments, left for Eastern Cape on 5 October for a period of approximately two months to participate in this AusAID-funded capacity building program provided by GRM International through UNSW Global, a business arm of the University of New South Wales.

On behalf of all honourable members I wish Mr Evans success in this role of assisting the Eastern Cape Legislature.

APPOINTMENT OF ACTING CLERK OF THE PARLIAMENTS

The PRESIDENT: I report to the House that Her Excellency the Governor has been pleased to appoint Ms Lynn Lovelock as Acting Clerk of the Parliaments and Acting Clerk of the Legislative Council from 8 October 2002 to 6 December 2002 and that a commission has been issued in favour of Ms Lovelock.

BALI TERRORIST ATTACK

Messages of Condolence

The PRESIDENT: I have received the following letter from the Consul General of Japan:

Dear Dr Burgmann,

I am greatly shocked at the news of the bombing in Bali, in which so many Australians, along with other nationalities, have lost their lives or been injured.

On behalf of the Japanese community and the Consulate General of Japan in Sydney, I wish to extend our deepest condolences to those who lost their lives and their families and our heartfelt sympathy to those who have been injured.

I feel strong indignation and resolutely condemn such despicable and inexorable acts of terrorism targeted at innocent citizens and tourists.

My government is resolved to make the fight against terrorism in co-operation with the international community for global security. Japan and Australia have a clear scope for co-operation in this area.

Yours sincerely,

Shigenobu Kato
Consul General

18 October 2002

I have received the following letter from the Eastern Cape Provincial Legislature:

Dear President,

Subject: Message of Condolence, Bali Incident

We have noted with appreciation the technical assistance that is being rendered to our Provincial Legislature by Mr John Evans, Clerk of the Parliaments, and as funded by Australian Aid.

On behalf of the Members of the Eastern Cape Provincial Legislature and for myself, I wish to convey to you, the Honourable Members of the Legislative Council and the people of New South Wales and Australia, our sincere condolences in the light of the number of Australians who tragically lost their lives in the Bali explosions.

Incidents of this nature are of the highest concern to all nations as we witness the senseless loss of lives of innocent people. We share the sense of sorrow of all Australians, South Africans and all nations that were affected by what appears to be a senseless act against humanity.

We appreciate being able to communicate our sentiments to the people of your State in view of the recent link that has been established between our Legislatures.

Yours faithfully

M. Matomela
SPEAKER OF THE EASTERN CAPE LEGISLATURE

On behalf of the House I have acknowledged both letters.

BILLS UNPROCLAIMED

The Hon. Michael Costa tabled a list of all legislation unproclaimed 90 calendar days after assent as at 22 October 2002.

LIVERPOOL CROWN LAND DEVELOPMENT

Return to Order

The Acting Clerk tabled, pursuant to the resolution of the House of Thursday 19 September, documents relating to the development on Crown land—Woodward Park—received by the Clerk on 26 September from the Director-General of the Premier's Department and referred to in paragraph 1 of the resolution, together with an indexed list of documents.

The Acting Clerk tabled also a return identifying documents that are considered privileged and, under paragraph 4 of the resolution, should not be made public or tabled, and advised that, pursuant to the resolution, those documents are available for inspection by members of the Council only.

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Report

The Acting Clerk announced, pursuant to the resolution of the House of 25 May 1999, the receipt of Report No. 19, entitled "Report on Person Referred to in the Legislative Council (Mr T Bidder) (No. 2)", dated October 2002.

The Acting Clerk announced that pursuant to the resolution she had authorised the printing of the report.

STANDING COMMITTEE ON STATE DEVELOPMENT

Report

The Acting Clerk announced, pursuant to the resolution of the House of 25 May 1999, the receipt of Report No. 26, entitled "European and United Kingdom perspectives on agriculture, genetically modified food and rural development", dated September 2002.

The Acting Clerk announced that pursuant to the resolution she had authorised the printing of the report.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

Report

The Acting Clerk announced, pursuant to the Commission for Children and Young People Act 1998, the receipt of Report No. 15/52, entitled "Voices: The Education Experience of Children and Young People in Out-of-home Care", dated September 2002.

The Acting Clerk announced that pursuant to the Act she had authorised the printing of the report.

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Report

The Acting Clerk announced, pursuant to the resolution of the House of 13 May 1999, the receipt of Report No. 12, entitled "Review of Inquiry into Cabramatta Policing", dated September 2002, together with submissions, tabled documents, transcripts and correspondence.

The Acting Clerk announced that pursuant to the resolution she had authorised the printing of the report.

The Hon. HELEN SHAM-HO [11.11 a.m.], by leave: Between October 2000 and July 2001 General Purpose Standing Committee No. 3 conducted a major inquiry into policing in the Cabramatta area. The inquiry uncovered many problems with the management of the Local Area Command [LAC] and its interaction with the community. During the inquiry and after the Cabramatta policing report was released, the Government committed a package of additional resources to the area. At the same time, changes have been made in the management of the New South Wales Police at both the local area level and through various levels of management up to the office of the Police Commissioner.

This report represents a review of the progress that has been made in policing in the Cabramatta area over the past 12 months as a result of these changes in resource allocation and police management. The report examines three main questions: Were the resources that were promised delivered to Cabramatta? Has drug-related crime in Cabramatta been reduced over the past 12 months? And, has the relationship between local police and the community improved since the problems were identified in the main inquiry?

In answer to the first question, the committee found that the Government has implemented most of the initiatives it announced for Cabramatta in March 2001 and continues to drive the process through a Cabinet subcommittee. Our committee believes that the level of resources devoted to the Cabramatta package is an acknowledgment of the very serious problems the local community identified during 1999 and 2000 and during the committee's main inquiry.

Regarding the second question, the committee concluded that drug-related crime declined in Cabramatta between March 2001 and March 2002. While the committee has no way of knowing the extent to which other factors, particularly the drug drought, have contributed to this reduction, it did find that policing has been more appropriate to the needs of Cabramatta than it was under the strategies followed in 1999-2000. Despite this, the area still has an unacceptably high level of serious crime compared with the rest of Sydney and New South Wales. There are no grounds for complacency and any easing of pressure on the policing of the problem or any sudden increase in the supply of drugs could lead to the area's problems again spiralling out of control.

Finally, police and community relations still have some way to go in Cabramatta. Indicative of this may be that, while there appears to have been some progress in improving the youth liaison positions at the LAC, the ethnic community liaison officer role is still problematic. The committee believes that New South Wales Police needs to rethink the current ethnic community liaison officer role and start again with a different approach to multicultural policing. The decline in numbers of police from a non-English speaking background over the past 12 months is of great concern as the Government continues to reject the setting of recruitment targets.

The committee acknowledges that frontline police not only played a key role in highlighting the problems faced in Cabramatta during the main inquiry but are always diligent, and that their sense of duty is beyond reproach. As is the case with frontline police officers across New South Wales, Cabramatta police have put their personal safety on the line for the sake of the community they serve, and continue to do so. The committee is concerned to ensure that, if the situation recurs, officers need to be able to report their concerns to parliamentary inquiries without interference from management. To that end, the committee recommends that New South Wales Police management implement measures recommended by the Standing Committee on Parliamentary Privileges and Ethics last year to ensure the protection of frontline police appearing before parliamentary inquiries.

While conclusions have been drawn in this review report, the committee acknowledges that circumstances change quickly and that even now much still needs to be done in Cabramatta. The committee believes that the annual budget estimates committee process provides an opportunity, if effectively used, to review progress. The Government must continue to sustain its focus on police resources in Cabramatta and surrounding areas. The problems that continue to be faced cannot be underestimated.

At the conclusion of the main inquiry I thanked many people in the report, and I need to do so briefly at the end of this review. First, I again thank the other members of the committee, who have approached this review in a constructive and co-operative manner and ensured that the good work of the main inquiry has continued. The Government has implemented or will implement all but six of the 25 recommendations made in the original report. I believe that the committee members' bipartisan support for these recommendations has greatly contributed to this response. I also welcome the committee's unanimous support of the report and its recommendations.

Secondly, I again thank the committee staff for their work on this review. In particular I thank Committee Director Steven Reynolds for his advice and assistance during the course of the review and for drafting the report. I also thank Clerk Assistant-Committees Warren Cahill for his advice on procedural issues and general assistance. Former Committee Director David Blunt and Senior Project Officer John Young also made contributions to the report. I also thank secretariat Committee Officer Ashley Nguyen for her administrative support.

Thirdly, as with the main inquiry, I thank all those who prepared supplementary submissions, gave evidence at hearings and the forum, or otherwise participated in this review. Cabramatta is a rich and complex community. The committee again commends the efforts of many individuals within and outside Cabramatta who have fought for an improved quality of life for their community.

DISTINGUISHED VISITOR

The PRESIDENT: I welcome into the President's gallery the High Commissioner for India, Mr Rajendra Singh Rathore.

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Prevention—Interim Report on Child Protection Services

The Acting Clerk announced, pursuant to the resolution of the House of 25 May 1999, the receipt of Report No. 26, entitled "Prevention—Interim Report on Child Protection Services", dated October 2002, together with minutes of proceedings.

The Acting Clerk announced that pursuant to the resolution she had authorised the printing of the report.

The Hon. JAN BURNSWOODS [11.17 a.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Jan Burnswoods.

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Early Child Development: A Co-ordinated Approach—First Report on Early Intervention for Children with Learning Difficulties

The Acting Clerk announced, pursuant to the resolution of the House of 25 May 1999, the receipt of Report No. 27, entitled "Early Child Development: A Co-ordinated Approach-First Report on Early Intervention for Children with Learning Difficulties", dated October 2002, together with minutes of proceedings.

The Acting Clerk announced that pursuant to the resolution she had authorised the printing of the report.

The Hon. JAN BURNSWOODS [11.18 a.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Jan Burnswoods.

STANDING COMMITTEE ON SOCIAL ISSUES

Government's Response to Report

The Acting Clerk announced, pursuant to the resolution of the House of 25 May 1999, the receipt of the Government's response to the Interim Report of the committee, entitled "Inquiry into the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2001: Interim Report: Off-line matters".

The Acting Clerk announced that pursuant to the resolution she had authorised the printing of the report.

M5 EAST VENTILATION STACK

Dispute of Claim of Privilege

The PRESIDENT: I report to the House that on 10 October the Clerk received from the Hon. Richard Jones a written dispute as to the validity of a claim of privilege on documents lodged with the Clerk on 24 September relating to the M5 East ventilation stack. In accordance with the resolution of the House, the Deputy President appointed Sir Laurence Street, being a retired Supreme Court judge, as an independent arbiter to evaluate and report as to the validity of the claims of privilege. The Clerk released the disputed documents to Sir Laurence Street on 15 October.

PETITIONS

Freedom of Religion

Petition praying that the House reject legislative proposals that would detract from the exercise of freedom of religion, and retain the existing exemptions in the Anti-Discrimination Act applying to religious bodies, received from **Reverend the Hon. Fred Nile**.

Alcohol Sale Control

Petition praying that alcoholic beverage sales be restricted to existing outlets, that opening hours be reduced, and that warning labels be placed on all alcoholic beverage containers, received from **Reverend the Hon. Fred Nile**.

INSTRUCTION TO MEMBERS FOR SEEKING THE CALL

The PRESIDENT: Order! I remind honourable members that it is essential to the orderly conduct of the business of the House that members wishing to speak seek the call by rising in their places and addressing the Chair clearly and in a voice that will assist the Chair. This is important at all times but it is especially important at times when, for example, a member is seeking to ask a supplementary question during question time or at other times when debate is particularly lively.

On numerous occasions I have drawn the attention of members to a number of constraints that impact on the ability of the Chair to recognise the member who is seeking the call. Most important of these are the design and acoustics of this Chamber. Unlike in most other parliamentary Chambers, members of this House do not have dedicated seats and microphones. Members and the Chair must rely on an acoustics system that is required to cover the whole Chamber and amplifies equally the member properly seeking the call and members interjecting or otherwise acting outside the standing orders.

Members must be cognisant of these constraints and the level of activity in the Chamber when seeking the call. The Chair can only call upon members who are seen and heard.

BUSINESS OF THE HOUSE

Postponement of Business

Business of the House Order of the Day No. 1 postponed on motion by the Hon. John Della Bosca.

COASTAL PROTECTION AMENDMENT BILL

Second Reading

Debate resumed from 25 September.

The Hon. RICHARD JONES [11.29 a.m.]: The Coastal Protection Amendment Bill amends the Coastal Protection Act to legally protect public access to beaches and headlands, and limit the ability of land-holders to claim increases in their land title due to temporary outward movements in the shoreline. As the Minister pointed out in his second reading speech in the other place, ad hoc actions by both individuals and authorities in response to storm erosion or emergencies are creating an ongoing loss of beach amenity after the erosion event or emergency is over. However, the Minister also drew attention to the fact that our coastal zone is a major source of food and raw materials, contains valuable and irreplaceable habitats, and is under constant threat from population pressures, inappropriate development and the loss of aesthetic values and coastal amenity.

The size and diversity of our country's coastline are immense. There are about 1,000 estuaries and approximately 36,700 kilometres of coastline and the features and ecosystems are widely varied as a result of tropical, subtropical and temperate climates. The coast is also where most economic activity occurs and where nine out of ten Australians live. Our commercial and industrial activity is located in the coastal zone, with tourism a leading contributor in recent years. National and State tourism authorities have forecast growth rates for international visitors to the coastal zone at 7.8 per cent per year and domestic growth rates for visitor nights for the next 10 years at between 1 per cent and 2 per cent per year. Activities such as fisheries and aquaculture, mining and manufacturing are also increasingly occurring in the coastal zone.

It has also been estimated that more than a quarter of our population lives within three kilometres of the coast, more than three-quarters live within 50 kilometres of the coast and our population is increasingly migrating to the coastal area. As a consequence a number of major issues need to be addressed. The first stage of the Australiawide survey to assess the health of the nation's coastal estuaries has, for example, found that half are experiencing declining health from agricultural activities, urbanisation, vegetation clearing and industry. The survey also found that most near-pristine estuaries are located in isolated areas, such as across the tropical northern coast of Australia and along Tasmania's rugged west, and that those found near major population centres such as Sydney are heavily degraded.

However, it is not just estuaries in Sydney that are under severe stress. As the Coastal Council of New South Wales attested in its 1999-2000 annual report, many areas of the New South Wales coast are environmentally challenged as a result of threats of shoreline erosion, acid sulphate soil degradation, algal blooms, invasive weeds such as bitou bush, and severe modifications to the conditions of estuaries and lakes. The New South Wales coastline is under enormous development pressure. Every year hundreds of new tourist, residential, commercial and aquaculture developments are proposed and approved along the fragile coastline. As a result wetlands, estuaries, foreshores, dunes, coastal lakes, forests and headlands are being continuously adversely impacted by inappropriately located and designed developments which in most cases are supported by local councils.

Various councils are approving all manner of blatantly excessive proposals, regardless of environmental impacts or community desires, and residents and the natural environment are being landed with ad hoc over-the-top grand schemes à la the Gold Coast. For example, Port Macquarie was considering a 25-metre, 10-storey tourist-residential complex stretching over seven blocks opposite the beach. At North Creek a three-hectare artificial pollution lake was proposed, prior to an extensive development of nearly 800 housing lots, a commercial and recreation area and a tavern—a proposal that would amount to a virtual destruction of natural supposedly protected wetland systems and replacing them with a canal estate. In west Yamba inappropriate plans have also been put forward—plans such as infilling and extensively developing a flood-prone low-lying area bordered by State environmental planning policy 14 wetlands close to national park and estuaries.

That proposal would result in the destruction of water quality, fish and other habitats systems, and increase the possibility of flooding elsewhere. Land speculators and property developers, with the help of council rezonings, are also turning greater Taree's coastline into one long strip of concrete urban sprawl from north Redhead to Blackhead, south Redhead and Diamond Beach, and eventually even Tallwoods to the west. All of that is totally contrary to council's previous strategy to keep all villages and towns separate and put aside lands of environmental significance and meaningful wildlife corridors. As a result vast areas of the coast are being turned into ugly block developments. Along the length of the coast, the common fibro shack is quickly disappearing under new multistorey or single-storey dwellings of various materials, and a mixture of good, bad and ugly now dominate coastal towns and villages. As the evidence of severe environmental threats rapidly grows, local communities are becoming outraged, so much so that there are now more than 100 local and State conservation groups campaigning for strict planning controls, new environment protection reserves, an end to urban sprawl and land clearing, and protection of public pedestrian access to beaches.

Local communities and residents along the coast want their amenity and the character and experience of the coast to be retained or enhanced. The wider community and visitors to the area also do not want to see the coast changed beyond recognition. There is strong support within the community for the coastal policy, and community groups and members want agencies and local councils to use planning instruments and other powers to achieve the policy's objectives and ensure that fragile and sensitive areas of coastal forest, wetlands, heath, headlands, foreshores and other areas are protected. Residents are also angry, and understandably so, that their councils are treating them as if they do not exist and their elected representatives are ignoring their concerns. Councils such as Tweed are embracing a Gold Coast philosophy, Shoalhaven is seeking to avoid public scrutiny, Newcastle is privatising the foreshore for high-rise buildings and other councils such as Ballina, Port Stephens and Great Lakes are facing a development binge.

Residents in the Shoalhaven and Tweed have complained that decisions are being made behind closed doors, community views are being ignored and development is being pursued at all cost, no matter how damaging it may be or where it may be located. Residents are also becoming increasingly frustrated with Hastings, Ballina, Nambucca Heads, Kempsey, Great Lakes, Port Stephens, Lake Macquarie, Wollongong and Eurobodalla councils. Strong complaints have been registered by the community over several issues in the Hastings shire, including the proposed development of the Town Green post office site, the breaking of development control plans, the continued stacking of the Hastings Urban Growth Strategy's advisory committee with developer interests, and the decision to appoint its own councillors to investigate outstanding developer contributions.

In built-up areas such as Newcastle, residents are fighting against huge high-rise developments along the oceanfront that would block out all behind them. In less built-up or undeveloped areas it is the ongoing destruction of small village character and natural landscapes against which residents are rallying. While such destruction is prevalent in most council areas along the coast, the Tweed, Ballina, Nambucca, Hastings, Greater Taree, Great Lakes, Wollongong and Shoalhaven councils are by far the worst. Another major problem is the apparent growth in vegetation clearance in the coastal zone without consent. There has been a surge of illegal and inappropriate land clearing along the coast by developers, so much so that in some council areas reports of such clearing are so common that it seems as if landowners wishing to subdivide and develop their land have been advised to clear their land to destroy its conservation values and any possible threatened species to improve their chances of approval. I understand that some solicitors are giving such advice to their developer clients.

The worst affected council areas yet again are Great Lakes and Greater Taree, but other council areas in which similar problems have been reported include Wollongong and Nambucca. In some cases the land clearing is also repeatedly illegal and extensive. While I congratulate the Government on attempting to address these issues through its development of a coastal policy and establishment of the Coastal Council of New South

Wales, it is clear that much more needs to be done to curb the growth of inappropriate development proposals and ill-conceived planning schemes generated by some councils. It is also clear that further measures need to be taken now if our coastline is to be protected for present and future generations.

While this bill apparently adopts key recommendations of the beach management review prepared by a subcommittee of the Coastal Council of New South Wales dealing with emergency beach management and public access, other improvements are needed. More needs to be done than simply ensuring that easements can be established to ensure continued public access to the foreshore; that land-holders must prove that any expansion of their land is not likely to be temporary or alienate public access; and that councils can specify how erosion prevention works are to be constructed. The beach management review does not, for example, deal with cliff erosion and beach nourishment—two major issues of significance to property owners and coastal managers. Past decisions to allow buildings to occupy sites near the edge of rock cliffs have created concern over the risk of future cliff collapse, and geotechnical and geological assessments are urgently needed.

Similarly, coastal councils such as Byron Shire Council, Warringah Council and others have difficulty providing sand replenishment on their depleted beaches and require an urgent boost in funds, such as has been provided for the nourishment of southern Gold Coast beaches under the $75 million Tweed River bypass program. The problems that are addressed by the changes proposed in this bill are also very real and are faced every day by coastal residents. The bill needs to become law quickly and should come into effect upon assent. It would also be more effective, efficient and equitable for coastal councils to be required to prepare coastal management plans without the need for a direction from the Minister, and for them to be able to jointly prepare such plans and be given a single set period in which to do so.

The level of coastal protection afforded by this bill could also be greatly improved by ensuring the principles of ecologically sustainable development are promoted and by the insertion of third party rights—similar to the provisions of section 123 of the Environmental Planning and Assessment Act—to bring proceedings to remedy or restrain breaches of the Act. It would also be better if penalties for offences such as obstruction and hindering those exercising their duties were brought more into line with the penalties in other legislation, such as pollution laws, and if courts were able to order people to remove material that was dumped during beach erosion mitigation if that material causes harm to the environment.

While one might think that material dumped during beach erosion control practices consists of inert rocks and would be environmentally benign, that is not necessarily the case. At Belongil Beach in Byron Bay, for example, dumped material includes just about everything, including stakes, tyres and even rusting car bodies. Such materials are not in any way, shape or form environmentally benign. Tyres are persistent in the environment and can create adverse environmental effects and can threaten public health and safety. Tyres can also act as breeding grounds for mosquitoes and rodents, can catch fire, and can emit air pollution as well as leach toxic compounds into the environment. Tyres consist of a complex composition of hydrocarbons, metal and minerals.

The list of common rubber additives which may be included in tyres is extensive and includes compounds such as pigments, softeners, plasticisers, extenders, stain protectors, flame retardants, peptisers, hardeners, colouring agents, reinforcing agents, vulcanisation accelerators, activators and antioxidants. As a result tyres leach a whole lot of dangerous things into the environment, such as zinc and benzothiozoles—the family of chemicals, widely used in rubber manufacturing, that is highly toxic to freshwater and marine organisms. Like car bodies, tyres also degrade public beach amenity. The dumping of material on beaches during erosion events is not always planned or approved, and is therefore, in some cases, illegal from the outset. Courts should be able to order environmentally harmful and/or illegally dumped materials to be removed and the restoration of public beach amenity.

The Coastal Protection Act should also be made to include at least some objects. While objects are not legally binding, they are extremely important in explaining the intent of legislation and they make it easier for people to understand the provisions. Objects spell out what the legislation provides for and is aimed to do, and should include: to protect, enhance, maintain and restore the coastal environment; to encourage, promote and secure balanced use and conservation of the coastal region; to preserve public pedestrian access to the coast; to ensure government and public authorities' activities and policies related to the coastal region are co-ordinated; and to establish a coastal council to advise the Minister on matters relating to the coastal region, et cetera.

I and my colleague the Hon. Ian Cohen will move amendments at the Committee stage which will create those objects. I urge all honourable members of this House to support those amendments. In the words of

the Chair of the Coastal Council of New South Wales, "We have to ensure that present generations do not continue to treat our coastal resources and environments with greed and in ignorance, but with proper consideration for the integrity of ecological systems and landscapes." We must ensure that our prime tourist zone sites are not lost to other forms of development such as residential dwellings. I point out that my becoming a member of this House was directly related to the 1971 campaign to save the Myall Lakes from destruction. After many years of campaigning on the coast, that was my primary reason for becoming a member of this Parliament.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.43 a.m.]: The Australian Democrats support this bill and congratulate the Government on what we believe is good legislation. In Minister Aquilina's second reading speech on 20 March he recognised the immense importance of the State's coastal zone, as well as legitimate concern for the effects on coastal areas of population pressures, inappropriate development, loss of aesthetic values, coastal amenity and traditional public access. Those issues of great significance need to be addressed. There has always been tension between private interests and the public good. Generally, private interests involve a great deal of money in the immediate term and are highly motivated. Sydney Harbour has been referred to as a public lake in a private area.

Because of the shortage of surveyors during early colonial settlement days subdivision of land was taken to the water's edge. The King's chain rule, which applied in New Zealand, did not apply in New South Wales. Under that rule no person could own land within a chain, approximately 20 metres, of land owned by the government, thereby reserving a strip of public land around all waterways and coastal areas to enhance public amenity. Accretion has allowed private land to encroach on public land, and after erosion has occurred public space and public amenity have been forever lost. It has been a one-way system that needs to be redressed. I believe that the Government has grasped the nettle and, in doing so, has done some good work.

The Coastal Protection Amendment Bill aims to amend the Coastal Protection Act 1997, which co-ordinates the multitude of statutes and government agencies that are responsible for coastal planning and protection. One object of the bill is to modify the common law doctrine of erosion and accretion. Under the doctrine of accretion, land which is gained through the gradual recession of the sea or deposition of sediment belongs to the owner of the adjoining land, not the Crown, provided that the process has occurred gradually and naturally. As described in 1982 by Lord Wilberforce in *Southern Centre of Theosophy v South Australia*, the doctrine of accretion is one that arises from the nature of long-term ownership of property which is inherently subject to gradual processes of change.

There is concern that landowners may construct works to protect extended boundaries where accretion is simply part of the ongoing cycle of foreshore fluctuation and is inevitably followed by erosion. This may lead to a loss of community access along the foreshores. The bill seeks to eliminate that practice. Proposed section 55N is intended to remove the jurisdiction of a court, the power of the Registrar-General, and the power of the Minister administering the Crown Lands Act 1989 to make decisions concerning a boundary defined by reference to a mean high-water mark that would increase the area of land if the trend by way of accretion is not likely to be naturally sustainable indefinitely or, as a consequence of making such a decision, public access to a beach, headland or waterway will be, or is likely to be, restricted or denied.

The bill also amends the Crown Lands Act 1989. Proposed section 58A will authorise the Minister to create an easement for public access over freehold land on the foreshores of the coastal zone without the consent of the owner. I notice that the Minister stated during his second reading speech that that provision will be withdrawn. As that was a matter of considerable concern to the Law Society, which regarded the provision as effectively allowing the acquisition of property rights without compensation being paid to the owner, the Australian Democrats would support the Government's withdrawal. The Coalition also foreshadowed an amendment to have that provision deleted. The Australian Democrats believe that the bill addresses the problem of diminishing public access to coastal areas and provides protection for coastal areas. In a sense, it is also an affirmation of public rights which the Australian Democrats believe to be very important.

Reverend the Hon. FRED NILE [11.48 a.m.]: The Christian Democratic Party supports the Coastal Protection Amendment Bill. The objects of the bill are to amend the Coastal Protection Act 1979 to redefine the land that comprises the coastal zone, to require local councils within the coastal zone to prepare coastal management plans if directed to do so by the Minister, and to modify the doctrine of erosion and accretion. The bill also aims to amend the Crown Lands Act 1989 with respect to easements for public access over foreshore land within the coastal zone. In common with other honourable members, I support this bill because of its many positive provisions. As other honourable members have already said, the bill will restore the right of the public to obtain access to coastal areas, a right that has been restricted owing to development.

In early settlement of the colony buildings were allowed to be constructed right up to the waterline along the foreshores of Sydney Harbour, it was impossible for the public to obtain access to foreshore areas, either to enjoy the water or the beaches or even to take walks along the foreshore. There are places where people have such access. One is in the Manly area; steps were taken many years ago to make it possible for people to enjoy the Manly foreshore and other parts of the coast. In that respect, Sydney Harbour was neglected in those early days.

The bill is necessary because some coastal councils have failed to undertake the necessary planning for inevitable beach erosion events. As we have seen often on television, storms and heavy waves begin erosion of beach areas and sometimes even undermine houses, which may crack or even fall into the sea. Many waterfront property boundaries are based on the mean high-water mark. This boundary can move over time as a result of shoreline fluctuations. As honourable members know, under the common law doctrine of accretion and erosion, owners of those properties have been able to adjust their property titles if the foreshore moves outwards under natural conditions. The question is: What happens when there is erosion of those properties? The bill seeks to deal with that issue.

Owners have often dumped rock or constructed protective sea walls to stop the loss of their newly acquired property when erosion occurs. That makes it even more difficult for people to walk along foreshores or access the land below the mean high-water mark. The bill results mainly from the work of Professor Bruce Thom, who has briefed the crossbench on the work and investigations of this matter by the subcommittee of the Coastal Council of New South Wales. Professor Thom chaired that inquiry and produced a report which was given to the former Minister for Land and Water Conservation, the Hon. Richard Amery. Professor Thom's report dealt with two issues. The first was the impact of emergency actions taken by either councils or individual property owners in response to storm erosion.

The second issue was the problem that the redetermination of private property and boundaries, defined by reference to mean high-water marks, created in terms of both coastal amenity and public access to the foreshore. The review reinforced the Government's concerns—reflected in this bill—that ad hoc actions by both individuals and authorities in response to storm erosion or emergencies in some cases can create an ongoing loss of beach amenity after the emergency is over. The Christian Democratic Party has had some correspondence relating to this bill. Among that was an email communication from constituents in the Lake Macquarie area who protest strongly about some aspects of the bill. Rod and Mary Warnock of Kilaben Bay, New South Wales, said in their email:

> My wife and I are waterfront landowners at Lake Macquarie and we are writing to protest in the strongest terms against the provisions of the Coastal Protection Amendment Bill 2002. The drafting of this Bill reflects badly on both the Government and Opposition. Why wasn't there consultation with those most affected, that is the owners of land and the Lake Macquarie Council? Why also the secrecy with documents not available for scrutiny... Where is the transparency?

They say further in their letter of protest:

> It is an outrage that an easement for public access can be created across our land without our consent and that we might be obliged to demolish structures that we have erected with proper approval.

They say, so far as they are concerned:

> … the Bill would also remove our right to own any accretions which might occur in the future. We acquired this land in good faith and we own to the high watermark. It is completely un-Australian that you would suggest taking that away from us without any compensation. The Bill as it stands is also discriminatory. Why are Sydney Harbour and Botany Bay excluded from the proposed legislation? The existence of this Bill has come as a complete shock to us. There has been no consultation with landowners or the Council.

They call for the bill to be delayed for further consultation. We have also received a letter from the Environment Liaison Office dated 25 September, urging us to support the amendments to be moved by the Hon. Richard Jones, the Hon. Ian Cohen and the Government. The Government's amendments will make at least 23 changes to its own bill. It has 14 amendments, with amendment No. 9 covering a large number of sections of the bill.

The Hon. Ian Macdonald: It is good government, though.

Reverend the Hon. FRED NILE: I think it shows the Government's flexibility and willingness to move amendments to its own legislation. My concern with the large number of amendments is why consultation on the bill did not resolve these matters before the bill was finalised and presented to Parliament. I thought that was part of the reason for consultation. It seems that in this case the consultation process has broken down at

some point, even from the Government's point of view, especially as the Greens have eight amendments, the Hon. Richard Jones has seven amendments and the Opposition has two amendments. Some of those proposed amendments—particularly those foreshadowed by the Greens—are quite major.

The amendments to be moved by the Hon. Richard Jones propose a complete set of objectives of the Act. Those amendments are so basic that those issues should have been resolved before the bill was presented to the House. It does not seem right to be proposing major changes to the objectives of legislation while that legislation is being debated in this Chamber. That may be necessary, and it may be attributable to a fault in the preparation of Government legislation, but it highlights that there has been a problem with consultation on this legislation when such major amendments are proposed by so many members of this Chamber. The Christian Democratic Party supports the bill. Perhaps the bill should be passed, given a trial period and then have its operation reviewed to determine the need for any of the major amendments proposed.

The Hon. Dr BRIAN PEZZUTTI [11.57 a.m.]: As honourable members would be aware, the Opposition will support the bill, but has some suggested improvements to it. The bill represents almost a conclusion to a report I tabled in this House following an inquiry undertaken by the Standing Committee on State Development, under the chairmanship initially of the Hon. John Hannaford, then the Hon. John Jobling. Subsequently, I, as chairman, had the privilege of presenting that report to the Chamber. The report was partly implemented by the Greiner Government. When it was tabled many people in politics could not see the wisdom of the advice that the committee received and the recommendations that it made as a result of the advice. But, over time, the Greiner Government and the Fahey Government, followed by the Carr Government, used the report for their direction. In fact, I think the Carr Government used a draft copy of the report for its policy in 1991.

I am particularly encouraged by the Premier's announcement of $10 million for research and for the establishment of resources on the coast. It is a shame the Government has not gone all the way on coastal policy and included the Sydney river systems. However, it is a practical step in the right direction to include the South Coast, the Central Coast and the area around Sydney, except that the coverage does not extend as far inland as coverage in other areas. I believe that the proposed amendments will go some way to improving that position. This bill underlines the importance of the work done by committees of this place and the studious work of many honourable members, including the Parliamentary Secretary the Hon. Ian McDonald and the Hon. Richard Jones, who made a dissenting report at the time of the report's tabling.

I think everyone will be pleased to know that this House has played a major part in improving coastal planning and that over time the recommendations of the committee have come to fruition. I am sure this legislation will receive bipartisan support. That is the sort of support that the committee received from experts and community groups when it wrote the report. I commend the bill and look forward to seeing the Opposition's foreshadowed amendments passed in the Committee stage.

The Hon. IAN MACDONALD (Parliamentary Secretary) [12.00 p.m.], in reply: I thank all honourable members for their contributions to the debate on this bill which I commend to the House.

Motion agreed to.

Bill read a second time.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

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MINISTER FOR MINERAL RESOURCES, AND MINISTER FOR FISHERIES PECUNIARY INTEREST DISCLOSURE

The Hon. GREG PEARCE: I direct my question to the Minister for Fisheries. Minister, are the reports in today's *Sydney Morning Herald* correct? The reports indicate that on 18 August you flew with Karl Suleman and others in Mr Suleman's private jet to Port Macquarie to inspect one of the properties of your family trust. Further, were you involved in discussions with Mr Suleman over the sale of your family's Lebanese newspaper *El Telegraph*? Will you confirm that these reports are correct and explain how those activities relate to your duties as Minister?

The Hon. EDDIE OBEID: The honourable member asked me an important question. The article published today in the *Sydney Morning Herald* is part of a deliberate and malicious campaign. False allegations published by the *Sydney Morning Herald* on 30 August 2002 are already the subject of defamation proceedings. Today's report is further evidence of its targeted malice. Every published attack by the *Sydney Morning Herald* since its defamation of me on 30 August is calculated to harm my reputation and to save the newspaper from having to pay substantial damages. The *Sydney Morning Herald* thinks that it can retrieve its reputation by attacking mine.

What did the *Sydney Morning Herald* get wrong today? Let us get the facts straight. Last year, on 18 August, at the invitation of my sons, I accompanied them on a flight to Port Macquarie. My sons were travelling there to discuss one of their investments—not mine—with a prospective purchaser. I went to spend time with my sons and I was not a party to any commercial discussions that they had between themselves and the prospective purchaser. That person was Mr Nati Stoliar—someone known to me and to my family for several years. I refer now to the flight details. Mr Nati Stoliar chartered the flight and my sons paid for their seats and mine. This morning I received a copy of a statement from Mr Nati Stoliar in response to today's article, which states:

> The *Sydney Morning Herald's* report today contains inaccuracies.
>
> First, the meeting described by the Herald between Mr Karl Suleman and Mr Eddie Obeid at my home never took place.
>
> Second, last year I inspected land at Port Macquarie at the invitation of the owners of that property—the Directors of Milland Pty. Ltd. My commercial discussions were with the Directors of Milland and not with Mr Edward Obeid.
>
> I did not proceed with any transaction in relation to this property with the Directors of Milland.
>
> I chartered the aircraft for the trip and other parties paid their own way.
>
> Finally, while I made a ticket available to Mr Obeid to attend a Westmead Children's Hospital fundraiser, it was a courtesy ticket available to me to use at my discretion. I did not pay any money for it.

That statement, which was signed by Nati Stoliar, was dated 23 October 2002. I seek leave to table that statement.

Leave granted.

I now turn to matters relating to Mr Karl Suleman. First, I have had no business dealings with Mr Karl Suleman. Mr Stoliar's statement today confirms that the meeting suggested by the *Sydney Morning Herald* never took place. The *Sydney Morning Herald* is wrong again. I refer now to the publication *El Telegraph.* Publicly available records held by the Australian Securities and Investments Commission [ASIC] confirm that I have not been a director since 1992, and since 1999 I have not been a shareholder of the company that publishes *El Telegraph*. As neither a director nor a shareholder of that company, I was not a party to any business arrangements between Mr Suleman and the publishers of *El Telegraph*. A statement released today by the directors of Linkban Pty Ltd, the publishers of *El Telegraph,* states:

> In November 2001, Mr Karl Suleman defaulted on the sale agreement for the purchase of the newspaper *El Telegraph*.

It further states:

> As is commonly accepted business practice under any sale agreement, when the purchaser defaulted, the vendor terminated the sale agreement and in accordance with its terms retained the part payment already made.

I seek leave to table that statement which was released by the publishers of *El Telegraph*.

Leave granted.

The Hon. GREG PEARCE: I ask a supplementary question. Would the Minister like to elucidate on his answer?

The Hon. EDDIE OBEID: I certainly would like to elucidate on my answer. I refer now to Mr Theo Skalkos who was also named today in the *Sydney Morning Herald.* With the greatest respect to Mr Skalkos, he occasionally forgets that I have nothing to do with *El Telegraph*. He forgets that I am no longer the publisher of that paper, as I once was long ago. Mr Skalkos' printing company's commercial agreement to print *El Telegraph* is not with me but with the publishers of *El Telegraph*, the directors of Linkban Pty Ltd.

I have made it clear to the Parliament on previous occasions that I am not a director or a shareholder of that company. The ASIC records confirm that, since 1992, I have not been a director and, since 1999, I have not been a shareholder of the company that publishes *El Telegraph*. I had to make that point clear yet again to Mr Skalkos when I spoke to him on the telephone some months ago when he wrongly directed correspondence to me. I advised him on that occasion that all correspondence and other communication concerning *El Telegraph* must be directed to the directors of Linkban and *El Telegraph*, not to me.

NSW POLICE DRIVER TRAINING

The Hon. HENRY TSANG: My question without notice is directed to the Minister for Police. What is the latest information on driver training for NSW Police?

The Hon. MICHAEL COSTA: In September a ministerial working group was established to investigate a backlog in the police college's driver training program. A change to the training course in 1997 resulted in a pool of drivers who did not have their driver training. All police have bronze accreditation, which enables them to drive police vehicles. Around 1,600 police who are eligible for silver response accreditation have not yet taken the course. At the moment 8,500 police at local area commands have silver response training. It is vital that we ensure that the remaining 14 per cent of locally based police are fully operational and accredited in these driver training requirements.

A 70-week program, which was developed by NSW Police, will eliminate the backlog and result in the remaining 1,600 police receiving their silver licence training. It will involve the purchase of extra vehicles and the employment of more instructors. It will deliver silver licence training on a priority basis to those commands with the greatest need. It will ensure that the backlog is cleared. Silver response training will be included in the constable education program at the New South Wales Police College. This is a sensible and workable solution. We have record police numbers and massive numbers of recruits in training. This plan will ensure that all our police can perform high-visibility and high-impact policing. This matter clearly is of importance to the community. I think this solution will meet the needs not only of our serving police officers but also of the general community.

WORKCOVER DEFICIT

The Hon. MICHAEL GALLACHER: My question without notice is to the Special Minister of State, and Minister for Industrial Relations. Why did the Minister attempt to mislead our State's employers and employees on 2 October by telling them that the WorkCover deficit had deteriorated by $45 million, rather than the correct figure of $243 million? Why does the Government continue to give incorrect information to the public about the state of the unfunded liability?

The Hon. JOHN DELLA BOSCA: The Leader of the Opposition failed to refer in his question to a number of critical points, so I will elaborate upon them. A critical point in any discussion about the WorkCover deficit and the operation of the WorkCover scheme and its financial health is that, for the first time in 10 years, the scheme is collecting more in premiums than it costs to run it. I will put that in historical perspective, that is, contemporary, political, and ancient history. John Fahey was the Minister for Industrial Relations in this State on the last occasion that the WorkCover scheme's premiums were covering its costs of operation. However, throughout the entire period of John Fahey's career as finance Minister, Minister for Industrial Relations and Premier of this State, the WorkCover scheme failed to cover its basic costs of operation.

Actuarial reports are extremely complex documents. However, primary school arithmetic would tell a person that fundamentally any scheme that is based on a payments and receipts system needs to collect more in premiums than it costs to operate the scheme. Regarding the financial aspects of the operation of the WorkCover scheme, members may recall that one of the priorities for the Government was to ensure that the scheme was collecting sufficient premiums to cover its costs, as a primary objective of returning the scheme to financial health. We have achieved that, well ahead of expectations and well ahead of time. The average premium is 2.87 per cent of wages. The cost of the scheme has fallen to 2.72 per cent of wages. This is a scheme that had not paid its way since 1991, when John Fahey was Minister for Industrial Relations. By taking the hard decisions, we have brought the fundamental financial problems back under control.

As I announced earlier this month, the actuary, PricewaterhouseCoopers, calculates the scheme deficit at $2.801 billion. Compared with the same time last year, the audited figure, the figure in the annual report—the figure that the stakeholders will use to assess the success or otherwise of the reforms and the operation of the

scheme—shows that the increase in the deficit is $45 million. Had the global investment market performed normally, the deficit would have fallen. PricewaterhouseCoopers states consistently in its report that without our reforms the deficit would be $824 million higher.

Madam President, you will recall, and all my colleagues and many crossbench members will recall, how the Coalition voted. And the employers of this State will remember exactly what they did. They will let the Greens off the hook, and they will let all the crossbench members off the hook, but the employers of this State will remember what they did, and that is what really matters. Let us look at the fundamentals of how the scheme is operating. For the first time in 10 years, the WorkCover scheme is collecting more in premiums than it costs to run the scheme. The actuary says that the outstanding claims are lower, legal costs are lower and weekly benefits to workers are higher.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. Given the Minister's answer, can he explain to the House why WorkCover's web site continues to mislead about the extent of the WorkCover deficit by claiming that the deficit is only $2.18 billion, instead of the correct figure—the figure the Minister was forced to admit—of $2.801 billion?

The Hon. JOHN DELLA BOSCA: As I referred to in my substantive answer, the actuary, PricewaterhouseCoopers, has calculated the scheme deficit at $2.801 billion. I said that only a moment ago, so I do not know why the Leader of the Opposition is throwing pieces of paper, including printouts from the Internet, around the table. As I said in my substantive answer, the actuary says that the outstanding claims are lower, legal costs are lower and weekly benefits to workers are higher. That is an absolutely remarkable trifecta, given the state of the scheme only two years ago. Not only is the actuary impressed but also Greg Pattison of Australian Business Ltd stated:

> The reduction in scheme costs is welcome—and shows that operationally the scheme is headed in the right direction for both employers and employees.

So, for the first time in 10 years, the scheme collects more premiums than it costs to run. Because of our reforms—reforms that the Coalition did not support—the fundamentals are heading in the right direction.

STATE RAIL TRACK LEASES

The Hon. DAVID OLDFIELD: My question is to the Minister for Fisheries, representing the Minister for Transport. Will the Minister disclose the details of the Federal Government's plans with regard to the leasing of State Rail tracks for the Australian Rail Track Corporation [ARTC]? Is it correct that the lease period being suggested is in the order of 60 years? Which lines are being sought for the ARTC, and is it correct that the arrangements under discussion do not include the central western line? What consideration has the Government given to the likely loss of approximately 1,500 rural-based, track maintenance and workshop jobs?

The Hon. EDDIE OBEID: I thank the Hon. David Oldfield for his question. I will seek to obtain an answer from my colleague in the other House.

AUSTRALIAN TECHNOLOGY SHOWCASE WEEK

The Hon. IAN MACDONALD: My question without notice is to the Treasurer, and Minister for State Development. Will the Treasurer inform the House about the latest initiative of the Australian Technology Showcase [ATS] program to promote locally based technologies?

The Hon. MICHAEL EGAN: I am pleased to inform the House about Australian Technology Showcase Week, which was held in Sydney last month.

The Hon. Dr Brian Pezzutti: You went to Lismore, and you didn't even tell me you were going.

The Hon. MICHAEL EGAN: I did go to Lismore, and I did omit to tell you I was going. I was with your party colleague the honourable member for Lismore, and I assumed that he would have told you. I told the honourable member for Ballina that I was attending his electorate, but being in Lismore at the invitation of the National Party member for Lismore I simply assumed that he would tell his Coalition colleague. I cannot help it if the level of relations between the Liberal Party and the National Party has fallen to an all-time low. That is not something I really would have understood.

The Hon. Jennifer Gardiner: It is a Labor lie.

The Hon. MICHAEL EGAN: What is?

The Hon. Jennifer Gardiner: That relations are at an all-time low. That's a lie.

The Hon. MICHAEL EGAN: Then why did the member for Lismore not tell the Hon. Dr Brian Pezzutti that I was in Lismore? Australian Technology Showcase Week 2002 was the first time an event that focuses on acknowledging world-class, locally developed technologies has been held in Australia. In all, there were seven events held during ATS week, with more than 700 representatives from business and government attending. A series of business seminars, meetings and networking events was held, and the week culminated with the inaugural 2002 ATS Investment Ready Award.

These awards involved a pitch made by four ATS companies to a live audience of around 100 investors and business representatives. I am pleased to advise the House that the winner of this inaugural award was Medivac Technologies. In recognition of presenting the best case for securing early-stage equity capital, Medivac was chosen ahead of the other finalists. Medivac has developed a world-first solution in the safe disposal of medical wastes. Members may be aware that infectious diseases such as hepatitis and HIV have made the appropriate management of used needles, wound dressings and other hospital disposable items a priority in the health industry.

Until now it has been uneconomical to handle this waste at hospitals. It has been left for contractors to collect, incinerate or chemically treat, before burying the residue in landfill sites. The Medivac system is a portable, cost-effective and environmentally friendly treatment that enables hospitals to process medical waste on site. The system reduces the size of the material by 80 per cent and it can be disposed of in the general waste stream. It is especially important to note that the Medivac solution provides an annual cost saving of 30 per cent compared with existing solutions and the Department of Health has approved its use. ATS Week recognises and supports the development of world-class technologies such as Medivac.

DROUGHT ASSISTANCE

The Hon. DUNCAN GAY: My question is directed to the Treasurer. What is the total amount paid out to date by the State Government to farmers and small business operators affected by the drought?

The Hon. MICHAEL EGAN: The amount varies from day to day. As honourable members are aware, the Government has made a number of announcements about drought-assistance measures and the take-up of that assistance increases by the day. I will ascertain the latest expenditure for the House.

The Hon. DUNCAN GAY: I ask a supplementary question. Will the Treasurer give an undertaking to come back to the House by the end of the week with a running tally?

The Hon. MICHAEL EGAN: I will not provide a daily running tally to the House—

The Hon. Dr Brian Pezzutti: Why not?

The Hon. MICHAEL EGAN: Because having a daily running tally is meaningless. I will be happy to advise the House of the expenditure from time to time.

FIREARMS OWNERSHIP

Ms LEE RHIANNON: I direct my question to the Minister for Police. Does Mark Latham's question to the Prime Minister yesterday focusing on border control rather than a hand gun ban indicate that this Government still agrees with the position put by Kim Beazley on 7 September 2001? In a letter addressed to Mr Tingle, he stated that Labor had no plans to amend firearm laws and that he saw no reason that a future Labor Government would need to pursue their tightening. Can the Minister advise the House how many registered gun owners in New South Wales have a private armoury of five or more semi-automatic pistols and revolvers such as those used by the Monash University gunman? How confident is the Government that no New South Wales registered gun owner will use licensed weapons to perpetrate a massacre somewhere in Australia?

The Hon. MICHAEL COSTA: We are all shocked by the appalling attack at Monash University this week. It was a stark reminder of the need for caution about who is allowed to access firearms. The New South Wales law is very clear: Access to firearms is restricted to those involved in a limited range of activities,

including agricultural and sporting pursuits. Access to a firearm in New South Wales requires a criminal record check and a licence can be withdrawn if an offence is committed after it has been issued. Weapons can be removed and licences withdrawn if a licence holder is the subject of an aggravated violence order. New South Wales has the toughest penalties in the country for disobeying the law, including 14 years imprisonment for illegal possession. This State is leading the development of standard national offences for illegal gun supply, manufacture and distribution. Those offences will be presented to the Australian Police Ministers' Council [APMC] in a fortnight. I hope a consensus will be reached and that we will be able to implement a uniform national approach to this issue.

Police officers tell me that many weapons are being imported directly into the illegal market in the same way that heroin and cocaine are brought across our porous borders. However, on 11 July this year, the Minister for Justice and Customs, the Hon. Chris Ellison, made a remarkable comment that I was able to take up with him at the APMC. He said that he was confident that the Government's border protection measures were working effectively to prevent the illegal importation of hand guns and other firearms. Unfortunately that is not true; we need to strengthen border protection. The New South Wales Government has indicated that it is prepared to cooperate with the Commonwealth Government to implement a regime to deal with borders and, more importantly, illegal hand guns. That is why this Government has supported as a first reference to the new Australian Crime Commission an investigation into the problem of illegal hand gun importation.

There is room for further improvement in our laws dealing with licensed gun owners. I have asked the Director General of the Ministry of Police to reconvene the firearms licence holders working group to consider a range of issues related to weapons owned for sporting or professional purposes. All Australian Governments must be prepared—the New South Wales Government certainly is—to examine any measures designed to reduce the risk to the Australian community. Although some people are peddling simple solutions, they are not always effective. A ban on hand guns was implemented in the United Kingdom after the horrendous attack at Dunblane. Tragically, the incidence of hand gun-related homicide has increased since the ban was implemented. Although more than 160,000 firearms were turned in during an amnesty lasting several months, it is estimated that nearly 250,000 hand guns are still in circulation in the United Kingdom. Clearly, the bulk of our problems relate to illegal weapons held by criminals. I make it clear that this Government is prepared to look at any measure that is designed to improve public safety. However, it will not implement simplistic solutions to gain political advantage.

Ms LEE RHIANNON: I ask a supplementary question. Given that the weapons used were legal and licensed, will the Minister mirror what the Prime Minister has said; that is, that he believes there is a need to ban semi-automatic hand guns? All the major parties agreed to that approach in 1996 to deal with semi-automatic firearms and the Prime Minister said he was willing to explore that option. Is this Minister willing to go that far?

The Hon. MICHAEL COSTA: My experience is that Ms Lee Rhiannon has a tendency to verbal people. I do not know what the Prime Minister said about hand guns, but I would be surprised if he said what has been quoted in the House. I have indicated that this Government is prepared to work with licence holders and to do whatever it can to tighten up the use of legal weapons if that is necessary. It will reconvene the working party and examine the issue. I reiterate: It is simplistic to argue for the banning of semi-automatic hand guns. The evidence does not indicate a relationship; in fact, it indicates the contrary. If the honourable member has further evidence, she should produce it and engage in a public debate.

WINE INDUSTRY

The Hon. TONY KELLY: I direct my question to the Treasurer, and Minister for State Development. Will he update the House with information about the wine industry in New South Wales?

The Hon. MICHAEL EGAN: The Hon. Tony Kelly lives in an area not far from some of the great wine growing regions of Australia. Mudgee and Cowra produce fine wines these days, and I have imbibed many of them. I have even imbibed some altar wines, down in South Australia.

The Hon. John Jobling: Seven Hills?

The Hon. MICHAEL EGAN: That is right. The Jesuits make altar wines as well as a number of other very good red and white wines. New South Wales now produces almost one-quarter of the wine produced by the $3.3 billion Australian wine industry. We grow 25 per cent of the industry's specialist wine grapes and produce 34 per cent of all Australian wines. I understand that between 1995 and 1999 wine production in New South Wales almost doubled, to reach 266 million litres, with the area under vine increasing from 14,490 hectares to 28,744 hectares. In the same period, the export value almost tripled, from $79 million to $233 million.

The combination of quality and consistency, the key to our wine industry's success, is the result of the State's climate, soils and the commitment of our winemakers to excellence and innovation. Our winemakers use state-of-the-art technology in the vineyard and winemaking operations and are investing very heavily in research and development. The Riverina area, for example, produces almost 70 per cent of Australia's semillon grapes and 25 per cent of Australia's shiraz grapes. Each year the region produces 100,000 tonnes of wine grapes, contributing to 60 per cent of the New South Wales supply. Of course, the industry is a very significant employer, particularly during harvest and vintage, and, as most honourable members would know, is a huge drawcard for tourists. The Government is working with the industry to help it expand. Take Casella Wines, which is located at Yenda in the Riverina.

The Hon. Dr Brian Pezzutti: Yenda produces high-quality mustard seed oil too.

The Hon. MICHAEL EGAN: That is interesting. Casella produces wine from grapes grown on a 700-acre estate as well as grapes sourced from local growers. They employ 70 full-time staff and 40 seasonal staff. Last year Casella received assistance under the Government's regional business and development scheme to help expand its winery, including building stainless steel tanks and a new warehouse. The company needs this larger winery to enable it to expand into the United States, German and United Kingdom export markets. Last Thursday I was pleased be the guest of the British High Commissioner at a lunch in honour of the visiting British Lord Chancellor, Lord Irvine of Lairg, who told those at the lunch how much he appreciated Australian wines. Indeed, I think he took a few home with him when he returned to the United Kingdom.

The Hon. John Della Bosca: You would be a lord if you were in England.

The Hon. MICHAEL EGAN: I would indeed. Most of us would be. We would all be lords. Some of us use the title "honourable" in place of that which we would be entitled to use in the United Kingdom, although I think they are probably adjusting to modern times more quickly than we are. [*Time expired.*]

The Hon. TONY KELLY: As a supplementary I ask the Minister to elucidate his answer.

The Hon. MICHAEL EGAN: I will. With the emphasis on the continued rapid expansion of its export markets—which already consume 80 per cent of its production—Casella is a great example of a local producer taking Australian wine to the world and providing a boost to regional New South Wales.

ENGLISH AS A SECOND LANGUAGE TEACHERS

The Hon. HELEN SHAM-HO: My question without notice is to the Minister for Police, representing the Minister for Education and Training. I refer to the recent media reports that Cabramatta High School will lose one of its six English as a second language [ESL] teachers next year. Given that 97 per cent of students at the school are from non-English-speaking backgrounds and that approximately 400 students use the ESL services at the school each year, will the Minister explain why the Department of Education and Training cannot maintain the current number of ESL teachers at the school? Furthermore, will the Minister advise whether the Government will act on the recommendations of the recent Vinson report to provide 100 more ESL teachers in New South Wales, given that there have been no increases in the number of ESL teachers since 1993?

The Hon. MICHAEL COSTA: That is a detailed question. I will take it on notice and get an appropriate response from the relevant Minister.

MINISTER FOR MINERAL RESOURCES, AND MINISTER FOR FISHERIES PECUNIARY INTEREST DISCLOSURE

The Hon. JOHN RYAN: My question without notice is to the Chair of the Standing Committee on Parliamentary privilege and Ethics. Is it true, as reported in the *Sydney Morning Herald* of 17 October, that the Parliamentary Privilege and Ethics Committee has voted against recalling the Minister for Fisheries to answer any further questions in relation to the declaration of his pecuniary interests? If the report is true, will there be an opportunity for the committee to consider this issue again in view of the—

The PRESIDENT: Order! The member's question is out of order. Members must not ask questions about deliberations in a committee not yet reported to the House.

The Hon. JOHN RYAN: I have not done that. The standing orders provide that a member may not attempt to interfere with a committee's work or anticipate its report. Members are allowed to put questions relating to the activities of that committee. My question relates to the activities of that committee.

The PRESIDENT: Order! The member may finish his question, at which time I will rule on it.

The Hon. JOHN RYAN: If the report is true, will there be an opportunity for the committee to consider this issue again in view of the additional information that has appeared in the media today of claims that appear to contradict the evidence given by the Minister for Fisheries and in view of the additional information given by the Minister for Fisheries to this House today?

The Hon. Michael Gallacher: There is no point of order before the Chair; the Hon. Helen Sham-Ho can answer the question.

The Hon. Michael Egan: Point of order: Madam President, you indicated that you would hear the question and then consider whether the question was in order. Clearly, you were conferring with the Clerk, and the House was awaiting your adjudication. The Leader of the Opposition is just being silly in suggesting that the question had been given your approval.

The PRESIDENT: Order! The chair of the committee may answer the question but I advise her in answering the question she should understand that the deliberations of a committee are different from the actual activities of a committee.

The Hon. HELEN SHAM-HO: I believe that the deliberations of the committee are confidential until the report has been tabled. Therefore, I cannot divulge a decision of the committee that is made during its deliberations. In relation to the second part of the question, which was raised only today, I advise that it is a matter for the committee to decide whether it will further consider the matter, as I will propose at the next meeting of the committee, which will be held in about 20 minutes time.

INTELLECTUALLY DISABLED PEOPLE WITH CHALLENGING BEHAVIOUR

The Hon. RON DYER: My question without notice is addressed to the Minister for Ageing, and Minister for Disability Services. Will the Minister advise the House what the Government is doing to provide specialist assistance to people with an intellectual disability with challenging behaviour?

The Hon. CARMEL TEBBUTT: It is true that people with an intellectual disability who have challenging behaviour can pose significant issues for both government service providers and their carers. The Government is committed to implementing measures to support people with a disability who have challenging behaviour. I am pleased to inform the House that earlier this month the Government provided a further $2.8 million in funding to boost the behaviour intervention service, which is managed by the Department of Ageing, Disability and Home Care. This service provides specialist assistance for people with an intellectual disability who have challenging behaviour. These people are some of society's most vulnerable members. Challenging behaviour can affect the physical safety or emotional wellbeing of these people, as well as others, and can limit opportunities to participate in everyday life or to learn new skills. Challenging behaviour can also affect family and staff trying to provide effective support to the person with a disability.

The new funding will increase staff resources from 12 to 20. It will enable the service to establish a new children's team, enhance the adult's team, upgrade existing positions and allow a regional restructure of the service. The funding will enable the clinical service to provide more assessment, intervention, monitoring, evaluation and training for people with an intellectual disability who have challenging behaviour. The behaviour intervention service will also be able to provide a new forensic casework service. This service will train staff and develop local skills and networks specific to people with a disability already in contact with or at risk of coming into contact with the criminal justice system. This funding boost will also provide greater advice, assessment and preventive support for people living in a non-government residential service. The service will also support people working with the challenging behaviour task force, which includes representatives from New South Wales Health, Police, Corrective Services, Juvenile Justice and the Office of the Public Guardian. This additional funding will make a real difference to people with a disability, their carers and their communities.

DISTRICT AND SUPREME COURTS APPEAL STATISTICS

The Hon. PETER BREEN: My question without notice is directed to the Treasurer, representing the Attorney General. Is the Attorney aware that no records are kept relating to the statistical success rate for appeals from a decision of a District Court or Supreme Court judge? Is the Attorney aware also that many law

consumers, when faced with an adverse decision of a District Court or Supreme Court judge, would benefit from knowing their chances of running a successful appeal based on statistical records? Can the Attorney indicate whether he will consider recommending to the Chief Justice that records should be kept relating to the statistical success rate for appeals from the decision of a District Court or Supreme Court judge?

The Hon. MICHAEL EGAN: I thank the Hon. Peter Breen for an interesting but in some ways disturbing question. I will refer the question to the Attorney for his considered response.

MINISTER FOR MINERAL RESOURCES, AND MINISTER FOR FISHERIES PECUNIARY INTEREST DISCLOSURE

The Hon. DON HARWIN: My question is directed to the Minister for Mineral Resources. Earlier in question time the Minister informed the House that he flew to Port Macquarie with a ticket paid for by his son. Why did the Minister not disclose that contribution to his travel in his most recent pecuniary interest declaration?

The Hon. EDDIE OBEID: For the information of the honourable member, I am advised that the rules for pecuniary interest statements specifically state that there is no need to declare travel paid for by family members. In particular, I draw the attention of honourable members to clause 11 (2) of the Constitution (Disclosure by Members) Regulation 1983, which states:

> A financial or other contribution to any travel undertaken by a Member need not be disclosed in an ordinary return if …
>
> (b) … the contribution was made by a relative of the Member.

OPERATION VIKINGS

The Hon. PETER PRIMROSE: My question without notice is addressed to the Minister for Police. What is the latest information on Operation Vikings?

The Hon. MICHAEL COSTA: The community wants to see police on the street at the right time and in the right places. That is why high-visibility, high-impact policing has won the support of the community and front-line police. And that is why Operation Vikings will continue to roll out across the State, targeting major transport routes, hot spots, shopping centres and areas of community concern. Since 24 May this year there have been Vikings operations across more than a dozen metropolitan and regional centres. New South Wales police staged the fourteenth Vikings operation last weekend on the streets of Newcastle. In that operation our police conducted 3,518 random breath tests; issued 13 field court attendance notices, 22 speeding infringements, 213 parking and noise infringements, 191 traffic infringements, 31 vehicle defect notices and 12 move-along directions; conducted two knife searches; and charged 10 people with assault, resisting arrest, hindering police, drink driving and other offences.

In addition, after information from the public, Vikings police were alerted to an alleged armed robbery of a service station at Cardiff. The police helicopter Polair 2 was called in and a search of the surrounding bushland was conducted. Two juveniles and a man were arrested a short time later, and have subsequently been charged with armed robbery and stolen goods offences. Front-line police tell me that high-impact, high-visibility policing like Operation Vikings makes a difference at the local level. In terms of Vikings 14, Northern Region Commander Peter Parsons said:

> I am very heartened by the co-ordinated, co-operative approach by a wide range of police units to such a high profile operation.
>
> It's a joint effort with many support services combining to provide a high-visibility, street policing operation.
>
> In light of the positive response from the public, it is anticipated that further similar operations will be conducted in the near future to ensure a safer night life for people in Newcastle.

On behalf of the community I thank our police for their efforts so far and for their future successes. It is time the Opposition apologised to our front-line police officers for criticising the Vikings operations. Honourable members should remember that members opposite called these operations "operation knee-jerk", and they criticised these operations for being a Government publicity stunt.

The PRESIDENT: Order! I call the Hon. John Ryan to order for the first time.

NORTH SYDNEY TO PARRAMATTA BICYCLE RIDE

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question without notice is directed to the Minister for Mineral Resources, representing the Minister for Transport, and it relates to the Roads and Traffic Authority [RTA] bicycle ride from North Sydney to Parramatta on 17 November. In previous rides the RTA used emergency services and other personnel to shepherd large numbers of riders by back streets to Parramatta, yet left them to go home by whatever route they could manage, usually in small groups along major roads. Effectively, this meant that a small risk in a big group was catered for, but not a larger risk. Does the Government intend to use this protocol again, or will it create schedules for the virtual bike buses on major routes to get people to North Sydney and home from Parramatta? Can this question be answered before 17 November?

The Hon. Michael Egan: Why? What is on 17 November?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The bike ride.

The Hon. EDDIE OBEID: I thank the Hon. Dr Arthur Chesterfield-Evans for a very important question. I will endeavour to get him an answer before 17 November, because it affects many bicycle-loving riders in our State.

SYDNEY WATER CUSTOMER INFORMATION BILLING SYSTEM

The Hon. PATRICIA FORSYTHE: My question without notice is directed to the Treasurer. Why did the Treasurer claim on radio 2UE yesterday that he first became aware of Sydney Water's billing system problems only last Friday, when in fact the Auditor-General, Bob Sendt, referred to the matter in volume seven of his report to Parliament last year and again on 23 September this year when he wrote to the Treasurer and to the Minister responsible for Sydney Water advising of the problems?

The Hon. MICHAEL EGAN: The Hon. Patricia Forsythe should either listen to the radio herself or have a more reliable informant. What I said yesterday was that I became aware that Sydney Water's new billing system was a dud last Friday and that was when I was briefed by the General Manager of Sydney Water and the Chairman of Sydney Water, Gabrielle Kibble.

The Hon. PATRICIA FORSYTHE: I ask a supplementary question. If the Treasurer only became aware last Friday that Sydney Water's billing system was a dud, what did he think was wrong with the system, causing the cost blow-out and the project being over time prior to that?

The Hon. MICHAEL EGAN: The House will be aware—at least members should have been aware—that the Auditor-General's report in late 2001 drew attention to the increased costs in the project. That was a matter of public knowledge. I was aware of that, just like every other member of the House was aware of that. Nevertheless, last Friday the General Manager and the Chairman of Sydney Water informed me that the third stage of the project was unlikely to achieve its objectives and, therefore, they were calling a halt to it. So the honourable member should use a more reliable source or listen to the program herself.

WORKCOVER BACK PAIN TREATMENT PROGRAM

The Hon. IAN WEST: My question is directed to the Special Minister of State, and Minister for Industrial Relations. Will the Minister inform the House about initiatives to assist doctors in their treatment of injured workers?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Ian West for his question and commend him for his ongoing interest in occupational rehabilitation. This month WorkCover New South Wales commenced a $1.7 million education program for general practitioners. This initiative is being conducted in partnership with the New South Wales Alliance of NSW Divisions Limited. The alliance won the tender to roll out this program to 3,000 doctors across the State. With the involvement of the alliance, doctors will receive information from other doctors. The program will provide general practitioners with the latest advice on the treatment of low back pain.

Back pain is the predominant injury suffered by New South Wales workers. Back problems account for a third of all workers compensation claims. This program will help ensure that injured workers who have low

back pain will receive treatment that delivers the best health and occupational outcomes. It is odd that the response from the Leader of the Opposition in the other place, the honourable member for Pittwater, is to talk loudly about fraud, but only fraud by workers. He has pledged to reduce attention on employer fraud. While WorkCover and the insurers are vigilant, there is no mention by the Opposition of helping to better treat employment-related injuries.

To give workers the best treatment and to help them back to a normal life is a principal and critical objective of WorkCover's reform package. Its $1.7 million general practitioner education program includes a set of clinical guidelines that have been developed in consultation with top medical experts and institutions. The latest information shows that extended rest is often not the best treatment for back injuries. Following the success of pilot programs in Wagga Wagga and western Sydney, this initiative will be rolled out across New South Wales to reach over 3,000 general practitioners in the Central West and Far West of New South Wales, the mid North Coast and the Far North Coast, the St George area of Sydney, the Canterbury-Bankstown area, the Central Coast, the Illawarra, the Murray-Riverina, and western Sydney.

The first phase of the 18-month program will be carefully evaluated. Depending on its success, the Government will consider extending the program to include all general practitioners in New South Wales. As well as treating low back pain, the new program will also target side effects, including depression, reduced fitness and the loss of employment opportunities. I congratulate the New South Wales Alliance of NSW Divisions Limited on being the successful tenderer for the program. I thank the alliance, in particular Dr Ian Adair, for wanting to up-skill doctors to ensure that workers in New South Wales get the best possible treatment for their work-related injuries.

BANKSTOWN AIRPORT

The Hon. IAN COHEN: My question is addressed to the Minister for Industrial Relations, representing the Minister for Planning. Does he recall that in December 2000 the Federal Government released plans to privatise Bankstown Airport and encouraged the new operator to extend a runway and build a new and enlarged terminal? Does the Minister recall that there was a successful motion moved by the honourable member for Menai in the other place on 21 September 1999 requesting the Minister to set up a watchdog group comprising State parliamentarians and community group representatives to monitor any further developments? Why has the Minister for Planning not set up the airport watchdog group as requested in the motion when the Bankstown Airport expansion is still considered to be a major threat by many in the community?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Ian Cohen for his question. I will refer the question for an early response from the Minister for Planning.

TROUT STOCKS

The Hon. JENNIFER GARDINER: My question is directed to the Minister for Fisheries. Further to my previous questions on trout stocking, is it correct that he has made an "in principle" backflip to resume trout stocking in certain streams? If so, which ones will see such bans lifted, and when will they actually be lifted? Why was proper research not done to investigate any link between trout and the Booroolong frog before he imposed the bans? From now on, will he undertake to ensure that proper consultation is undertaken with acclimatisation societies and the trout fishing fraternity about proposals that directly affect them?

The Hon. EDDIE OBEID: I answered a similar question on 25 September this year, but I am happy to advise the House on this issue again. Since 1995 the Government's recreational fish-stocking program has stocked more than 40 million fish and is estimated to have generated $190 million in economic activity in regional New South Wales. In the Snowy Mountains, trout fishing and the tourism it attracts bring in around $70 million and have resulted in the creation of up to 700 jobs in the local regional community. The Government is committed to an ongoing, sustainable fish-stocking program. To ensure that the program remains sustainable, the Government makes sure that the highest environmental standards are maintained. To meet those high standards, adjustments have been made to protect the three threatened species that have been identified as being at risk due to predation or competition from trout.

Last year NSW Fisheries suspended stocking of trout in 10 streams known to contain the Booroolong frog, the spotted tree frog and the Macquarie perch. This action was taken while further work was undertaken on the impact of trout on these endangered species. These 10 streams represented less than 1 per cent of the waterways that the Government stocks across the State. Trout has been stocked for over 100 years and are not

likely to be the cause of the frogs' decline. I recently met with the Country Labor candidate for Burrinjuck, Mr Michael McManus, and the Country Labor candidate for Monaro, Mr Steve Whan. As a result of their representations I have given in-principle agreement to the resumption of stocking in important streams, such as the Goobarragandra River. Mr Whan and Mr McManus told me that their local communities want to ensure that the Government's strong stocking program is maintained and that anglers are consulted about these important issues.

NSW Fisheries is seeking a permit from the National Parks and Wildlife Service to allow stocking to resume before the end of this year. The Government will also undertake research to investigate the link between trout and declines in the Booroolong frog populations. Trout is not a pest species, and has never been regarded as a pest species by the Government. I have asked NSW Fisheries to ensure that acclimatisation societies are consulted before trout-stocking decisions are made in the future.

WORKCOVER GOSFORD HEADQUARTERS

The Hon. PETER PRIMROSE: My question is directed to the Special Minister of State, and Minister for Industrial Relations. Will he update the House on WorkCover's move to Gosford?

The Hon. JOHN DELLA BOSCA: I am very pleased to update the House on the successful move of WorkCover New South Wales, which is now operating out of its new state-of-the-art headquarters in Donnison Street, Gosford. The Premier officially opened the new head office last week. More than 200 residents worked on the project during construction and $14.3 million worth of subcontracting work was carried out by regional businesses. The concrete, bricks, timber, scaffolding and hardware used in the building were also supplied by companies located in the Central Coast area. A firm from Berkeley Vale provided the joinery, the fire sprinklers were supplied by a Bateau Bay company, and the electrical services were carried out by an Erina firm. There was 87 per cent local content prior to fit-out.

The relocation will create more local jobs as local businesses provide services to WorkCover and its hundreds of employees. Local businesses will enjoy increased trade not just from meeting stationery and printing needs but also from WorkCover personnel who, during their lunchbreaks, will buy their sandwiches, coffee, drinks, books, retail items and newspapers from local shops. This is one of the biggest staff relocations ever undertaken by a New South Wales Government agency. One would have thought that the local member of Parliament would have begged WorkCover to attend the opening, but that is not so. The local member for Gosford—

The Hon. Peter Primrose: Who is that?

The Hon. JOHN DELLA BOSCA: I think his name is Hartcher. The local member claimed that the building would not be built, but this is the biggest relocation of a Government department in 30 years to a city centre that has been crying out for good quality local jobs. There was no welcome from the local member of Parliament, who was invited to the opening but did not show up. WorkCover New South Wales has a 10-year lease on the building with two five-year options. I welcome the WorkCover personnel to Gosford and the Central Coast. Their new workplace is superb. I certainly hope that they are enjoying working there.

DOMESTIC VIOLENCE

The Hon. ALAN CORBETT: My question is addressed to the Minister for Police. In response to a question on notice, No. 261, the Minister stated:

> Frontline police have told me a large proportion of their time is spent responding to domestic violence incidents and car accidents.

Given the time-consuming nature of responding to domestic violence incidents and the need to get police back on the streets, is he satisfied with the initiatives being taken by his department with regard to reducing the incidence of domestic violence?

The Hon. MICHAEL COSTA: The honourable member raises an important point. We did respond to the question on notice, indicating, from memory, that they were two principal issues that occupied police time: attending car accidents and domestic violence incidents. All general duties police receive training but, in addition, specialist domestic violence officers have a particular role within local area commands to deal with domestic violence. It is a concerning issue which, as has been said, occupies a lot of time. But it is also a very

complex issue that requires a number of government agencies to work together to try to deal with the underlying problems. In co-operation with a number of other government agencies, our police work to ensure that there are appropriate programs to deal with this most serious offence.

It is important to note that our police have not only the appropriate training but also the resources and, more important, the support of senior management at all levels of the organisation to treat domestic violence as a serious offence that requires the involvement of police and the prosecution of those who commit the offence. In short, the answer is yes, our police are involved in domestic violence matters and that they do occupy a lot of their time. It is a matter that we take seriously, and will continue to take seriously, and it is a matter to which we apply resources.

WORKCOVER DEFICIT

The Hon. JOHN DELLA BOSCA: Earlier in question time the Leader of the Opposition asked a question which contained a number of implications. I wish to restate, for the clarity of the record, that the 2 October news release in my name was certainly not an attempt to mislead. In fact, we gave a 28-page executive summary from the PWC report to the journalists in question. I suggest that the Opposition, or at least the Leader of the Opposition, might read that report. I understand that the honourable member's remarks related to information on the web site—though I was unable to retrieve the piece of paper because I did not take it from the honourable member while I was making my remarks. It cites the WorkCover deficit result as at the end of December 2000.

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

NATIVE VEGETATION REGULATION

The Hon. JOHN DELLA BOSCA: On 28 August the Hon. Ian Cohen asked the Minister for Land and Water Conservation a question without notice relating to the native vegetation regulation. The Minister for Land and Water Conservation has provided the following response:

> The regulation of native vegetation clearing in NSW is a complex task requiring the balancing of environmental, social and economic considerations, a fact acknowledged by the Auditor-General in his report.
>
> The Department of Land and Water Conservation (DLWC), in responding to the performance audit report, has welcomed its findings and recommendations as a constructive contribution to the Department's efforts to continually improve its performance in administering the Native Vegetation Conservation Act.
>
> A sound information base is critical to the success of the native vegetation reforms and a number of initiatives are being progressed to improve this aspect. DLWC, in conjunction with the Native Vegetation Advisory Council, is developing a program for the systematic monitoring of all native vegetation in NSW. While previous studies have been limited in their coverage due to the technology used, the program currently being developed aims to monitor clearing, revegetation and regeneration of all native vegetation, including grasslands.
>
> Efforts are also being concentrated on improving the vegetation mapping coverage of NSW, with the Government having allocated $17 million over the period 1999-2006. Priority for mapping has been targeted to areas where regional vegetation committees are in place and in the process of developing regional vegetation management plans. DLWC has, however, acknowledged the shortfalls in this area that have been identified in the audit report, and will be considering the recommended measures to extend and expedite the mapping program.
>
> As a final comment on information systems, DLWC maintains a comprehensive database, VegNet, which records statistics pertaining to clearing applications approved under the Native Vegetation Conservation Act. Recorded data includes areas approved for clearing, areas required to be retained under vegetation, dominant vegetation species in areas approved for clearing and the purpose of the clearing (eg land use).
>
> In terms of its operational capacity to regulate the native vegetation reforms, DLWC continues to define and document its resource needs and commitments through the annual budgetary process.
>
> The Bilateral Agreement signed by NSW and the Commonwealth in May this year is designed to provide an effective and integrated framework to deliver and monitor the National Action Plan for Salinity and Water Quality in NSW. Importantly, the Agreement acknowledges that implementation will occur within the existing framework of State legislation, policies and strategies that are described in the Agreement.
>
> In this regard, the Department of Land and Water Conservation is addressing its native vegetation management commitments, through the Native Vegetation Conservation Act, consistent with its obligations under the Bilateral Agreement.
>
> The Bilateral Agreement also establishes the principles and processes for administration and allocation of funding under the National Action Plan. The Commonwealth and NSW have established a Steering Committee to facilitate implementation of the Agreement. Membership of this Steering Committee consists of representatives of two Commonwealth agencies and five NSW agencies, not just the Department of Land and Water Conservation. The Secretariat is provided by The Cabinet Office.

WOODLAWN MINEWORKERS ENTITLEMENTS

The Hon. JOHN DELLA BOSCA: On 29 August the Hon. Jennifer Gardiner asked a question regarding entitlements of former Woodlawn mineworkers. The Minister for Land and Water Conservation has advised:

> It would have been not only inappropriate but quite illegal for me to have taken the situation of the workers into account in determining the Collex proposal at Clyde. While more than sympathetic to their situation, the arrangement between the workers and the company was just that—there was no involvement on my part.
>
> My duty in this matter was to consider the Collex proposal on its merits and with the benefit of a professional and independent assessment report prepared by the Department of Planning.
>
> This proposal generated an enormous amount of public interest and more than 1650 submissions were received on the proposal. The efforts of the Department and myself were directed towards resolving the range of environmental issues associated with the development.
>
> I have since approved the proposal subject to a number of very strict conditions of consent.

DARLING HARBOUR ZOO PROPOSAL

The Hon. JOHN DELLA BOSCA: On 29 August the Hon. Richard Jones asked a question concerning the proposal for a zoo in Darling Harbour. I provide the following response:

> I am advised by my colleague the Minister for Planning, the Hon Andrew Refshauge MP, that:
>
> He will not make a determination on the proposed animal exhibit at Darling Harbour until he has fully considered the development application and all the issues raised in submissions arising out of its public exhibition.

DEPARTMENT OF INDUSTRIAL RELATIONS "YOUR RIGHTS AT WORK" BROCHURE

The Hon. JOHN DELLA BOSCA: On 29 August the Hon. Helen Sham-Ho asked a question concerning the availability of Department of Industrial Relations brochures in various languages. I provide the following answer:

> In answer to the question without notice put to me by the Hon. Helen Sham-Ho on 30 August, I have, as promised, collected more information on the delivery of Department of Industrial Relations publications in community languages. As part of its corporate planning activities, the Department of Industrial Relations conducts a continuous review of its publications to ensure they meet community access needs and equity requirements. This review involves an assessment of the adequacy and appropriateness of translated materials in terms of the range of community languages offered, culturally sensitive presentation, styles and formats. Advice is sought from authoritative sources such as the ABS, peak ethnic groups and government agencies on changes to demographics, community needs and expectations.
>
> The guiding principle is to ensure that the areas of greatest need are identified and prioritised. The most numerically significant communities are not always those with the greatest need for translation services. Many of the more established groups, such as the Italian, Greek and Macedonian communities, have well-developed English language skills and extensive community support networks.
>
> Similarly, a number of newly arrived groups, Hindi speakers for example, are from backgrounds where English is widely spoken. These communities have a lesser need for translated materials than other numerically smaller groups whose English skills are more limited and support networks less developed. These are the groups that have been prioritised by the Department of Industrial Relations when providing translations. For the particular document cited by Ms Sham-Ho, "Your Rights at Work", it was determined that the Chinese, Vietnamese, Spanish, Korean, Turkish and Arabic speaking communities were those with the greatest level of need.
>
> The Department of Industrial Relations provides a range of translated materials as part of special projects, including the current *Behind the Label* program, which is providing support and assistance to home-based outworkers in the clothing industry. Careful planning and consultation for this program resulted in the identification of key target community groups. Accordingly, the initial stages of *Behind the Label* have concentrated on providing materials in Vietnamese, Chinese, Korean and Khmer.
>
> To ensure that all communities who have significant numbers of outworkers are reached with assistance under the program, a profiling study is being conducted in collaboration with Sydney University, to further inform planning and service delivery. The Carr Government has a demonstrated commitment to access and equity, and to ensuring that all services are equally available to everyone in our diverse community. We will continue to fulfil this commitment by providing well-targeted resources in an appropriate and effective range of community languages.

DEPARTMENT OF AGRICULTURE MONSANTO FUNDING

The Hon. JOHN DELLA BOSCA: On 3 September the Hon. Richard Jones asked the Minister for Agriculture a question regarding Department of Agriculture Monsanto funding. The Minister for Agriculture has provided the following response:

(1) NSW Agriculture representatives have explained the relationship between the Department and Monsanto Australia Ltd in a number of forums.

(2) NSW Agriculture has had in the past a subcontract with Agriculture Victoria Services Pty Ltd to develop varieties of canola which are glyphosate resistant for Monsanto Australia Ltd. There is no current contract. Payments were received by NSW Agriculture for the research services. The quantum of payments is commercial-in-confidence.

(3) No. NSW Agriculture does not strongly promote the planting of genetically engineered crops.

(4) No. NSW Agriculture is responding to the views of the agricultural industries in NSW and domestic and international markets.

(5) None known.

(6) None known.

(7) The veracity of the information is not known.

NATIVE FORESTS CHARCOAL PRODUCTION

The Hon. JOHN DELLA BOSCA: On 4 September the Hon. Ian Cohen asked a question without notice concerning native forests charcoal production. The Minister for Information Technology, Minister for Energy, Minister for Forestry, and Minister for Western Sydney has provided the following response:

The Hon Ian Cohen will be aware that Australian Silicon, the proponents for the development of a charcoal plant on the south coast, have announced that they will not be proceeding with the proposal.

I am not aware of any other proposals being considered or investigated by the Government or State Forests for new or enlarged operations for the production of charcoal from public native forests in NSW. Nor am I aware of any current proposals or investigations for charcoal production based on private forests in New South Wales.

State Forests has existing long-standing supply arrangements with small-scale charcoal producers within its Riverina and Western Regions. However, supply of any major new market for low-grade timber including the charcoal market, from NSW public native forests, will be confined to areas subject to either a Regional Forest Agreement with the Commonwealth or a NSW Forest Agreement.

All areas subject to a Regional Forest Agreement with the Commonwealth or a NSW Forest Agreement may be considered eligible as supply sources.

WORKCOVER PREMIUM DISCOUNT SCHEME

The Hon. JOHN DELLA BOSCA: On 5 September Reverend the Hon. Fred Nile asked a question about premium discount advisers. I supply the following answer:

Before gaining approval to undertake audits, Premium Discount Advisers must be evaluated by a WorkCover committee, hold professional indemnity insurance, attend a WorkCover briefing session and sign a performance agreement. When conducting audits they must comply with the Premium Discount Adviser Code of Conduct and the Premium Discount Guidelines.

WorkCover will shortly commence assessing the performance of Premium Discount Advisers in accordance with clause 5.1 of the Code of Conduct. Random spot-checks of audit reports will take place on a quarterly cycle. A complaint made against a Premium Discount Adviser in relation to their performance will also be fully investigated by WorkCover.

If the performance of a Discount Adviser proves to be unsatisfactory, under clause 38(4) of Part 9 of the Workers Compensation (Insurance Premiums) Regulation 1995 WorkCover has the power to disallow or adjust the Premium Discount Adviser Rating of the Adviser, disallow or adjust the entitlement to a premium discount of an employer by whom the Premium Discount Adviser is engaged or to suspend or cancel the approval of a Premium Discount Adviser.

ST MATTHEW'S CATHOLIC PRIMARY SCHOOL, WINDSOR, PESTICIDE EXPOSURE

The Hon. JOHN DELLA BOSCA: On 17 September the Hon. Alan Corbett asked a question about pesticide use at St Matthew's Catholic primary school, Windsor. I supply the following answer:

The incident to which the question refers has not been the subject of an investigation by the WorkCover inspectorate. Further, WorkCover has advised that it has no record of a complaint being lodged with it regarding the use of pesticides at St Matthew's Catholic Primary School. I am therefore unable to comment on the safeguards utilised during and following the use of pesticides at the school.

WorkCover is however prepared to investigate the matter and in this regard I invite the Hon. Alan Corbett MLC to supply WorkCover with any information that he may have concerning the incident.

WorkCover has not collected samples of any kind from the school, its students or employees. I can however advise that in July this year, WorkCover's Laboratory Services Unit received two biological samples, recorded as originating from persons present at the St Matthew's school. WorkCover's Laboratory Services Unit provides testing services to industry and other Government departments on a fee for service basis. In this case, medical service providers submitted the samples to WorkCover and the test results were released to those providers.

Privacy and confidentiality issues prevent the WorkCover Laboratory Services Unit from releasing test results other than to the medical service providers that requested them. However, under the *Occupational Health and Safety Regulation 2001,* medical practitioners have a responsibility to notify WorkCover of any adverse results. No such notification has been received.

The New South Wales Government is committed to protecting the public and the environment from harmful chemicals and has introduced detailed legislation to ensure that appropriate safety controls are utilised with respect to hazardous substances.

GENETICALLY MODIFIED ORGANISMS

The Hon. JOHN DELLA BOSCA: On 17 September the Hon. Richard Jones asked a question regarding genetically modified organisms. The Minister for Agriculture has provided the following response:

The Grain Harvesters Association has prepared a paper which makes similar points to those in Mr Jones' question. However, that does not mean they are right. Headers can be cleaned sufficiently between crops to reduce contamination from crop to crop to extremely low and undetectable levels. Headers used for pure or certified seed production have to be cleaned to meet seed purity standards. Headers moving between different crops likewise have to be cleaned to prevent contamination of wheat by barley for example. Headers brought into NSW from Queensland have to be cleaned down to remove contamination from parthenium weed seed.

BROKEN HILL-MENINDEE REGION WATER SUPPLY

The Hon. JOHN DELLA BOSCA: On 17 September the Hon. David Oldfield asked a question about the main water supplies for the Broken Hill-Menindee region. The Minister for Land and Water Conservation has provided the following response:

The Menindee Lakes system is managed under the Murray-Darling Basin Agreement to provide water supply for far-west NSW and to meet entitlement flows for South Australia. These releases for South Australia are made to supplement flows in the Murray River.

As a result of the unusually dry conditions in the Murray Valley during 2001-02, maximum releases from the Menindee Lakes were required to supplement the Murray supply to South Australia. Water was required to be released from the system for an extended period from winter 2001 onwards. In addition, demand for this water exceeded the capacity to supply from the lower lakes in the system and water had to be drawn faster from the upstream lakes, including Pamamaroo. This caused the volumes in the lakes to reduce quicker than normal.

The draw-down from Menindee Lakes has been in accordance with the Murray-Darling Basin Agreement. It is only when storage volumes fall below 480,000 megalitres, (28.5% of capacity), that the Department of Land and Water Conservation takes over management solely for NSW's purposes. This is designed and managed as a drought reserve for NSW. Water is not available again for South Australia until levels rise to 640,000 megalitres, at which time management responsibility reverts to the Murray-Darling Basin Commission.

The Department of Land and Water Conservation has investigated options for extending capacity to supply water should the drought continue and inflows to the lakes not occur. The favoured option involves the pumping of water from Lake Menindee to Copi Hollow within the Menindee Lakes system. The water in Lake Menindee is expected to evaporate in the coming months. However, if pumped to Copi Hollow, which is deeper and smaller in surface area and hence less susceptible to evaporation, water supply to Broken Hill may be extended for a further 12 months.

The proposal is in two stages. Stage 1, which has been approved for implementation, involves the pumping of the water from Lake Menindee to Copi Hollow and has a cost estimate of up to $470,000. Stage 2 will require the installation of infrastructure by Australian Inland Energy and Water to pump from Copi Hollow into the Menindee to Broken Hill pipeline. This is estimated to cost some $500,000.

At an estimated cost of $1 million, the proposal provides a relatively low-cost management strategy for securing Broken Hill's immediate water supply. For the longer term, the Government is reviewing options for infrastructure projects that will improve the ability to manage the Menindee Lakes for water conservation, the environment and social amenity.

Supplementary Answer

The criteria for water releases from the Menindee Lakes is determined by the Murray-Darling Basin Agreement, which among other things specifies the volume of water that South Australia is entitled to from the Murray-Darling River system.

Under normal operating regimes, South Australia's entitlement during winter and spring is generally met by high flows in the Murray River, which are also diverted to Lake Victoria to meet South Australia's entitlement during summer. Owing to the dry climatic conditions, such flows did not occur in 2001 and the Murray-Darling Basin Commission consequently called for releases from Menindee Lakes for an extended period to fulfil South Australia's entitlement.

This action was in accordance with the Murray-Darling Basin Agreement. As mentioned previously, management responsibility for the Menindee Lakes system only reverts to NSW when the storage volume falls below 480,000 megalitres (28.5% of capacity).

BROKEN HILL-MENINDEE REGION WATER SUPPLY

The Hon. JOHN DELLA BOSCA: On 19 September the Hon. David Oldfield asked a question about the cost of transporting water to the Broken Hill-Menindee region. The Minister for Land and Water Conservation has provided the following response:

Initial investigations from Australian Inland Energy and Water, which supplies water to Broken Hill, indicated an estimated amount of $3 million per month, plus infrastructure costs, to transport water by rail to the Broken Hill-Menindee region. Subsequent investigations by the Department of Land and Water Conservation, in conjunction with Australian Inland Energy and Water, have reviewed an option that involves the pumping of water from Lake Menindee to Copi Hollow within the Menindee Lakes system.

Stage 1 of the proposal, involving the pumping from Lake Menindee to Copi Hollow, has been approved and is estimated to cost up to $470,000. Stage 2 will require the installation of infrastructure by Australian Inland Energy and Water to pump from Copi Hollow into the Menindee to Broken Hill pipeline, at an estimated cost of some $500,000.

The Premier announced on October 9, 2002 that pumping from Lake Menindee to Copi Hollow had commenced. The operations will minimise evaporation losses and allow up to 15,000 megalitres of water to be accessed that would otherwise be lost.

The Queensland Government is currently reviewing the science used in the resource management analysis for the Condamine-Balonne River system, following which time it may prepare a statutory water resource plan. Such a plan would provide the capping mechanism that Queensland is required to develop as a party to the Murray-Darling Basin Agreement, and would specify the proportion of natural flow that would be allowed to cross the border and flow into NSW.

It is not expected that the draft plan would be ready for release prior to mid 2003. Prior to the actual making of the water resource plan, it is likely to be discussed at the Border Catchments Ministerial Forum.

The proposal to purchase Cubbie Station and return its water usage entitlements to the river has been abandoned. The funding for the proposal, requested by the Queensland Government from NSW and the Commonwealth, was not considered to be an optimal use of natural resource management funds.

In any case, the current water shortage from the Menindee Lakes system is not a result of activities in the upstream catchment. The low flows in the Darling River have been caused by prolonged drought conditions in north-western NSW and southern Queensland.

Supplementary Answer

The aforementioned option of pumping water from Lake Menindee into Copi Hollow and then into the Menindee to Broken Hill pipeline can secure the region's water supply for a further 12 months.

DEPARTMENT OF CORRECTIVE SERVICES PRIVACY LEGISLATION COMPLIANCE

The Hon. JOHN DELLA BOSCA: On 17 September Ms Lee Rhiannon asked a question about compliance by the Department of Corrective Services with privacy legislation. The Minister for Corrective Services has provided the following response:

The Department of Corrective Services never intentionally breaches the rights which a person may have under the *Privacy and Personal Information Protection Act 1988*. The Government can guarantee that all agencies, including the Department of Corrective Services, are aware of their obligations under the privacy legislation.

No directives have been given to the Department of Corrective Services regarding the release of prison visit footage to media outlets. All media requests to the Department are addressed through the Department's Media and Public Relations Unit. The unit's director approves the release of information or material, but it will seek advice from the Department's Corporate Counsel and the Office of the Commissioner where appropriate. The unit also advises the Minister's office where appropriate. It should be noted that there is no general prohibition on the release of such information in New South Wales privacy legislation.

In the case of the publication of images of visitors to inmate Skaf, an approach was made by the Sun Herald to the Media and Public Relations Unit. Images were provided to the newspaper on condition that sketches only (similar to those produced at court hearings) would be drawn from them.

If proceedings were to be commenced under the *Privacy and Personal Information Protection Act 1988,* the Department's response would be determined on the basis of legal advice, having regard to all relevant circumstances. Until a person makes an application to a tribunal having jurisdiction, the Department is unable to assess those circumstances and is therefore unable to comment what its position may be.

SOUTH COAST CHARCOAL PLANT

The Hon. CARMEL TEBBUTT: On 5 September I was asked a question by the Hon. Ian Cohen concerning timber supply to a South Coast charcoal plant. I provide the following response from Minister for Forestry:

The Hon. Ian Cohen will be aware that Australian Silicon, the proponents for the development of a charcoal plant on the south coast, have announced that they will not be proceeding with the proposal.

Let me reiterate that timber supplied for any purpose from State forests on the south coast will be supplied in accordance with the Integrated Forestry Operations Approval (IFOA). The IFOA establishes clear, strong and consistent environmental regulation of forestry operations and will continue to protect high conservation value forests.

WILDERNESS ASSESSMENTS

The Hon. CARMEL TEBBUTT: On 17 September and 18 September the Hon. Malcolm Jones asked questions about a statement made by the Director-General of National Parks and Wildlife regarding wilderness areas declarations. The Minister for the Environment has provided this response to each of the questions:

> The Director-General of the National Parks and Wildlife Service advises me that he did not make any statement resembling that which you have attributed to him.

BUNDOCK STREET, RANDWICK, SITE DEVELOPMENT

The Hon. CARMEL TEBBUTT: On 18 September the Hon. Ian Cohen asked a question regarding asbestos contamination on surplus defence force sites in Bundock Street, Randwick. The Minister for the Environment, has provided the following response:

> I am advised that Council has sought to address issues of asbestos contamination on this site through a deferred commencement of development consent, contingent upon provision of a site audit statement verifying the suitability of the land for development once remediation has been completed. I also understand the NSW Health has been working with the site auditor to ensure that the site has been remediated so as not pose any risk to users of the site. As Randwick Council is the planning authority in this case, it is their responsibility to determine whether these mechanisms are acceptable.

ELURA MINE WILDLIFE DEATHS

The Hon. CARMEL TEBBUTT: On 19 September the Hon. Richard Jones asked a two-part question about native birds and kangaroos alleged to have died as a result of cyanide in tailings, and what had been done to prevent those deaths. The Minister for the Environment has provided the following response:

> No deaths of native birds or kangaroos have been reported at the Elura mine at Cobar.
>
> Not applicable.

BRIGALOW BELT SOUTH BIOREGION ASSESSMENT PROCESS

The Hon. CARMEL TEBBUTT: On 26 September the Hon. Rick Colless asked a question about the purchase of Mount Murchison station and the impact of the purchase on future gas exploration and extraction activities in the region. The Minister for the Environment has provided the following response:

> The NSW and Commonwealth Governments jointly allocated funding to purchase the former Mount Murchison station with the intention of reserving the land under the *National Parks and Wildlife Act 1974*.
>
> If supported by the Commonwealth Government, Mount Murchison could be reserved as a State Conservation Area. This category allows for continuing exploration and mining activity.

DEFERRED ANSWERS

The following answers to questions without notice were received by the Clerk during the adjournment of the House:

DNA TESTING OF PRISONERS

On 29 August the Hon. Peter Breen asked the Minister for Police a question without notice concerning the DNA testing of prisoners. The following response was provided:

> The Innocence Panel was established in October 2001 as a high level, impartial group to receive applications from people who believe DNA evidence may prove their innocence.
>
> The Panel has established protocols on the method of receiving and considering applications, the processes of searching and matching DNA evidence and the reporting mechanisms to both applicants and other agencies.
>
> The Panel will shortly be in a position to receive applications and an information campaign will be conducted to ensure any person wishing to utilise the Panel can do so.
>
> Indemnity agreements for the Panel members have been signed.

STUDENT POLICE OFFICER TRAINING

On 28 August the Hon. Don Harwin asked the Minister for Police a question without notice concerning the completion of operational safety and tactics training by student police prior to attestation. The following response was provided:

> I am advised every student from the record attestation class of 637 probationary constables on 30 August 2002, passed all components of JST 137 – Operational Safety and Tactics - or its equivalent, prior to attestation.

GLOCK SAFETY PISTOLS

On 27 August the Hon. Dr Peter Wong asked the Minister for Police me a question without notice concerning accidental discharge of police service pistols. The following response was provided:

> The Acting Commander, State Protection Group has informed me there have been no misfirings of Glock pistols since their introduction.
>
> I am advised several injuries have been caused by the user unintentionally pulling the trigger or pulling the trigger believing the pistol to be unloaded. In no instances have the pistols been found to be at fault.
>
> The Acting Commander advises there are no statistics available as to similar instances involving the service revolvers previously issued. However, anecdotal evidence from the Police Ballistics Unit and the Police Armoury suggests that, similarly, injuries caused by the revolvers were the result of accidentally or unintentionally pulling the trigger.

CARERS ASSISTANCE

On 27 August the Hon. Alan Corbett asked the Treasurer a question without notice relating to assistance provided to carers of people who are chronically ill and bedridden. The Minister for Health has provided the following response:

> There is a wide range of services available to support carers in New South Wales. The Home and Community Care Program is administered by the NSW Department of Ageing, Disability and Home Care, which includes services such as Carer Respite, Home Maintenance and Modification, Social Support, Domestic Assistance, Personal Care and Meals on Wheels.
>
> The NSW Department of Health receives $55 million under the Home and Community Care Program, which supports the provision of home nursing, allied health and centre-based day care services for older and frail people with disabilities and younger people with disabilities. These services aim to provide support in the home to prevent early or inappropriate admission to residential aged care facilities.
>
> Community nursing services are provided to people at home who are chronically sick and bedridden. These services support carers and provide an important link to the general practitioner and other health specialists. As well nurses co-ordinate care to people at home and refer to and liaise with other providers such as Home Care and Respite Care Services.
>
> Jointly funded Commonwealth/State Aged Care Assessment Teams provide professional assessment of the care needs of aged people to facilitate their access to appropriate services in their own homes or in a residential aged care facility. They provided support to carers and can assess and liaise for residential based respite care when required.
>
> The Program of Appliances for Disabled People administered by NSW Health assists eligible residents who have a life-long or long-term disability to live and participate within their community by the provision of appropriate equipment, aids and appliances.
>
> In 1999/2000 State Budget the Government committed $12.5 million over four years for the NSW Care for Carers Program. NSW Health and the Department of Ageing, Disability and Home Care jointly administer this program. The key priorities for the program include: training; counselling and emotional support; and building better professional practice to improve professional and service responsiveness to the needs and circumstances of carers.

MINIMUM SENTENCING LEGISLATION

On 5 September the Hon. David Oldfield asked the Treasurer a question without notice concerning minimum sentencing legislation. The following response was provided:

> The Attorney General of New South Wales, the Hon. Bob Debus MP, has advised that the explanatory note to the draft Bill clearly outlines the scope of reform being proposed by the Government.

AMINA LAWAL DEATH SENTENCE

On 29 August Reverend the Hon. Fred Nile asked the Treasurer, representing the Premier, a question without notice concerning a sentence imposed on a Nigerian citizen for the offence of adultery. The following response has been provided:

> The matter raised by the Hon. Rev Fred Nile MLC relates to Australia's foreign policy and does not concern the law of New South Wales.
>
> I am advised that the Department of Foreign Affairs and Trade, through the Australian High Commission in Lagos, is monitoring developments in this case very closely. The Minister for Foreign Affairs has met with the Nigerian High Commissioner to Australia, and reaffirmed that the Australian Government considers death by stoning a cruel, inhumane and degrading practice.

TRADITIONAL CHINESE MEDICAL PRACTITIONERS REGISTRATION

On 4 September the Hon. Dr Peter Wong asked the Treasurer a question without notice relating to traditional Chinese medical practitioners. The Minister for Health has provided the following response:

The NSW Department of Health has not made any commitment to the registration of traditional Chinese medicine practitioners. A discussion paper on the regulation of complementary health practitioners will be released in the near future. The Department of Health has not made a funding submission to the Federal Government.

MANLY AND MONA VALE HOSPITALS

On 4 September the Hon. Helen Sham-Ho asked the Treasurer a question without notice relating to the proposed merger of the Manly and Mona Vale hospitals. The Minister for Health has provided the following response:

Manly and Mona Vale Hospitals will not close.

There has been extensive community involvement with residents from Manly, Pittwater and Warringah invited to participate in an open and transparent consultation strategy.

Consultation is occurring through the formation of the Northern Beaches Community Consultation Health Planning Group, shopping centre displays of health options, letter box mail-outs, local newspaper advertisements, resident interest group meetings, presentations to community groups, written submissions, market research and briefings of local councils and elected officials.

HOTEL DINING AREAS SMOKING BAN

On 27 August the Hon. Dr Arthur Chesterfield-Evans asked the Treasurer a question without notice concerning smoking in dining areas. The Minister for Health has provided the following response:

In September 2000 this Government introduced progressive legislation to protect the community from environmental tobacco smoke. The Smoke-free Environment Act introduced an immediate ban on smoking in most enclosed public places including shopping centres, malls, restaurants and cafes. Dining areas in premises with a hotelier's license or nightclub license and registered clubs have been required to introduce a smoking ban from September last year.

Under this legislation premises with a hotelier’s license are required to be smoke free where the meal is ordered, served and consumed at the table and to display no-smoking signage in predominant positions. As a result of the education campaign for the public and the resources provided to hotel proprietors most hotels are complying with the legislation.

As a first principle the NSW Department of Health ensures compliance with the legislation through educative strategies and this is preferable to prosecution and accordingly the Department has developed a range of supportive strategies to ensure that all sectors of the community, including proprietors are well informed.

The Department has the capacity to prosecute offenders and has appointed approximately 75 enforcement inspectors from Public Health Units and Local Government under the Act to ensure compliance with the legislation throughout Area Health Services. The general public can contact Public Health Units regarding their concerns about smoke free venues and where complaints are received about establishments, the compliant is forwarded to enforcement officers in the Area Health Services for local follow-up.

During last financial year there were 352 complaints from the public about breaches of the Smoke-free Environment Act in venues, including hotels, of which 342 were by acted upon by Environment Health Officers visiting these venues.

The introduction of this legislation has been remarkably successful largely because of the strong community support for restrictions on smoking in public places.

TOBACCO SALE RESTRICTIONS

On 5 September the Hon. Richard Jones asked the Treasurer a question without notice relating to the restriction of tobacco sales. The Minister for Health provided the following response:

NSW legislation restricting the sale, advertising and use of tobacco, are among the most comprehensive in the world.

NSW has legislation which restricts the sale of tobacco to adults. Under *The Public Health Act 1991* it is illegal to sell tobacco to minors. Public Health Units conduct regular compliance monitoring of tobacco retailers to ensure they are not selling tobacco to minors.

The Government also has in place measures to prevent young people from starting to smoke and to help existing smokers stop. In addition, in September 2000 the NSW Government introduced *The Smoke-free Environment Act* to protect the community from exposure to environmental tobacco smoke.

Tobacco is a legal product in Australia and further restriction of its availability would be seen by many people as a violation of individual rights and may be unenforceable. Further restrictions may also have unintended consequences, such as an increase in the sale of illegal unprocessed tobacco.

Smoking prevalence is reducing in Australia and statistics recently released by the Commonwealth demonstrate that NSW has among the lowest smoking rates of daily smokers in the developed world.

COUNTRY PUBLIC LIBRARIES ASSOCIATION FUNDING

On 28 August the Hon. John Tingle asked the Treasurer, on behalf of the Premier, a question without notice relating to funding for the Country Public Libraries Association. The Premier provided the following response:

1) The Minister for the Arts last discussed public library funding issues with the Country Public Libraries Association at a meeting on 13 June 2000.

2) In the 2000/2001 financial period, combined State and local government funding per capita for the public libraries network was as follows:

$31. 77 for NSW;
$21.15 for Victoria; and
$31.32 for Queensland.

Using population figures from the December quarter 2001, State government per capita funding of public libraries in the three States is:

NSW: $3.15;
Victoria: $5.17; and
Queensland: $6.13.

In 2002/03 the State Government's direct support for public library services totals $20.9 million.

Part of this package has been invested in *NSW.net*, a Government initiative to link all local government areas with high-speed internet access and provide direct access to information resources. A total of 109 councils and public libraries are now connected to *NSW.net*, with 700 free public access terminals installed in libraries throughout the State.

3) The Government is committed to improving local communities' access to information resources.

State Government funding has increased by $12.42 million since 1980.

Local Government funding has increased by $160.3 million between 1980 and 2000/01.

It is pleasing that many local councils have increased their budgets for public libraries, in recognition of the value placed on these services by their communities.

In addition to the *NSW.net* initiative, the Government has recently announced a $1.3 billion package over four years for better information technology in schools and hospitals. This will revolutionise access to the internet with high speed connections to carry images, data and information into classrooms and local hospitals.

4) The June 2002 Budget provided an additional $1.25 million to public libraries for 2002/03, rising to $5.072 million in 2005/06.

The level of funding is reviewed each year as part of the Budget cycle.

By 2005/06 annual State Government assistance for public libraries will be $22.7 million. This is 40 per cent more than the level of assistance being provided when this government took office in 1995.

WILDERNESS DECLARATIONS

On 3 September the Hon. Malcolm Jones asked the Treasurer, representing the Attorney General, a question without notice relating to wilderness declarations. The Minister for the Environment provided the following response:

On 26 September 2002 I announced the Government's intention to declare 270,000 hectares of wilderness in southern and northern NSW.

MEMBER FOR PARRAMATTA LEGAL PROCEEDINGS

On 5 September Ms Lee Rhiannon asked the Treasurer, representing the Premier, a question without notice relating to legal costs and advice for the member for Parramatta. The Premier provided the following response:

Assistance for legal representation for members of the Legislative Assembly is a matter for the Legislature.

Any such assistance for a Member of that House would be considered in accordance with the policy on the "Provision of Ex Gratia Assistance for Legal Representation for Members of the Legislative Assembly".

THREATENED SPECIES PROTECTION

On 5 September the Hon. Malcolm Jones asked the Minister for Community Services, representing the Minister for the Environment, a question relating to threatened species conservation. The Minister for the Environment provided the following response:

The Scientific Committee is an independent Committee established under the *Threatened Species Conservation Act 1995,* and is not subject to the control or direction of the Minister.

The criteria for listing species, populations, ecological communities and threatening processes is specified in sections 10 - 15 of the Act.

On 24 March 2000, I am advised that the Scientific Committee listed "High frequency fire resulting in the disruption of life cycle processes in plants and animals and loss of vegetation structure and composition" as a key threatening process, in recognition of the impact of fire on the State's biodiversity.

SCHOOLTEACHER SUSPENSIONS

On 29 August the Hon. David Oldfield asked a question without notice of the Minister for Police, representing the Minister for Education and Training, relating to school teacher suspensions. The following response was provided:

> The Department of Education and Training is committed to protecting children and young people including those in schools, TAFE institutes and other educational settings.
>
> The Department's Child Protection Investigation Directorate investigates child abuse allegations and/or suspected risk of harm specifically related to the actions of an employee.
>
> The time taken to finalise a case is influenced by several factors including the emergence of additional allegations during the course of the investigation, procedural disputes, or the work of other agencies such as the courts. The Department of Education and Training continues to make every effort to reduce the length of investigations, while ensuring that they are thorough and as fair as possible.

DNA TESTING OF PRISONERS

On 28 August the Hon. Peter Breen asked the Minister for Police a question without notice concerning the Department of Forensic Medicine in relation to DNA evidence. The following response was provided:

> The Division of Analytical Laboratories, which is administered by NSW Health is the New South Wales Government body that independently handles and analyses DNA samples.
>
> Questions concerning the Division of Analytical Laboratories should be directed to the Minister for Health.

FIREARMS LICENSING

On 5 September the Hon. Rick Colless asked the Minister for Police a question without notice concerning procedures for renewing firearms licences. The following response was provided:

> The Firearms Registry sends a licence reapplication notice to all firearms licence holders 90 days before the licence expires. The notice contains all of the information needed to lodge the licence reapplication. The accompanying letter also encourages licence holders to get their application in early rather than waiting until the last minute.

WOY WOY POLICING

On 5 September the Hon. John Jobling asked the Minister for Police a question without notice concerning an alleged home invasion in Woy Woy. The following response was provided:

> The Crime Manager, Brisbane Water Local Area Command, has advised:
>
> - There is no police record of an alleged home invasion.
> - The victim, Mr Moverley, had an altercation with a cyclist, following an earlier altercation between the cyclist and the victim's daughter. The daughter appears to have been the aggressor.
> - Police were called at 12.15pm and attended the victim's premises at 12.44pm following an attempt to locate the alleged assailant.
> - This action was considered appropriate given the priority to locate the assailant rather than take a statement from the victim.
> - As a result of community concerns, from 1 November 2002, a team of officers from the Brisbane Water Local Area Command will be dedicated to the Woy Woy sector, starting and finishing duty at Woy Woy.

NSW POLICE LAND SALE

On 5 September the Hon. John Ryan asked the Minister for Police a question without notice concerning the sale of NSW Police land at Wattlegrove. The following response was provided:

> I am advised the site in question was acquired in 1994 as a possible site for a new police station.
>
> I am informed in 1997 the Local Area and Region Commanders and the former Deputy Commissioner, Jeff Jarratt considered the site unsuitable as it was not ideally located to service the whole of the Liverpool Local Area Command.
>
> I am further advised the site was therefore declared surplus by Deputy Commissioner Jarratt In May 1998 and referred to NSW Police Property Services for disposal.

WOY WOY POLICING

On 5 September the Hon. James Samios asked the Minister for Police a question without notice concerning policing at Woy Woy. The following response was provided:

> The Crime Manager, Brisbane Water Local Area Command, has advised:
>
> - There is no record of an alleged assault as described.
> - As a result of community concerns, from 1 November 2002, a team of officers from the Brisbane Water Local Area Command will be dedicated to the Woy Woy sector, starting and finishing duty at Woy Woy.

DEPARTMENT OF PUBLIC WORKS AND SERVICES PERFORMANCE

On 17 September the Hon. James Samios asked the Minister for Police, representing the Minister for Public Works and Services, a questions without notice relating to the performance of the Department of Public Works and Services. The following response was provided:

These questions are a matter for the Premier of New South Wales.

KINCUMBER POLICING

On 17 September the Hon. Patricia Forsythe asked the Minister for Police a question without notice concerning policing in Kincumber. The following response was provided:

The Crime Manager, Brisbane Water Local Area Command, has advised:

- Kincumber and surrounding suburbs are provided with dedicated police response vehicles 19 hours each day. While the majority of officers' time is spent on proactive patrols and responding to incidents, the remainder is spent in the police station completing correspondence and attending to inquiries.

- Additionally, the activity in the Kincumber sector is constantly analysed and Brisbane Water Local Area Command resources such as detectives, Anti-theft Squad, Target Action Group, Highway Patrol and Bicycle Police are deployed to combat any issues that arise.

- An investigation into the incident concerning the school girls has established that the telephone system was operating effectively. It appears that the children released the button on the Eagle phone which disconnects the call, before the origin of the call could be established by Gosford police. At no time were the girls told that police were too busy to help.

- Superintendent Clarke, Commander of the Brisbane Water Local Area Command, has personally contacted the mothers of the children, who have expressed satisfaction with explanations received.

- Kincumber Police Station is also a part of the operating hours and staffing levels review being conducted by Commissioner Moroney.

NSW POLICE MOTOR VEHICLE REPAIRER INVESTIGATIONS

On 17 September the Leader of the Opposition asked the Minister for Police a question without notice concerning a police operation targeting motor vehicle repairers. The following response was provided:

The Honourable Member's question relates to Operation Whitburn, in which police inspected in excess of 9,000 vehicles and seized 15 found to be stolen as well as engines, gearboxes and panels. $227,000 worth of stolen property was recovered during the operation. 20 people were also charged for offences ranging from driving offences and Goods in Custody to Steal Motor Vehicle.

The Deputy Commissioner, Operations has informed me that the requirement to keep traceable parts records, rather than a register, was identified early in the operation and all police who made contact with the Police Operations Centre or the Motor Vehicle Repair Industry Council were given the correct information.

Three instances of requests by police to inspect a traceable parts register were referred to the Motor Vehicle Repair Industry Authority for follow-up. The Authority has contacted the businesses concerned and they have been informed that no action will be taken.

WORLD TRADE ORGANISATION INDYMEDIA PROTEST

On 17 September Reverend the Hon. Fred Nile asked the Minister for Police a question without notice concerning the Indymedia web site, promoting violent protest at the World Trade Organisation meeting in Sydney. The following response was provided:

I am deeply concerned about websites providing information designed to aid the violent disruption of the forthcoming World Trade Organisation Trade Ministers meeting in Sydney in November. I have written to the Federal Minister for Communications, Information Technology and the Arts, Senator the Hon Richard Alston, asking him to shut down these web sites or restrict access to them.

I am advised that NSW Police have repeatedly expressed their concerns to their federal counterparts about the Commonwealth's decision to stage the meeting in Double Bay on November 14-15. I am advised the Federal Government repeatedly ignored NSW Police advice.

I have written to federal Trade Minister, Mark Vaile, asking him to reconsider the venue, based on security advice from both state and federal agencies.

POLICE BATEMANS BAY DEEP CREEK RIFLE RANGE SHOOTING EXERCISES

On 19 September Ms Lee Rhiannon asked the Minister for Police a question without notice concerning police use of a shooting range at Batemans Bay. The following response was provided:

I am advised the Sporting Shooting Association of Australia's range at Batemans Bay is approved for a variety of firearms and from time to time police may seek approval from the Range licence holder and or the Range Committee to use the rifle range for practice or training.

Police must comply with all safety requirements including the maximum calibre of the firearms approved for use on the range.

Police authority to possess firearms and use the range facility fall within the general exemption provisions of the Firearms Act 1996.

NON-PROFIT AND RELIGIOUS GROUPS LIVERPOOL LAND PURCHASES

On 26 September Reverend the Hon. Fred Nile asked the Minister for Mineral Resources a question without notice relating to the purchase of land by non-profit and religious groups. The following response was provided:

The following information has been obtained from Liverpool City Council.

Liverpool Local Environmental Plan 1997 (Amendment No. 72) was gazetted on 27 September 2002 (Gazette No 151). Council's intention is not to ban places of worship and schools in new release areas but to ensure that these facilities are accommodated in the most appropriate locations within areas that have been allocated for future urban release.

Councils are autonomous and responsible for their own planning decisions. I understand that prior to making this amendment, Council discussed the proposal with representatives from religious and educational groups.

M5 EAST TUNNEL VENTILATION

On 27 August the Hon. Malcolm Jones asked the Minister for Mineral Resources a question without notice relating to the M5 East tunnel ventilation. The following response was provided:

The Approval issued by the Minister for Planning for the M5 East Freeway sets out standards for air quality in the M5 East Tunnel and air quality at ground level in the vicinity of the tunnel.

In terms of air quality inside the M5 East Tunnel, I refer the Honourable Member to the Six-Month Report publicly released by the RTA on 28 June 2002.

ROAD TUNNEL POLLUTION CONTROL SYSTEM

On 27 August the Hon. Peter Breen asked the Minister for Mineral Resources a question without notice relating to road tunnel pollution control systems. The following response was provided:

I am aware of the Conditions of Approval imposed by the Minister for Planning on both the Cross City Tunnel and the M5 East Tunnel.

The supplementary EIS for the proposed Cross City Tunnel modifications was on public display until 31 August 2002. After consideration of public submissions, the Roads and Traffic Authority (RTA) will seek an updated planning approval.

There have been no exceedences of external air quality goals attributable to the operation of the M5 East Tunnel. (During the Sydney bushfires in December and January, Sydney-wide air quality was poor due to the particles from the fires. This was recorded by the M5 East air quality monitoring equipment.)

In terms of air quality inside the M5 East Tunnel, I refer the Honourable Member to the Six-Month Report publicly released by the RTA on 28 June 2002.

The design of the Cross City Tunnel and the M5 East Tunnel allows for filtration or other technology to be retrofitted if it can be shown at some time in the future to be an effective means of addressing emissions.

Questions without notice concluded.

[*The President left the chair at 1.03 p.m. The House resumed at 2.30 p.m.*]

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Prevention—Interim Report on Child Protection Services

Debate resumed from an earlier hour.

The Hon. JAN BURNSWOODS [2.30 p.m.]: On Wednesday 16 October I had great pleasure, on behalf of the Standing Committee on Social Issues, in tabling the "Interim Report on Child Protection Services" and the committee's first report into another inquiry entitled "Early Intervention for Children with Learning Difficulties". Given the number of inquiries that the committee has been doing, it was a bit of a struggle to produce those reports within the time frame allocated to them. In September the committee obtained an extension, until 16 October, of its original reporting date for the interim report on child protection services. So I was pleased that the committee was able to table that report at about 5 o'clock on 16 October.

I pay tribute to the dedicated staff of the committee for the work they did on those reports. On occasions they worked until 10.00 or 11.00 at night, and they often worked at weekends. Julie Langsworth is

now quite sick with pleurisy and pneumonia. I am not surprised, given the amount of work that committee staff were doing. I pay tribute to Julie, Bev, Tony, Merrin, Victoria, Kirrily and Heather, all of whom, full-time or part-time, contributed mightily to the quality of those reports. Today, however, I wish to refer to the "Interim Report on Child Protection Services".

When the committee was given its terms of reference its final reporting date was 5 December. I and members and staff of the committee are conscious that 5 December is only six weeks away. Given the size of the inquiry into child protection services and the Department of Community Services [DOCS], it will be a considerable struggle for the committee to meet that reporting deadline. However, it will report by that date, just as it met the reporting date deadline for its interim report.

Before I speak to the interim report on child protection I should like to mention that there has been some discussion about the reasons for the focus in this report, and I would like to clarify one issue. On 4 September the committee again met to discuss the rather difficult issue of how, faced with a complex inquiry in which many of the strands overlap and are interwoven, the interim report would be separated from the final report. On 4 September committee members decided to produce an interim report in two quite distinct halves. In one half we would attempt to summarise briefly all the major issues that had been raised with us in submissions and in hearings—both public and private—about DOCS and about the child protection system. Therefore, the interim report contains quite a long chapter 2. The report has only four chapters, and chapters 1 and 4 are brief.

In chapter 2—a lengthy chapter that comprises 19 or 20 pages—we tried to outline the progress of the inquiry, the decisions and announcements that have been made since we received our terms of reference in April and, as fairly as we could, the points that have been made that are critical of DOCS and of the child protection system. We make it clear in that chapter that we envisage that the final report will be almost totally concerned with those issues. Now that we have identified those issues, people can make additional comments to us if they wish.

The committee has not yet been able to complete its hearings. In early November we will be hearing from certain quite important witnesses who, for various reasons, have so far been unable to speak to us. So we are conscious that this interim report does not completely cover the field. Nevertheless, as I said, in September we made the decision to run through all those issues so everyone could see what stage we had reached. We will be drawing conclusions, doing a detailed analysis—as the Standing Committee on Social Issues always does—and, on 5 December, making recommendations about the catalogue of complaints or criticisms.

I turn now to the other half of the interim report, the chapter on which the committee focuses and in which it tries to express as strongly as it can the overwhelming conclusion that it reached, which so many of its most persuasive witnesses put to it. It is time that the Government and the community, in a multipartisan way, tried to shift the focus of debate and the focus of caring for children away from the crisis end of child protection and intervention, including the most drastic steps relating to the decision to remove a neglected or abused child from his or her family. As I think most people know, at that stage often the damage already done to the child is so severe as to be almost irreparable. Indeed, even if the damage is not quite so severe, the damage has nevertheless been done, and with all the best intentions and will it is often very difficult to ensure that the child totally overcomes that early damage.

The committee has therefore advocated the need for a shift in focus towards prevention and early intervention. In this context, the committee decided to link up the reports in the two separate inquiries. In taking evidence in both inquiries over the course of the last year or so, the committee found that witness after witness gave evidence that the focus needed to be shifted. The witnesses said that whether you are dealing with a child whose learning difficulties become apparent in the first few years of school, or a child suffering abuse or neglect in a dysfunctional family, in many cases it becomes obvious that if the child and the family had been identified early enough in the child's life, and the various services that currently exist had been brought to bear, many of the problems might have been solved.

The committee has therefore firmly stated that while it is essential to continue crisis intervention, for the sake of our children and our whole community we must try to overcome these problems before they arise. The committee has quoted the international evidence, because there is not a great deal of measurable evidence in New South Wales. A great deal of overseas evidence is building up on the value of preventative and early intervention strategies. The claim that is frequently quoted from the United States, which most members have probably heard, is that for every $1 spent on prevention and early intervention in a child's life the community is saved some $7 by not having to pick up the pieces late on. The damage that is done and the cost later on to the

community, let alone to the child and the family, can extend from the need for recovery strategies in the early years of school, such as special literacy and numeracy strategies, to all kinds of behavioural and other interventions during a child's school life, and in many cases through to the corrective services system and gaol.

Police Superintendent Heslop told the committee that when he thinks about the young people who come under the attention of the police and end up in gaol, he can very often identify all the symptoms in their early life that we know are often predictors of what will eventually happen to those young people. Such indicators include drug and alcohol abuse by the parents, a lack of parenting skills, a failure to simply know what to do, and myriad other things, including inherent physical and emotional difficulties, brain damage, and so on. If such indicators are picked up early, many can be remedied and the potential problems can be solved.

The committee has discussed at some length the Families First Program, and it congratulates the New South Wales Government on its implementation. While the program is still in its early stages and has not yet been rolled out in some regions, every witness who gave evidence about it praised the initiative, both for its philosophy and its practical implementation. The committee has referred to some of the doubts expressed about whether the overall funding allocation for Families First will be sufficient, and it has some reservations about whether the program is yet managing to co-ordinate its activities with the activities of the myriad other government and non-government agencies that are involved in this area.

One of the very firm recommendations the committee made in both the report on child protection services and the matching report on early intervention for children with learning difficulties was that a new department be set up that we have suggested could be tentatively named the Department of Child Development. This has proved to be a controversial recommendation, which is pleasing for the committee because one of the difficulties that parliamentary committees sometimes face in dealing with issues such as this is that without a certain amount of controversy it is difficult to get politicians and the media to pay a great deal of attention to their recommendations. I am therefore delighted to have people arguing about whether a new department is a good or a bad thing. This being an interim report, the committee will have the opportunity to revisit the issue in its final report. In the meantime, however, the more the issue is discussed, the better.

The committee recommended the establishment of the new department on the basis that witness after witness told us that the plethora of agencies involved in dealing with early intervention and prevention created what everyone admitted was a co-ordination problem. The Department of Education and Training, the Department of Community Services, the Department of Disability, Ageing and Home Care, a variety of non-government agencies, as well as a variety of Federal Government bodies and local government bodies, are all involved in funding, policy and program work for young children. I do not think anyone would say that there is not a lack of co-ordination between all those agencies. It is no-one's fault that there is that lack of co-ordination, and many of the people operating the programs are doing their very best to ensure they are operating as well as possible.

But when three levels of government agencies—Commonwealth, State and local—and a mix of non-government agencies are all involved, clearly co-ordination is a problem for those governments and their funding bodies. Perhaps more importantly, it is an enormous problem from the point of view of the families and children, given the difficulties they are facing. Time and again during both of these inquiries, as in its inquiry into disability services, the committee heard about families who slip through the cracks between different services. Perhaps they were eligible for one service but not for another, or they failed to discover that there were services in a certain locality, or they failed to take advantage of a certain service because it did not exist in their locality. I could go into more detail about that.

Certainly Families First has been a very important step in attempting to ensure co-ordination. It is no accident that the program is run from the Cabinet Office, because, by definition, the Cabinet Office is able to do that. But no-one believes that a program such as Families First, as years go by and it becomes fully operational, can continue to operate from the Cabinet Office. Sooner or later a decision must be made as to which body will operate the program. The committee would be delighted if honourable members and the community were to read the two reports together. The committee has received from a number of stakeholders in both sectors a positive response to the arguments it has put. However, it is conscious that the reports are interim reports and that they will need to be revisited at some future time. As I said, the recommendation relating to the department is controversial, but the committee's statement about the need for prevention strategies and co-ordination is not.

The committee has attempted to draw distinctions between what it has termed primary, secondary and tertiary prevention. Obviously, the final report will focus far more on the role of DOCS in carrying out

secondary prevention activities. The example with which most people are familiar is the support services that operate throughout New South Wales with funding provided generally by DOCS but run as non-government agencies. The committee will further examine them, but it does refer to them extensively in this report. It also refers to the role that DOCS should play in developing a co-ordinated framework to bring together all relevant agencies, including family support services.

The fourth and last recommendation calls on the Government to review the adequacy of funding of family support services through the Community Services Grants Program. The committee received extensive evidence that, although family support services do a great job and are widely supported, it is a considerable time since they have had a real funding increase. Almost everyone believes that they need an increase in funding but also that they must be more effectively plugged into the framework that is designed to look after children.

As I said, the committee is required to table its final report on 5 December. So far, it has received 267 submissions, which is a very large number, and has spoken to more than 120 people, including representatives of peak bodies and many frontline DOCS workers in both metropolitan and regional areas. The Public Service Association has helped the committee a great deal. With its assistance, honourable members have spoken to a number of people working in community service centres and at the helpline. The committee has also had enormous co-operation from the community. It is very grateful to groups such as local child protection interagency committees that have been able to help by bringing together the myriad services that exist in local areas.

I understand that the committee has spoken to all of the major non-government organisations and many of the frontline service groups, senior departmental managers and, indeed, the Minister for Community Services, the Hon. Carmel Tebbutt, who appeared before the committee in August. As I said, the committee has not yet been able to talk to some people whom members believe it should consult. Carol Peltola, who spoke to *Four Corners* about her concerns, will appear at a hearing tomorrow. During three days of hearings in November members of the committee will talk to a range of people, including groups speaking on behalf of families dealing with mental illness and intellectual disabilities.

Numerous witnesses have said that because parents have these difficulties their children often need extra help. The committee has not yet spoken to people involved in Family Court regarding the many comments made about the difficulties experienced in the relationship between DOCS and the court, particularly when children are being used as pawns or bargaining chips in family disputes or custody matters. The committee will take further evidence from the department. I commend the report to the House. I have taken the opportunity to clarify some of the misunderstandings that arose when the report was tabled. They were made by people who should have known better. I ask honourable members to accept the report on its merits and look forward to the final report, which will be tabled on 5 December. [*Time expired.*]

The Hon. JAMES SAMIOS [2.50 p.m.]: I submitted the dissenting report dealing with the Coalition's concerns about the interim report on child protection services. First, I support what the Hon. Jan Burnswoods said in her tribute to the work of our late colleague the Hon. Doug Moppett. It is true that he had a long involvement in the outback and particularly with the needs of children. He was a strong advocate for children and over the years he helped the committee to develop practical recommendations to assist in the improvement of their health and wellbeing.

The committee has worked hard, ably supported by its staff, to produce this interim report. However, in referring to my dissenting report, which expressed the Coalition's concerns, I draw attention to the fact that the overarching problem with the Department of Community Services has been its failure to implement effective child protection systems. As a result, non-government organisations, which should be in partnership with the department, and individuals in the community are frustrated by its failure to deliver professional services. Furthermore, individual DOCS officers and the Public Service Association have indicated a high level of frustration with the failure of departmental systems and the culture of denial. In that regard, it might be said that the committee's report is insufficiently critical of DOCS.

The executive summary is said to reflect the report's approach of understating the calamitous level of dysfunction within the department. It purports to suggest that a number of significant events and decisions have had an impact on the system since the commencement of the inquiry and, by implication, that it has improved. The Coalition believes that is not correct. I draw attention to the statement that there is a need for strong and sustained bipartisan commitment to rebuilding the system. That fails to acknowledge the bipartisanship that existed with the implementation of the 1988 Children and Young Persons (Care and Protection) Act. The Coalition moved away from bipartisanship only after the Government failed to implement all the relevant provisions of the legislation.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.55 p.m.]: These reports are significant. I will speak first to the interim report on child protection services, which is of most concern. I suggested an inquiry into the Department of Community Services in response to pressure from former wards of the State, people who were experiencing problems with the department, and peak groups. It took me 20 months to get the necessary numbers to establish the inquiry. When I first tried there were two groups on the crossbenches: those who wanted narrow terms of reference and who said that the Government would not support it, and those who said they wanted a wide-ranging report because it was a huge problem.

I was distressed; I did not have the numbers. The Opposition said to me that as I did not have the numbers I should not put the motion, so I did not. I said there would be more deaths before the inquiry got under way. The Government was saying, "We are going well, we have just got a new team in place and we are just starting to build morale. If you have this inquiry now it will destroy morale, the department will become defensive and no progress will be made." That is what governments always say when they do not want inquiries. Sure enough, it took some more deaths, and the Opposition alerting *60 Minutes* to those deaths, to get the numbers for an inquiry. I discussed with the Opposition amendments to my original motion to come up with terms of reference that all those who would vote for it could agree to.

The Government did not want this inquiry, but I think it would now concede that it was necessary and important. The good work of the committee was done by the late Doug Moppett and the committee staff Tony Davies and Julie Langsworth, and, in the case of the report on early intervention, Merrin and Bev. The inquiry looked into what I call the two planets syndrome: the department says everything is under control and only a few management changes are needed, and they have largely been done, and the public says this is completely disastrous and terrible things are happening. If I have to decide what is reality, I generally go with the people, the consumers.

It was discouraging that Department of Community Services workers were scared to come forward. They had to make their submissions as individuals, and that reflected on their careers. This culture of secrecy is very worrying. The old seniority scheme in the public service is being replaced. People at the top who are on relatively short contracts choose people who they think are ideologically right in the middle layers, so that effectively the public service becomes very much an instrument of the State, with careers tied to political patronage. This was evident in the way that DOCS officers were frightened to come forward in the early part of the inquiry.

DOCS officers came forward through the good offices of the Public Service Association, which should be congratulated. Some came to me directly. They told me the situation was appalling, that large numbers of cases were simply not dealt with, and that large chunks of management time were spent deciding which cases should be investigated and which would be unallocated—the term for sitting in a pile with nothing happening. There was a lot of discussion about that percentage of cases. I gather that level 1 cases, which are the most serious, make up about 40 per cent of cases. I was told that only 10 per cent of those cases were being dealt with, which means 4 per cent of total reports. If that is the case, it is appalling. Other figures were much more optimistic. The report does not deal with the different figures given but suggests that they are only the tip of the iceberg.

I gained the impression that DOCS functions as in intensive care unit without proper vaccination or general practitioner services, and that cases are given low priority and are not picked up until they are extremely severe. To use that analogy, if you ran a health system with an intensive care unit with no prevention, no matter how much money you put into the intensive care unit you would never have a decent health service but you would have a very expensive one. It would seem that DOCS is functioning along those lines. An intervention team is being asked to fix a large number of problems that it is not resourced to do. There have been a large number of social changes, such as the increase in drug use, the widening gap between rich and poor, increasing unemployment and second and third generation unemployment and a lessening in treatment of the mentally ill. No doubt these social factors are all relevant.

Historically it is hard to know the causes. I was interested in getting an historic perspective of the department, but I did not get one. People said that the changes in child support—such as the Whitlam Government increasing the supporting mothers pension but cutting back its home visiting component—were significant. Changes to the department during the Greiner Government were said to be very significant. There is not good evidence giving that historical perspective and it is difficult to weigh these things. Perhaps that reflects the lack of ongoing social research in these areas. The Hon. Jan Burnswoods gave the figures. It has been widely quoted that $1 spent on the development of a child saves $7 later.

A professor told the committee about brain development and measuring the brain circumference. This showed that the younger the child the higher the growth rate of the brain. The assumption is that experiences learnt at a very early time are far more fundamental to character development than later learning. Opportunities missed early are almost impossible to pick up later. There is a lot to be said for that. As an undergraduate I heard a notable psychiatrist describe a number of cases in which children whose childhood and adolescence were horrendous had turned out all right as adults. The factor that he identified as common to all those cases was that the first 12 months of their lives were stable. It is a question of prevention versus remediation. It has been said in child education that the amount of money spent on a child is proportional to its shoe size. That would seem to be the case. The very young are politically quite quiescent and any noise they make is very much for local consumption.

Prevention has never really been given a go. Economic rationalists who tend to value everything by the dollar and do not understand ideas of sociological probability have always favoured the direct costs that one can see and measure over those that are likely to have a preventive effect. The trouble with spending a preventive dollar is that you might not have had to spend it. Prevention is suffering at the hands of remediation. This can be seen in the failed childhood remediation services, at school, in the juvenile justice system and leading on to the problems in Corrective Services as mixed up people who were victims become further victims in the punitive regime that this Government continues to pursue. Where is the proof that longer sentences work? The minder in charge of detailing this information to crossbench members said that it is the Government's position that longer sentences have a deterrent effect.

We are spending $60,000 a year on each person in Corrective Services institutions and we have to think very hard about how that money could be better spent on prevention and child development. With all the rhetoric of law and order that will be coming up before the next election, I am not hopeful that prevention will get much of a go. The inquiry into the increase in prisoner population was inflicted on the Government against its will, and its response is tokenistic when compared to the prison building program. The increase in the prison population is a result of children not understanding their place in the world and not being socialised into the society in which they live.

As to the outcomes of this report, there has been a change of Minister and a change of department head. I must confess that I think that is good. However, it has been said that the danger is that the Government will say, "We have changed the Minister. We have changed the department head. We have headed off the political flak here. We have said we will do prevention but we will not put much money into that compared to our gaol building and sentencing programs." If that is the case, that is a bad result. To some extent the Opposition, in continuing its criticism, is keeping the political heat on. Brad Hazzard, in his conversations with me asking me to take a stronger line on this, said, "If we don't keep the pressure on the Government it will simply say it will do prevention, not do it, get off the hook politically and nothing much will change."

I am concerned about that. I told him that there had been a change of Minister and that we would replace Ministers if necessary if any changes are seen as mere tokenism. I hope that the Hon. Carmel Tebbutt can get these changes through and can redirect the money to a much more preventive approach. I am concerned about the Government's neglect of education generally and public education in particular. Public education, which is equal opportunity education, is being neglected in favour of the cheaper option of shoving everything off onto the private sector and cutting the cost per child. That is happening in education. Also, the foolish spending on gaols is at the wrong end of the social spectrum. Supporting the recommendations in this interim report would be a major change in direction for a government that is moving in the opposite direction and tends only to pay lip-service to reports.

To some extent I agree with the Opposition's dissenting report, which crticises the Government. In many ways that criticism is valid. Criticisms that the report was put together very quickly and that there was no time to comment or even to write a dissenting report are certainly true. The criticism that the report is not detailed in its discussion of the faults in DOCS is true. However, the question in the Opposition's dissenting report that is significant and that must be addressed if the Opposition wishes to consider itself an alternative government is: What would a Coalition government do? I support this report and have not put in a dissenting report because this report offers a solution. Obviously there is a danger that that solution will not be implemented, but in a sense that is a secondary problem. The main point is that this report offers a realistic solution.

A shift from the intensive care child protection mentality to a more preventive approach is necessary. It was said repeatedly that the culture of DOCS was no longer one of prevention, that culturally DOCS would have

difficulty suddenly moving in that direction, which it had neglected, and that a new more broadly based department should do that. That seems to be sensible. Some of the most impressive evidence was given by Victor Nossar of Liverpool Hospital, who talked about the need for universal services so that people who need help with child rearing are not stigmatised. Everybody gets some help as a right of having children, with the State helping people to bring up their children properly, and research seems to show that the Families First program is very effective.

Victor Nossar made the point that home visiting by nurses is extremely important. This enables people with greater needs to be identified and intervention to occur. There is no stigma attached to having a nurse visiting when it is the standard process for everybody. The evidence suggests that once groups with greater needs are identified there is a danger of them being stigmatised, which does not help with intervention. The committee heard evidence that screening for early intervention is extremely difficult to organise. There are questions of who will do the screening and at what age screening will take place. Different childhood problems become evident at different ages. A child may have quite major deficits that are not necessarily picked up, giving one a false sense of security, and involving large costs.

If screening is not undertaken, there must be an ongoing relationship with the parents in order to inform them. They will then notice things and discuss them in a non-threatening environment. That will result in earlier identification of problems, be they behavioural, family, medical or congenital, better outcomes. The idea of universal services must be supported, and the evidence of Victor Nossar on that point was extremely valuable. Of course, that means that one simply says, "This is going to be expensive. We spend this many dollars per head of population in the country on this type of service."

We need population-based funding rather than funding per intervention at a very late stage. We must ask: How many dollars per head per year do we spend in New South Wales? How much are we spending per head per year on building new gaols? How much are we spending per head per year on looking after our newborn kids, who are our future? We need to take a much more intelligent approach to this. DOCS will be involved in secondary prevention. Primary prevention is providing a good universal service so that problems do not develop; secondary prevention is identifying groups that are at risk; and tertiary prevention is trying to fix a known problem.

In a sense, DOCS will be involved in secondary and tertiary prevention. The agency involved in primary prevention may need to subcontract some of its services, in a more constructive relationship with the non-government sector. Interestingly, strong evidence was given that with out-of-home care the non-government sector will say, "If you want us to take more children we want more money. We want so much money per child, depending on the problems the child has." That is a very realistic approach. The amount of money DOCS spends on each child not tendered out to non-government agencies is much less than the non-government agencies were demanding. To their credit, the non-government agencies are not saying, "We want more kids and more money. We will lower the standard of service." They are saying, "If we take kids with problems we want funding to put good programs in place for them." In a sense, their quality control is providing a better outcome.

That emphasises my point about how much funding per child per year is required to deliver a good service. That is the question we should be asking. Also, once we get to that sort of thinking we can then say, "A stitch in time saves nine" or, in this case, "$1 spent now saves $7 later." We then recognise the merits of a prevention-based service. So it does not simply relate to DOCS; it relates to an entire society. The old proverb that it takes a village to raise a child has never been more apposite, and people have had to think beyond DOCS. Of course, such holistic thinking is much more difficult, and that is why the committee has recommended the establishment of a department of child development. I sincerely hope that the Government will not only take up that recommendation as an election promise with a great deal of fanfare but will actually fund it. There is no point in simply setting up administrative structures and not funding them.

The media and the Opposition have made the criticism that to set up yet another department is merely a bureaucratic solution that looks good. If the department and the people running it are not adequately funded , that then becomes true, but it is not true of necessity. I have ignored somewhat the inquiry into early intervention, but it is a question of identifying problems early. The question is: How will that be done in the gap between when a baby leaves hospital and an infant arrives at school? In that four years or so a great deal of development happens or does not happen; learning either proceeds normally or it does not. It is a question of identifying optimally. So the problem of identifying neglect in a DOCS sense and identifying learning difficulties in a developmental sense are the same problem and to some extent will have the same solution. That

is not to say that education does not matter; rather, it points to the fact that there is often a common solution to these problems. It is interesting to note that the Minister referred to early intervention in child development and that the referral of this inquiry into the Department of Community Services was imposed on the Government. I hope the Government will implement the report's recommendations. [*Time expired.*]

The Hon. JOHN RYAN [3.15 p.m.]: In speaking—

The Hon. Amanda Fazio: Point of order: Mr Deputy-President, I take a point of order in relation to your giving the call to the Hon. John Ryan when the Hon. Ian West sought the call. My understanding of the procedure relating to take-note debates for committee reports in this Chamber is that members of the committee are given precedence on the list of members wishing to contribute to the debate. Other members who are interested in commenting on the report that is the subject of the take-note debate are then able to participate in the debate as they desire. I believe that in giving the call to the Hon. John Ryan you have flouted one of the conventions of this Chamber and have shown once again that members of the Opposition, who so frequently plead that they support the protocols, procedures and standing orders of this Chamber, are prepared to throw out such conventions when it suits them. This debate relates to a very sensitive issue, namely, child protection. It relates also to another report which was tabled at the same time as the report of the committee that is the subject of this take-note debate. Your decision is trivialising debate on this very important issue. I ask you to uphold the conventions of this Chamber and give the call to members of the committee who are seeking the call rather than to other interested members.

The Hon. John Jobling: To the point of order: Mr Deputy-President, the order in which a member is called is the prerogative of the occupant of the chair. There is no standing order that specifies the order in which the Chair must or must not call members, and there is no sessional or standing order which states that the call must be given to specific members. One hour is set aside each Wednesday for these debates until they are concluded; no member is deprived of time in which to speak. There is absolutely no basis for the point of order that is being taken. The prerogative rests entirely with the Chair as to whom to give the call. If members of the committee had jumped and made themselves heard, you may have called them, but the call is yours to give, and there is no point of order.

The Hon. Peter Primrose: To the point of order: I agree with my colleague the Opposition Whip to the extent that there is no applicable standing or sessional order, as there is not for a whole range of traditional behaviour in this place. But there are plenty of conventions, and my colleague the Hon. Amanda Fazio was referring to a convention. The matter is entirely in your hands, Mr Deputy-President. It is a matter for your discretion, but I ask that your exercise of that discretion be guided by the conventions.

The DEPUTY-PRESIDENT (The Hon. Dr Brian Pezzutti): Order! I will ignore the implied criticism of the Chair by the Hon. Amanda Fazio. I have been a member of this Chamber for many years and I am unaware of the convention to which she has referred. I am aware that when committee reports are reported and debated, it is the usual custom for members of the committee to express a view, but they have no more right than any other member of the Chamber to express a view on committee reports, and no member has precedence over any other. I draw the attention of honourable members to Erskine May's *Parliamentary Practice*:

> In debate all speeches are addressed to … [the Chair] and he calls upon Members to speak—a choice which is not open to dispute.

I call the Hon. John Ryan. However, I ask the Hon. John Ryan whether he will yield.

The Hon. John Ryan: No.

The DEPUTY-PRESIDENT: Order! I give the call to the Hon. John Ryan.

The Hon. JOHN RYAN: I do not understand why Government members are so keen to stop me from expressing a view on this interim report on child protection. I stand before this House as a person who was reported to the Department of Community Services as a young person at risk, so for me there is no more defining issue than the one that is currently being discussed in the House. I doubt there would be many other honourable members in this Chamber who could make a similar statement. The Opposition is concerned about some features of this report, including the fact that the report glosses over some very important issues that were raised before the committee and that were the subject of evidence given to the committee.

The first comment I make about the report is that Government members have used their majority on the committee to present the report to members, having given only hours notice. In the context of conventions of the

House, that is certainly a practice that is not common regarding committee reports. Rather, it is quite usual for committee reports to be delivered to honourable members at least a week before they are presented to the House to afford committee members the opportunity to consider members' comments and perhaps to take advice. As I am advised, that has not happened for this report.

The Hon. Amanda Fazio: How would you know? You were not even there. You're not even a member of the committee. What would you know?

The Hon. JOHN RYAN: Members of the Opposition did not have the opportunity to take advice, as they normally would, and have had less than an hour in which to prepare a response.

The Hon. Jan Burnswoods: Oh, come on! Jim Samios has been locked up in Brad Hazzard's office all day. He was at the meeting for 7½ hours.

The DEPUTY-PRESIDENT (The Hon. Dr Brian Pezzutti): Order! The Hon. Jan Burnswoods was heard in silence when contributing to this important subject.

The Hon. Jan Burnswoods: Because I spoke sense.

The DEPUTY-PRESIDENT: Order! The Hon. Jan Burnswoods will be silent while the Hon. John Ryan continues his contribution.

The Hon. JOHN RYAN: I am at a loss to understand why members of the Government are so desperate to shut me up.

The Hon. Amanda Fazio: Because you are not speaking the truth.

The Hon. JOHN RYAN: The member opposite has said that I am not speaking the truth. I know a lot more about this subject than some members opposite would care to acknowledge. If they prefer, I could give them, chapter and verse, extracts from the life of John Ryan to let them know that I understand this issue a great deal better than some of the people on the Government side of the Chamber—and certainly better than some of the armchair strategists on the Government side—would care to acknowledge. For them to suggest for an instant that this is not an issue about which I care is one of the most offensive things that could be said to me. I will ignore that suggestion for the moment in deference to the more important things that need to be said about this report. For example, under the heading of "Unallocated cases", the report states:

> Due to the workloads in CSCs, level 3 or level 4 reports may not be allocated to a caseworker and may be closed without further investigation.

I understand that the evidence showed that in some instances, in some community service centres [CSCs], some level 1 and level 2 cases were not allocated. Condemning evidence is the reason for the Opposition's concern. This report may be an attempt to steer the debate in a direction that is different from the tenor of the evidence. The Opposition is concerned that this is an attempt to divert the debate, calm down the debate, and deflect focus from the important issues. The crystal-clear facts that were presented to the committee are that, firstly, the Department of Community Services does not have adequate resources and, secondly, that there is a culture of denial and a culture of cover-up—two very important aspects that have not been referred to in this interim report. I accept that an interim report is not the final determinant. If members opposite suggest that a future report will reflect further investigation and further comment, I would be inclined to relax, but there is at least reason for members of the Opposition to be suspicious when important evidence that is given to the committee has been glossed over. The report refers also to mandatory reporting. In that regard it states:

> Mandatory reporting does have its detractors. In his submission to the inquiry, Dr Frank Ainsworth suggested that it is an unnecessary tool for determining risk, as did Barnardos Chief Executive Officer, Louise Voigt when she appeared before the Committee.

The concern of those who gave evidence was that there was absolutely no explanatory material and no reason for that suggestion. So, on an important issue like mandatory reporting, a concern was put on record without any explanation as to the reason for that concern—and that is a matter of concern to people who gave evidence to the committee. It is unfair to suggest that we should just throw our hands up and accept this report without criticism. The Opposition is not attempting in any way to be partisan about this issue.

The Hon. Amanda Fazio: What a load of rubbish!

The Hon. JOHN RYAN: At least I have not been. I think judgments on remarks that I make on this report have been made well in advance of my making any statements. It is not unfair for Opposition members to point out that the report contains statements that do not accurately reflect the evidence. It might well be that a subsequent report will correct that problem. That the Opposition was not given adequate opportunity to examine, correct or amend the report, or prepare a dissenting statement, is glossed over by Government members. The Opposition had to change its representation on the committee for reasons beyond the control of the Opposition. The change was necessary because of the unfortunate and untimely resignation and death of the Hon. Doug Moppett. Consequently, the Opposition did not have on the committee a member who had heard all the evidence and had the opportunity to get all the information necessary to respond to the report with the benefit of the same level of expertise and background briefing that all Government members and other committee members had.

The Hon. Ian West: Nonsense!

The Hon. JOHN RYAN: It is not nonsense.

The Hon. Ian West: That is not the committee's problem.

The Hon. JOHN RYAN: It is the committee's problem when the committee guns through a report without adequate input from the Opposition representation.

The Hon. Ian West: Seven and a half hours?

The Hon. JOHN RYAN: Hours! It is normal to give committee members more than a week. I think some Government members are being a tad too precious about the Opposition genuinely expressing concerns about the report and the process surrounding it.

The Hon. Amanda Fazio: You are using this as an election issue.

The Hon. JOHN RYAN: Perhaps I think it is valid that it be an election issue. I dream for the day that child protection is an election issue. I suspect it will not be, but I dream for the day that it is. One reason it is not an election issue is that, sadly, children who are in the condition that the report deals with often do not have a vote or representation in Parliament.

The Hon. Jan Burnswoods: That is the point that the report tries to make. That is why we agreed unanimously to focus on prevention. You are destroying that unanimous agreement.

The Hon. JOHN RYAN: Prevention is well and good. It is said to be the answer to all of the problems. But, even if there were acres more prevention than there currently is, there will still be reports of child abuse, and it will still be necessary for a government department, whether it be the Department of Community Services or some other body, to respond appropriately to those complaints. If resources are inadequate, or if there is a culture of cover-up—which has been well-documented—that sort of response will not occur. Some very serious evidence was given to the committee by a person within the department who bravely came forward after leaving the department and explained that they had been asked basically to doctor briefings to the committee. They had been told to change evidence that they would give to the Minister, to Parliament and to the Child Death Review Committee to make the department look better. No more serious allegation could be made about the department, and there could be no more serious area in which to make it than child abuse. If this committee does not have a determination to investigate whether or not that incident took place, then it is not doing the duty it was set by this Parliament.

The Hon. Amanda Fazio: Are you accusing the committee of not discharging its duty?

The Hon. JOHN RYAN: I have not accused the committee of anything. If the honourable member had listened to what I said, she would know I made no such accusation. I have said it is necessary to investigate that matter. My concern is somewhat ameliorated in that the person who gave that evidence is to be interviewed, I believe, at a subsequent meeting of the committee. But, to be perfectly honest, the Opposition asserts its right to express concern that one of the most important issues raised before the committee barely rates a mention in the interim report—that is, that there is a culture of cover-up and that there was an attempt to provide deceptive briefings from within the department.

The Hon. Jan Burnswoods: Do you actually expect us to put up a report before talking to the relevant witnesses?

The Hon. JOHN RYAN: You have put other things in the report. The report could have said that one of the future duties of the committee is to get to the bottom of this issue. That would be a fair, reasonable and even-handed comment to make on the issue. Yet there is not a suggestion or recommendation on the need to ensure that briefings from the coalface of the department to its leadership need to be truthful. There appears to be better than good evidence that some information given to the head of the department is not truthful. Why Government members would be so partisan in their attempts to try to shut down the Opposition's capacity to make what I would have thought are a couple of salient points, I do not understand.

I have not had the time to address this issue in a way that I would have liked, but the Opposition wants to make sure that any future hearings on prevention are not conducted without addressing the question that members of the department should give accurate reports. Those issues and issues related to resources ought to be addressed openly, candidly and with the greatest of diligence. That is all we are trying to say. We are a little worried that some of the wording of the report glosses over those important expectations. Opposition members are using this opportunity to raise that concern. Is there something wrong with that? I have yet to hear any reason why that would not have been an entirely proper course to take.

Pursuant to sessional orders business interrupted.

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT (PARTY REGISTRATION) BILL

MURRAY-DARLING BASIN AMENDMENT BILL

Bills received.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. Ian Macdonald agreed to:

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages, and the second readings of the bills stand as orders of the day for a later hour of the sitting.

Bills read a first time.

CRIMES (ADMINISTRATION OF SENTENCES) FURTHER AMENDMENT BILL

Message received from the Legislative Assembly agreeing to the Legislative Council's amendments.

COASTAL PROTECTION AMENDMENT BILL

Motion by the Hon. Richard Jones agreed to:

That standing orders be suspended to allow the moving of a motion forthwith that it be an instruction to the Committee of the Whole that it has power to consider amendments relating to the protection of the coastal environment.

Motion by the Hon. Richard Jones agreed to:

That it be an instruction to the Committee of the Whole that it has power to consider amendments relating to the protection of the coastal environment.

In Committee

Clause 1 agreed to.

Clause 2

The Hon. RICHARD JONES [3.40 p.m.]: I move my amendment No 1:

No. 1 Page 2, clause 2, lines 5 and 6. Omit all words on those lines. Insert instead:

This Act commences on the day that is 3 months after the date of assent.

This amendment will ensure that the changes proposed in this bill will become law within three months of the bill receiving assent. Coastal residents are facing real problems every day. Consequently, these changes must become law sooner rather than later.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.40 p.m.]: The Government accepts this amendment, which provides sufficient time for government agencies to brief councils fully on the amendment. At the same time it will ensure that there is not an unreasonable delay in enacting the amendment.

The Hon. RICK COLLESS: [3.41 p.m.]: The Coalition also accepts this amendment. I understand that much legislation has never been proclaimed. It is important that this amendment is passed, assented, and proclaimed.

Amendment agreed to.

Clause 2 as amended agreed to.

Clause 3 agreed to.

Clause 4

The Hon IAN MACDONALD (Parliamentary Secretary) [4.02 p.m.]: The Government does not propose to proceed with its amendment to the Crowns Lands Act as set out in schedule 2. The easements proposed under that schedule are not fundamental to the achievement of the objectives of the bill and were causing unnecessary concern and confusion amongst property owners. This schedule refers in particular to the Lake Macquarie area. The Government will, therefore, vote against the clause.

Clause 4 negatived.

New clause 5

The Hon. IAN COHEN [3.43 p.m.]: I move Greens amendment No. 1:

No. 1 Page 2. Insert after line 10:

5 Amendment of Land and Environment Court Act 1979 No 204

The *Land and Environment Court Act 1979* is amended as set out in schedule 3.

This amendment will ensure that third parties are able to bring proceedings before the Land and Environment Court to remedy or restrain breaches of the Coastal Protection Act. The intention of the amendment is to insert provisions similar to and consistent with those provisions set out in section 123 of the Environmental Planning and Assessment Act. Third party rights are central to the notion of ecologically sustainable development in action. I would like to share an example of a successful public litigation recounted in the summer 2002 issue of *Pipeline* entitled "Surfers against sewerage"—a United Kingdom publication—which states:

> Do it Yourself—forget the Environment agency, seems like the best way to ensure that the resultant fine fits the environmental crime is to prosecute the polluter yourself? Anglian Water have been ordered to pay the largest sewage pollution fine ever for a water company after an Essex man decided to take the law into his hands and prosecute the company for polluting the River Crouch. The fine levied on Anglian Water was 200,000 pounds, considerably more than fines resulting from Agency prosecutions (maximum 20,000 pounds) but much more realistic in our eyes.

Those of us involved in investigating logging licence condition breaches know that leaving prosecution to government agencies is a waste of time. The political sensitivities of one government agency prosecuting another make it increasingly unlikely and disagreements are hidden behind the whole-of-government approach. The Government and the Opposition are not supporting this amendment. The classic reason given is that to give third party appeal rights would open the floodgate of litigation. Is that argument based on fact? The simple answer is no. I intend to address this in some detail as it is an issue of fundamental importance and one that has been addressed and studied by judges and lawyers since the Land and Environment Court was set up. A 1997 submission prepared by the Environmental Defenders Office in response to recommendations of the Australian Law Reform Commission address the floodgates of litigation argument. It found no evidence of this. I quote from its submission:

> In no jurisdiction has there been any evidence of such a mischief. Rather the evidence has accumulated to discount any such argument. This is seen in the experience over 15 years of the open standing provisions of the Environmental Planning and Assessment Act 1979 (NSW). It shows that since 1980 there have only been 125 full hearings brought under section 123 of the Act and of those only 32% were brought by resident action groups or in the "general public interest".

In 1990 the Chief Justice of the Land and Environment Court, Chief Justice Cripps, noted:

> It was said when the legislation was passed in 1980 that the presence of section 123 would lead to a rash of harassing and vexatious litigation. That has not happened and, with the greatest respect to people who think otherwise, I think that that argument has been wholly discredited.

Similarly, the remarks in 1987 of His Honour Mr Justice Wilcox in *Ogle v Strickland* reflect the reality of the motivations of those who commence legal proceedings in the public interest. He said:

> The idol and whimsical plaintiff, a dilettante who litigates for a laugh, is a spectre which haunts the legal literature, not the court room. Litigation—in the public interest and for no personal advantage, especially against a wealthy opponent and under a cost regime requiring the losing party to pay the costs incurred by the victor—has some similarity to marriage as described in the Book of Common Prayer: it is not by any to be enterprised nor taken in hand, inadvisedly, lightly or wantonly.

The submission goes on to state:

> Government Agencies have recognised the integral role that third party rights play in the effective administration of environmental laws. For example, the NSW Department of Planning, itself often subject to proceedings under section 123, stated in its review of the planning system—

The right of any person to remedy or restrain a breach of the Act is a fundamental safeguard of the system's proper processes. Similarly, the Commission of Inquiry into Red Tape, which reported on 31 January 1994, concluded:

> At a time when public scrutiny of government is expanding, it is unthinkable that the right of review enshrined in section 123 should be repealed. The solution, if one is required, lies in reform of the legislative and administrative processes of state and local government and not in removal of third party appeal rights.

In a lecture delivered in Manila on 6 March 1999 to the South-East Asian Regional Symposium on the Judiciary and the Law of Sustainable Development, Justice Paul Stein of the New South Wales Court of Appeal said:

> An early test of the open standing provisions was whether the court would seek to construe the new provisions narrowly. Would the prophets of doom be right and the floodgates of litigation open and deluge the new court? Would the court be able to adapt to the new opportunities for public interest litigation or would the twin hurdles of the giving of undertakings as to damages and costs trip and thwart the new public participation rights.
>
> Many of these questions have by now been answered, although some remain to be finally determined.
>
> Floodgates and the reality: Court statistics reveal that the number of proceedings brought by individual citizens or NGO's under the various statutory open standing provisions have never exceeded 20% of registrations for civil enforcement and judicial review in any year. The balance of applications are by local councils and state agencies. It must also be kept in mind that of the 20%, an unknown percentage would, in any event, have had Common Law standing.

There are open standing provisions in the Environmental Planning and Assessment Act, the Heritage Act, the National Parks and Wildlife Act, the Local Government Act, the Environmentally Hazardous Chemicals Act, the Fisheries Management Act, the Uranium Mining and Nuclear Facilities (Prohibition) Act 1986, the Wilderness Act 1987, the Ozone Protection Act, the Threatened Species Conservation Act, the Water Management Act, and the Native Vegetation Conservation Act, so why not in the Coastal Protection Act?

We should be defending third party appeal rights wherever possible. That is a symbol of a genuine democracy and a society truly capable of respecting, discussing and adjudicating different views. It works well in the Environmental Planning and Assessment Act; it can also work well in the Coastal Protection Act. I am proud to say that friends of mine have often defended themselves in courts of law, representing the community and the environment against immense odds. They are very brave people, who are defending their rights on principle, with nothing to gain except to save the environment and support—

The Hon. Rick Colless: And destroy people's livelihood.

The Hon. IAN COHEN: If someone is destroying the environment and acting in a vandalistic fashion, the community should have the right to take them to court.

The Hon. Rick Colless: That's not what I said.

The Hon. IAN COHEN: You said "livelihood", and I am interpreting that in the way I want. The Hon. Rick Colless seems to believe that the public should not have any right to question matters in a court of law, which is an appropriate forum

The Hon. Rick Colless: I didn't say that.

The Hon. IAN COHEN: Yes, you did. I am tired of such comments. I hear mealy-mouthed palliatives coming from various sectors of major parties in this House about third parties having a fundamental right to take action in court. As the retired left-winger reclines with his leg on a parliamentary chair, I wonder about anyone who would allow a government, or any person, to dissolve the rights of people in third party actions before the courts. It is appalling. Other than that, I commend the amendment to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.53 p.m.]: That was a hyped-up contribution from a rather over-the-top Greens member, the Hon. Ian Cohen. The only reason I had my leg on the chair was that my old knee injury has flared up and I can hardly stand; it had nothing to with whether I have retired as a left-winger, which is totally inaccurate. The Government rejects the amendment, as there is already adequate provision for the Minister to take action for non-compliance with an order to prepare a plan or when there is a breach of a plan. The provision of third party appeals would potentially increase the workload of the Land and Environment Court, for no net gain.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.53 p.m.]: The Democrats support third party appeal rights as a reasonable part of the democratic process. We are entirely in agreement with our Greens colleague that these matters are not taken lightly or wantonly. The court is heavily biased against people who do things in the public interest, simply because of the danger of copping the costs of the very well-funded people who are usually involved in polluting the environment or otherwise developing it. Such people stand to make a large profit margin, whereas those who seek benefit on behalf of the community are often poorly funded. The suggestion that they are merely vexatious and an interference to someone's livelihood, as the Hon. Rick Colless suggested, is simply incorrect. It is part of the democratic process, and I believe it should be allowed to go ahead.

Some years ago, when I tried to prevent tobacco advertising being broadcast during the Australian Grand Prix, I was offended to be told that although we had been campaigning for 15 years we did not have standing because we did not have a financial interest. Indeed, people were able to broadcast complete nonsense, harming Australia's public health, and no-one was allowed to do anything about it. This amendment addresses that issue and it should be supported. Although, given the comments of the Hon. Rick Colless, I confess that I am not hopeful that it will be successful.

The Hon. RICK COLLESS [3.55 p.m.]: The Opposition opposes the Greens amendment. I wish to respond to the contributions of the Hon. Ian Cohen and the Hon. Dr Arthur Chesterfield-Evans. Those members seem to hold a belief that anything that makes money for communities and individuals is bad for the environment. I suggest that they go out into an area where wealth is being created for the benefit of all communities and have a look at how sustainable some operations are—

The Hon. Ian Cohen: "Some" operations—not all?

The Hon. RICK COLLESS: I said "some" operations. The matters that the honourable members are consistently concerned about—biodiversity, koalas, and matters of that nature—happen to be in areas that are creating wealth for the whole community. The Hon. Ian Cohen and the Hon. Dr Arthur Chesterfield-Evans need to take the blinkers off and have a look at the good work that is being done around the bush. Any further imposition of third party rights of appeal will increase the likelihood of a regulatory legislative approach to those people, which will make them less competitive and in fact put more, not less, pressure on the environment. The honourable members' intentions are good but their methodology is wrong.

The Hon. RICHARD JONES [3.57 p.m.]: At least 14 New South Wales Acts, including the Prevention of Cruelty to Animals Act and the Protection of the Environment (Operations) Act, have open standing provisions. Indeed, many of those Acts have been negotiated in the last 12 years while I have been a member of this House. There is absolutely no reason why the Government could not have accepted the third party provisions in this Act as well.

Open standing provisions have been very useful on some occasions: for example, in the prevention of severe destruction of the environment at Iron Gates. A member of the community there took a developer to court and won the case, and the developer was told to clean up the environment, which he had destroyed. He had destroyed the wetlands and put bulldozers through koala habitat. Open standing provisions have been used on several occasions during the time I have been a member of Parliament. For example, a prominent Labor lawyer

won six consecutive cases against State Forests, to ensure that it conducted environmental impact studies on land it was destroying. There has never been an opening of the floodgates, so I cannot understand why the Minister will not accept open standing provisions in this legislation.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.58 p.m.]: I cannot accept the cliches, as trotted out by the Hon. Rick Colless, that the Democrats and the Greens are totally anti-business for seeking third party rights to have matters assessed. In coastal protection it is very often a case of private profit versus public good, if one regards a clean environment or a pristine environment as part of that public good. Certainly, if there is good in what is being proposed, the court will make such a finding. Indeed, that is the role of the courts. The Government and the Opposition are suggesting that the courts should not be allowed to arbitrate, that it should be left to the Minister, who often has a vested interest in not taking action.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 5

Dr Chesterfield-Evans
Mr Corbett
Ms Rhiannon
Tellers,
Mr Cohen
Mr R. S. L. Jones

Noes, 28

Dr Burgmann	Mr Harwin	Mr Ryan
Mr Colless	Mr Hatzistergos	Mr Samios
Mr Della Bosca	Mr M. I. Jones	Mrs Sham-Ho
Mr Dyer	Mr Lynn	Mr Tingle
Mr Egan	Mr Macdonald	Mr Tsang
Ms Fazio	Reverend Dr Moyes	Mr West
Mrs Forsythe	Reverend Nile	
Mr Gallacher	Mr Oldfield	*Tellers,*
Miss Gardiner	Mr Pearce	Mr Jobling
Mr Gay	Dr Pezzutti	Mr Primrose

Question resolved in the negative.

Amendment negatived.

New clause 5 negatived.

Schedule 1

The Hon. RICHARD JONES [4.06 p.m.]: I move my amendment No. 2:

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

[1] Section 3

Insert after section 2:

3 Objects of this Act

The objects of this Act are to provide for the protection of the coastal environment of the State for the benefit of both present and future generations and, in particular:

(a) to protect, enhance, maintain and restore the environment of the coastal region, its associated ecosystems, ecological processes and biological diversity, and its water quality, and

(b) to encourage, promote and secure the orderly and balanced utilisation and conservation of the coastal region and its natural and man-made resources, having regard to the principles of ecologically sustainable development, and

(c) to recognise and foster the significant social and economic benefits to the State that result from a sustainable coastal environment, including:

(i) benefits to the environment, and

(ii) benefits to urban communities, fisheries, industry and recreation, and

(iii) benefits to culture and heritage, and

(iv) benefits to the Aboriginal people in relation to their spiritual, social, customary and economic use of land and water, and

(d) to promote public pedestrian access to the coastal region and recognise the public's right to access, and

(e) to provide for the acquisition of land in the coastal region to promote the protection, enhancement, maintenance and restoration of the environment of the coastal region, and

(f) to recognise the role of the community, as a partner with government, in resolving issues relating to the protection of the coastal environment, and

(g) to ensure co-ordination of the policies and activities of the Government and public authorities relating to the coastal region and to facilitate the proper integration of their management activities, and

(h) to establish the Coastal Council to advise the Minister in relation to the matters referred to in paragraphs (a)–(g) and, in particular, to develop policies in relation to the planning and management of the coastal region.

This amendment inserts objects that spell out what the legislation provides for and aims to do. Although the objects are not legally binding, they are extremely important because they are useful in explaining the intent of the legislation and, thereby, make it easier for people to understand it.

The Hon. IAN COHEN: The Greens support this very reasonable amendment, particularly as to the establishment of the coastal council to oversee our very fragile coast. I have met with people today who are at their wit's end about the activities of developers on our coastline. The House will hear more about that. This amendment is reasonable and addresses understandable community concerns.

The Hon. IAN MACDONALD: The Government accepts the amendment. It provides a succinct statement of the objects of the legislation with appropriate recognition of the application of the principles of ecologically sustainable development in the formulation of strategies to provide for the balanced utilisation and conservation of the coastal zone.

The Hon. RICK COLLESS: The Coalition does not support the amendment, because it goes further than the purpose of the original legislation and contains real inconsistencies. Object (c) refers to recognising and fostering the significant social and economic benefits to the State that result from a sustainable coastal environment. The Coalition supports that approach, but the amendment goes on to state that those benefits accrue to the environment, urban communities, the fishing industry and so on. It does not make sense. People issues should be considered first; we should first examine how we can generate income and create wealth from the environment. If we then want to maintain the environment and continue to create that wealth forever, we must maintain the environment in an appropriate form. This amendment attempts to put environmental issues, rather than people issues, first. The Coalition opposes the amendment.

Amendment agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.10 p.m.]: I move Government amendment No. 2:

No. 2 Page 3, schedule 1. Insert after line 13:

[2] Section 6 Administration

Omit the section.

[3] Section 36 Administration

Omit the section.

The Government moves this amendment to overcome the problems associated with changes in portfolio responsibilities. The omission of these sections will allow any future change to be addressed by administrative change orders.

The Hon. RICK COLLESS [4.10 p.m.]: The Opposition will not oppose this amendment.

The Hon. IAN COHEN [4.10 p.m.]: The Greens are happy to support the Government on this amendment.

Amendment agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.11 p.m.]: I move Government amendment No. 3:

No. 3 Page 3, schedule 1. Insert after line 15:

[3] Section 37A Implementation of principles of ecologically sustainable development

Omit "have regard to". Insert instead "promote".

This amendment will ensure a greatly enhanced recognition of the principle of ecologically sustainable development in coastal management.

The Hon. RICK COLLESS [4.11 p.m.]: The Opposition will support this amendment.

Amendment agreed to.

The Hon. IAN COHEN [4.12 p.m.]: I move Greens amendment No. 2:

No. 2 Page 3, schedule 1. Insert before line 16:

[3] Section 38 General supervision of coastal zone

Insert before section 38 (1) (c):

(b1) be inconsistent with the principles of ecologically sustainable development, or

[4] Section 39 Special provisions respecting coastal development

Insert before section 39 (4) (a):

(a1) be inconsistent with the principles of ecologically sustainable development, or

[5] Section 44 Matters for consideration in relation to concurrence

Insert before section 44 (a):

(a1) be inconsistent with the principles of ecologically sustainable development, or

The changes in this amendment will ensure consistency with ecologically sustainable development [ESD] and sections 38, 39 and 44 of schedule 1. The New South Wales Greens have worked with the Government to get amendments to this bill such as the inclusion of "promoting" ESD rather than just "having regard to" it. This amendment is totally consistent with this approach and adds to the meaning. It is important that we provide in the legislation the necessary tools for the judicial interpretation of our intent. It is clearly the intent of Parliament—I would hope—for the legislation to rule out activities that are inconsistent with the principles of ESD.

I understand that ESD needs to be in each provision of the bill so the court has power to consider it. The court cannot consider any matter just because it is somewhere in a bill; it needs to be in the specific provisions where the court is likely to be directed to look. His Honour Justice Stein of the New South Wales Court of Appeal, in his recent paper "Are decision makers too cautious with the Precautionary Principle?", at page 3 of volume 17 EPLJ 1, outlined the problems with aspirational commitments to ESD in New South Wales Acts. He said:

> The inclusion of the principles [of ESD] in Australian legislation has been largely confined to objectives of statutes or agencies without any real guidance to decision makers as to whether and how to apply the core principles or what weight to give them.

He viewed legislators as creating soft law and outlined his view of the court's role as follows:

> Our task is to turn soft law into hard law. This is an opportunity to be bold spirits rather than timorous souls and provide a lead for the common law world.

I ask honourable members to hear the judges concerns about soft law and assist the courts in their task of taking ESD from the lofty international stage and ensuring it is practically applied by decision-makers in New South Wales when making decisions that affect the sustainability of the New South Wales coast. I seek the Committee's support for Greens' amendment No. 2, which will ensure that decisions are made by the Minister in a manner consistent with the principles of ESD. This amendment will broaden sections 38, 39(4) and 44 to ensure consistency with ESD when the Minister considers proposals that would adversely affect the behaviour of the sea, dunes, beaches and shorelines.

Given that the Coastal Protection Act was created in 1979, it is no wonder that the relevant provisions do not refer to ESD as a criterion. ESD was only emerging as an international concept, developing from the German concept of the vorsorgeprinzep, or foresight principle, which later developed into the precautionary principle. This is a logical extension of these earlier considerations and is entirely consistent with the Government's amendment to provide in the exercise of functions under this part that the Minister promote ESD. This amendment stops paying lip service to ESD and takes it into the real world. I commend this Greens amendment to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.15 p.m.]: It might surprise the Hon. Ian Cohen, given some of his contributions to debates, that the Government accepts this amendment. It reinforces the need for the proper consideration of the principles of ecologically sustainable development in relation to coastal management.

The Hon. RICK COLLESS: It may also come as a surprise to the Hon. Ian Cohen that the Coalition will not oppose this amendment either.

Amendment agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.15 p.m.], by leave: I move Government amendments Nos 4, 5 and 6 in globo:

No. 4 Page 3, schedule 1. Insert before line 16:

[4] Section 54 Administration

Omit the section.

No. 5 Page 3, schedule 1. Insert before line 16:

[5] Section 54A Implementation of principles of ecologically sustainable development

Omit "have regard to". Insert instead "promote".

No. 6 Page 3, schedule 1 [3], line 18;

page 3, schedule 1 [3], proposed section 55B, lines 24 and 27.

Insert “zone” before “management” wherever occurring.

As was the case with Government amendment No. 2, the Government moves amendment No. 4 to overcome the problems associated with the changes in portfolio responsibilities. The omission of these sections will allow any future changes to be addressed by way of administrative change orders. Government amendment No. 5 is moved for similar reasons to our amendment No. 3. Amendment No. 6 will change all references in the bill to "coastal management plans" to "coastal zone management plans", a more accurate and specific phrase. This will ensure consistency with the Government's coastal zone management manual, which is currently being prepared under the guidance of the Coastal Council of New South Wales and will provide the necessary guidelines to support councils in the development of coastal zone management plans.

The Hon. IAN COHEN [4.16 p.m.]: In the spirit of co-operation the Greens are happy to support these amendments. In particular, I commend the Government's recognition of the coastal zone and for clarifying the situation. People might see the coastal zone as the beach, but it includes other aspects of what is an intricate ecosystem that involves headlands, ridge lines back from the coast and other ecosystems. All these are closely interrelated and I am pleased that the Government recognises this concept.

The Hon. RICK COLLESS [4.17 p.m.]: The Opposition will support these amendments.

Amendments agreed to.

The Hon. RICHARD JONES [4.18 p.m.], by leave: I move my amendments Nos 3, 4, 5 and 6 in globo:

No. 3 Page 3, schedule 1 [3], line 26. Omit "and who is directed to do so by the Minister must". Insert instead "may, and must, if directed to do so by the Minister,".

No. 4 Page 3, schedule 1 [3]. Insert after line 28:

(2) Two or more councils whose areas adjoin may decide to join in the making of a coastal zone management plan in accordance with this Part.

(3) If, under subsection (2), two or more councils decide to join in the making of a coastal zone management plan, a reference in this Part:

(a) to a council includes a reference to those councils, and

(b) to an area includes a reference to the areas of those councils.

No. 5 Page 9, schedule 1. Insert before line 4:

[4] Section 56A

Insert before section 57:

56A Restoration orders

(1) The Land and Environment Court, in proceedings under this Act, may order a person to take such steps as are specified in the order, within such time as is so specified (or such further time as the Court on application may allow):

(a) to prevent, control, abate or mitigate any harm to the environment or any loss of amenity caused by anything done or omitted to be done by the person, or

(b) to make good any resulting environmental damage, or

(c) to prevent the continuance or recurrence of any such harm to the environment or any such loss of amenity.

(2) Without limiting subsection (1), the Court may order a person to remove or clean up material dumped during a beach erosion event.

(3) In this section, ***environment*** and ***harm*** have the same meanings as in the *Protection of the Environment Operations Act 1997*.

No. 6 Page 9, schedule 1. Insert after line 6:

[5] Section 58 (1)

Omit "10 penalty units". Insert instead "100 penalty units".

[6] Section 58 (2)

Omit "2 penalty units". Insert instead "10 penalty units".

Amendment No. 3 allows coastal councils to prepare coastal management plans without the need for a direction from the Minister. This amendment provides for greater effectiveness and efficiency as it removes the need for the Minister to make directions before coastal management plans can be prepared. Amendment No. 4 allows coastal councils to jointly prepare coastal management plans. This amendment will make the preparation of coastal management plans more effective and efficient as councils will be able to pool their resources, therefore reducing the cost of preparing such plans. Amendment No. 5 enables the Land and Environment Court to make restoration orders to ensure that any environmental damage caused by illegally dumped material during beach erosion is rectified. Amendment No. 6 provides penalties for offences such as obstructing and hindering those exercising their duty that are more in line with other legislation such as pollution laws.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.19 p.m.]: The Government supports each of these amendments. It accepts amendment No. 3. Councils generally have prepared management plans without the need for express direction from the Minister, and the Government is happy to encourage continuation of this practice. The Government accepts amendment No. 4, which recognises the potential for adjoining councils to combine to undertake a management plan with potential cost savings and efficiencies for both. The Government accepts amendment No. 5 because it reinforces the provisions set out in section 55L, which give the Minister and councils the power to bring breaches of coastal management plans before a court. The Government accepts amendment No. 6, which reinforces the concern of all parties for ensuring that the coastal zone is managed in an appropriate manner.

The Hon. IAN COHEN [4.20 p.m.]: The Greens support the amendments moved by the Hon. Richard Jones. We are pleased that councils will be able to take proactive action when formulating their plans. Recently there have been some notable cases in which councils should have called on the State Government for support because, for various reasons relating to management issues, they were unable to put plans into action. The coast does not know political boundaries, and there is a strong argument for councils to get together to formulate coastal management plans that cross their borders. That seems to be a sensible direction to take.

In my home town I have had experience with council being unable to take action against individuals, landowners and so on who illegally dumped infill during times of storm disturbance and high seas which impacted upon the coast. It is important that councils have the power to take action. There is a degree of control on what action can be taken against individuals who destroy the public amenity and at the same time have a severely deleterious impact on neighbours' beachfront properties. The approach to these matters must be co-ordinated. In terms of protection, there is no appropriate role for individuals to act outside what is a common interest. I support the amendments moved by the Hon. Richard Jones.

The Hon. RICK COLLESS [4.22 p.m.]: I ask that the question on these amendments be put seriatim. The Coalition opposes amendment No. 3. The amendment first circulated by the Hon. Richard Jones contained slightly different wording to the amendment before the Committee. Originally he wanted to ensure that coastal councils were forced to prepare a coastal management plan. That has been watered down to "may, and must, if directed to do so by the Minister". The amendment contains an expectation that coastal councils will have to prepare a coastal management plan at some stage. That is a little over the top. The Opposition believes that councils that are currently doing the right thing without a coastal management plan should be allowed to continue to do the right thing. The Government should not be imposing by regulation yet another unfunded mandate on local government. Over the past few years a whole sweep of unfunded mandates have been imposed on local government, and this is just one more example of that.

The Opposition is strongly of the view that if a coastal council is not doing the right thing the Minister should have the power to force that council to undertake a coastal management plan. However, if the council is doing the right thing and the community is happy with what is happening, the council should not be expected to spend a lot of money on preparing a coastal management plan when in fact it may not be needed. The oyster industry has raised some issues with the Opposition in relation to this bill. The industry informs us that it operates within the coastal zone in sheltered estuarine waters such as inlets, rivers and lakes. The industry is worth some $31.5 million in annual sales in New South Wales.

Growing regions may be found along the coast from the north to the south of the State. Many of those areas are in close proximity to popular coastal centres which are undergoing exponential growth from the rural drift, the lifestyle seeker and the holiday-maker. More than 75 per cent of the population live and work in towns and cities near estuaries. The oyster industry has an interest in preserving its environment, both land and water, for its long-term viability. Any developments to the Coastal Protection Act through this bill are of utmost concern and interest to the industry. The oyster industry suggested that the Opposition should move some amendments but they came through very late in the process. Therefore, I shall simply put the industry's concerns on the record so that they can be addressed in the management of the Act.

The oyster industry would support any strategic and planned approach to the responsible management of future development in the coastal zone. However, it has concerns regarding the ad hoc and individual basis of these plans, and urges that they be written in order to maintain the principles contained in State environmental planning policy 62 and arranged through the aquaculture industry development plans. Expansion of the aquaculture industry, following ecologically sustainable development guidelines, must not be jeopardised by bias or misunderstanding that may occur at the council level.

Having been present for 130 years and being permanent residents on the water and foreshores, the oyster industry has the burden of monitoring the effects of development in this area and, with endorsement, to actively conserve that environment. The industry understands accretion and erosion mechanisms, both natural and those caused by increasing water traffic. It has grave concerns that measures endorsed in the past by the Department of Land and Water Conservation and local councils to slow erosion on estuarine banks might be ignored, and indeed reversed, under a coastal zone management plan to the detriment of oyster production areas and the preservation of foreshore and adjoining estuary environments.

The industry would request that the council be astute in its consideration of future preventive work applications not only for the benefit of the oyster industry but also for the maintenance of access to existing

public beach areas, for example, river or estuary foreshore. In relation to section 55, the oyster industry would like clarification that existing legislation and provisions that promote oyster production and current land usage will be taken into account when a council is included in the coastal management zone and is directed by the Minister to prepare a coastal management plan. That is a perfectly reasonable request to make on behalf of the oyster industry.

The Coalition supports amendment No. 4 moved by the Hon. Richard Jones. It makes perfect sense to allow two or more councils to make a common plan in those areas where they have a common coastal zone. The Opposition has some concerns about amendment No. 5 relating to restoration orders. Again, it is a case of overregulation, The amendment states:

> … the Court may order a person to remove or clean up material dumped during a beach erosion event.

One must ask the question: To what extent will that apply? Is the honourable member talking about the natural deposition of natural material such as sand? It simply states that a court may order a person to remove or clean up material dumped during a beach erosion event. Dumped by what? Does it mean dumped by people or dumped by the storm event? The Opposition will be opposing that amendment. I am gravely concerned that amendment No. 6 provides for an increase from 10 penalty units to 100 penalty units without justification. Perhaps the Hon. Ian Macdonald will explain why the Government supports a tenfold increase in penalties. He is not listening to me but is instead, as the late Hon. Doug Moppett would have said, perambulating in the Chamber. I seek some justification for the Government's support for the proposal to increase tenfold the penalties currently applying under the legislation.

The Hon. RICHARD JONES [4.30 p.m.]: It is a pity that the Hon. Rick Colless was unable to present the amendments relating to the oyster industry prior to the Committee stage because they may well have been supported. I agree with him that the oyster industry is very sensitive. Oysters are filters of pollution, so it is very important that waters in which oysters are harvested are pure. One might loosely adapt a metaphor and describe oysters as the pit canaries of waterways. I do not understand the opposition of the Hon. Rick Colless to amendment No. 3, which merely allows coastal councils to prepare coastal management plans if they wish to do so. The amendment does not change the Minister's direction. The Minister may still direct the council, but the amendments simply add scope for coastal councils to prepare plans if they wish to do so. Amendment No. 5 relates to dumping. I believe that if a matter were ever to come before a court, it would be made clear that the Parliament's intention is that the provision clearly relates to illegal dumping, not natural dumping. That should be made quite clear.

Amendment No. 3 agreed to.

Amendment No. 4 agreed to.

Amendment No. 5 agreed to.

Question—That amendment No. 6 be agreed to—put.

The Committee divided.

Ayes, 21

Dr Burgmann	Mr Egan	Mr Tsang
Ms Burnswoods	Mr Hatzistergos	Mr West
Dr Chesterfield-Evans	Mr R. S. L. Jones	Dr Wong
Mr Cohen	Mr Macdonald	
Mr Corbett	Mr Obeid	
Mr Costa	Ms Rhiannon	*Tellers,*
Mr Della Bosca	Mrs Sham-Ho	Ms Fazio
Mr Dyer	Ms Tebbutt	Mr Primrose

Noes, 17

Mrs Forsythe	Mr Lynn	Dr Pezzutti
Mr Gallacher	Reverend Dr Moyes	Mr Ryan
Miss Gardiner	Reverend Nile	Mr Samios
Mr Gay	Mr Oldfield	*Tellers,*
Mr Harwin	Mrs Pavey	Mr Jobling
Mr M. I. Jones	Mr Pearce	Mr Colless

Question resolved in the affirmative.

Amendment No. 6 agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.39 p.m.], by leave: I move Government amendment Nos 7, 8, 9, 10 and 11 in globo:

No. 7 Page 4, schedule 1 [3], proposed section 55C, lines 1 and 2.

Insert "zone" before "management" wherever occurring.

No. 8 Page 4, schedule 1 [3], proposed section 55C (2), lines 16–18. Omit all words on those lines.

No. 9 Page 4, schedule 1 [3], proposed section 55D, lines 19 and 20;
page 4, schedule 1 [3], proposed section 55E, lines 27 and 31;
page 5, schedule 1 [3], proposed section 55F, lines 3 and 6;
page 5, schedule 1 [3], proposed section 55G, lines 10 and 12;
page 5, schedule 1 [3], proposed section 55H, lines 13, 14 and 16;
page 5, schedule 1 [3], proposed section 55I, lines 19, 20, 21, 22 and 23;
page 5, schedule 1 [3], proposed section 55J, lines 24 and 25;
page 6, schedule 1 [3], proposed section 55K, lines 2, 4 and 8;
page 6, schedule 1 [3], proposed section 55L, lines 10, 13, 15, 16, 22, 25 and 28;
page 6, schedule 1 [3], proposed section 55M, line 29.

Insert "zone" before "management" wherever occurring.

No. 10 Page 7, schedule 1 [3], proposed section 55M (1) (c) (ii), line 10. Insert "not being a structure lawfully erected before the commencement of this section," after "beach,".

No. 11 Page 8, schedule 1 [3], proposed section 55N (1) (a), line 9. Insert "or which adjoins the tidal waters of Sydney Harbour or Botany Bay, or their tributaries," after "coastal zone,".

The Government has moved amendment No. 7 for reasons that are similar to those outlined during discussion on Government amendment No. 6. It has moved amendment No. 8 consistent with its decision not to allow the creation of easements by proceeding with an amendment to the Crown Lands Act as set out in the schedule 2. The Government has moved amendment No. 9 for reasons similar to those outlined during discussion on its amendments Nos 6 and 7.

The Government has moved amendment No. 10 to ensure that the provisions of section 55M (1) (c) (ii) are not interpreted as requiring the removal or demolition of existing waterfront structures which are the subject of appropriate approval. Amendment No. 11 will ensure that the modified doctrine of erosion and accretion is applied consistently across all mean high-water mark boundary issues. Without this amendment there would be differing standards and a differing onus of proof applying to Sydney Harbour and Botany Bay.

The Hon. RICK COLLESS [4.40 p.m.]: The Coalition will support the amendments. Amendment No. 11 proposes additional words to refer to those waters "adjoining the tidal waters of Sydney Harbour or Botany Bay, or their tributaries". I am pleased the Government has yielded to pressure brought to bear by the National Party with respect to those issues, for many representations were made to us regarding that issue. We congratulate the Government on taking those matters on board.

The Hon. IAN COHEN [4.41 p.m.]: The Greens oppose amendment No. 8 but support the other amendments.

Amendments agreed to.

The Hon. RICK COLLESS [4.41 p.m.]: Opposition amendment No. 1 as circulated therefore lapses.

The Hon. IAN COHEN [4.42 p.m.], by leave: I move Greens amendments Nos 3, 4 and 5 in globo:

No. 3 Page 8, schedule 1 [3], lines 16 and 17 (proposed section 55N (2) (a)). Omit all words on those lines.

No. 4 Page 8, schedule 1 [3], lines 32 and 33 (proposed section 55N (4) (a)). Omit all words on those lines.

No. 5 Page 9, schedule 1. Insert after line 3:

[4] Section 56

Insert after the heading to Part 5:

56 Restraint of breaches of this Act

(1) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.

(2) Proceedings under this section may be brought by a person on his or her own behalf or on behalf of himself or herself and on behalf of other persons (with their consent), or a body corporate or unincorporated (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.

(3) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.

(4) In this section:

(a) a reference to a breach of this Act is a reference to:

(i) a contravention of or failure to comply with this Act, and

(ii) a threatened or an apprehended contravention of or a threatened or apprehended failure to comply with this Act, and

(b) a reference to this Act includes a reference to the following:

(i) the regulations,

(ii) a concurrence of the Minister under Part 3,

(iii) a right or consent granted as referred to in section 38,

(iv) an order under section 39,

(v) a notice under section 51,

(vi) a direction under section 52,

(vii) a direction under section 55,

(viii) a coastal management plan made under Part 4A,

(ix) an order under section 55M.

The Government proposes to give the court jurisdiction to make a declaration that would increase the area of land to the landward side of the mean high-water mark if there is a perceived trend that accretion is likely to be indefinitely sustained by natural means. The Greens have moved the amendments to remove that provision. The Government's proposal is subjective and not easily interpreted in law. It refers to a perceived trend likely to be indefinitely sustained by natural means. We believe that it holds out false hope to landowners that they will be able to take advantage of a natural accretion and add it to their property title.

Surely, our experiences with coastal process are telling us that there is no certainty when it comes to nature. The natural forces that lead to an accretion of land are more than likely to change. Humans are constantly interfering with natural processes, and this leads to consequences that were not originally considered when the actions were undertaken. If the Government and the Opposition opposes my amendments, they will open the way for a new raft of compensation claims as natural processes erode lands that perhaps last decade were accreted. They will also open the way for a new round of conflict over public easements and access to foreshores. The Greens believe that any land that is deposited between a freehold title and the mean high-water mark should be considered part of the common until nature removes it again. I commend my amendments to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.44 p.m.]: The Government does not support Greens amendment No. 3, because it unnecessarily revokes the capacity of property owners to seek boundary adjustments when the accretion can be shown to be indefinitely sustainable. The Government also opposes Greens amendment No. 4 for reasons similar to those outlined in the discussion on Greens amendment No. 3. The Government does not support Greens amendment No. 5. The intent of the amendment is to allow third party appeals in the Land and Environment Court. The Government is opposed to such powers in principle because of the increased workload that such powers would create for the Land and Environment Court.

The Hon. RICK COLLESS [4.45 p.m.]: The Opposition also is opposed to Greens amendments Nos 3 and 4 for reasons similar to those put forward by the Government. In addition, the Opposition has a problem with the word "perceived". It is dangerous to put in an Act of Parliament an event that could be described as a "perceived trend". If any terminology is necessary, it should be along the lines of "definite trend", not a "perceived trend". "Perceived" is an indefinite term. Perceived by whom? This is not explained. Greens amendment No. 5 is heartland to the National Party. We do not believe that any person should have a third party right of appeal.

The Hon. Dr Brian Pezzutti: The Greens try this on all the time.

The Hon. RICK COLLESS: As my colleague points out, they try it on all the time. This amendment would give a right of appeal to anyone who drove along a road and thought, "That does not look right. We will fight those people for this in the Land and Environment Court. "

The Hon. Ian Cohen: It is on the beach, not on the road.

The Hon. RICK COLLESS: Wherever it is. The Greens want to have this right over all of our countryside, not just on the beaches. They want the right in respect of wilderness areas as well as threatened species. The National Party is totally opposed to the concept of third party appeals being brought by any person. We strongly oppose Greens amendment No. 5.

Amendments negatived.

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.46 p.m.]: I move Government amendment No. 12:

No. 12 Pages 9 and 10, schedule 1 [6], proposed clause 3, lines 14, 16, 19 and 24 on page 9 and line 1 on page 10. Insert "zone" before "management" wherever occurring.

This amendment is moved for reasons similar to those outlined in the discussion on Government amendments Nos 6, 7 and 9.

CHAIRMAN: Order! Government amendment No. 12 conflicts with amendment No. 7 of the Hon. Richard Jones.

The Hon. RICHARD JONES [4.47 p.m.]: I will not move my amendment No. 7.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedule 2

The Hon. IAN MACDONALD (Parliamentary Secretary) [4.47 p.m.]: The Government will vote against this schedule. The Government does not propose to proceed with the amendment to the Crown Lands Act as set out in schedule 2, for the same reasons as those raised in the discussion on Government amendment No. 1.

The Hon. RICK COLLESS [4.48 p.m.]: The Opposition also will support this amendment. Section 58 was by far the section on which we had most representations during the consultation phase of the bill. Many concerns were expressed to us about easements, public access to easements, and so on. The National Party proposed an amendment to the schedule if it were to remain in the bill. Of course, it will not now move that amendment. It will support the Government amendment to delete schedule 2. Again I congratulate the Government on its decision, after much negotiation, to delete the schedule. This schedule was the provision of the bill that caused us and most constituents of Lake Macquarie and other areas the most heartache.

The Hon. IAN COHEN [4.50 p.m.]: The Government is planning to remove proposed section 58A from this legislation. The Greens are disappointed by this action as it will remove a significant purpose for introducing this bill in the first place, that is, to ensure public access to our foreshores. First, I need to correct a mistake that I made in debate on the second reading of the bill. The Greens support compensation if a legally erected structure needs to be modified to create a public easement. Obviously, that does not apply to structures that have been erected without proper planning approvals. I repeat for the record that the Greens support compensation being paid—and amendments that I moved earlier make this clear—when a legally erected structure needs to be modified to create a public easement.

The main criticisms of proposed section 58A have been that it is retrospective. The Greens compromise amendment will remove any chance of retrospectivity. The Minister will not have the power to create an easement that requires the removal of a permanent structure in existence at the date of commencement of this section. The Greens proposed amendment would give the Minister power to create an easement for public

access by requiring modification of a legally erected permanent structure, but it makes it clear that any exercise of this power will ensure that the owner is entitled to compensation. A further concern, particularly from Lake Macquarie residents, was that the creation of public easements would allow people to picnic or camp on this land.

The Greens compromise amendment deals with this concern by ensuring that any easement may be created only for the purpose of securing access to a beach, headland or waterway. Public access to our waterways is part of our common law rights. It comes to us through the written system of laws dating all the way back to 576 AD and the rule of Roman Emperor Justinian. The Institutes of Justinian held:

> By the law of nature these things are common to all mankind; the air, running water, the sea and consequently the shores of the sea.

No-one, therefore, was forbidden to approach the seashore. In those times, with the only true highways for commerce being the rivers, bays and open ocean, nearly all commerce depended upon ships, wharves and harbours. Free use of the foreshores and waters was imperative, not only for commerce but also for sustenance and survival. In America, for example, the shore lands were given protection in the name of the State for the use and enjoyment of the public, both living and future generations. These rights of the public to the shore lands and waters are known today as Public Trust rights and the shore lands and waters are known as Public Trust lands and waters.

States hold these lands and waters in trust for the benefit of the public, hence the name Public Trust doctrine. The creation of public easements to ensure continued public access to beaches, headlands and waterways is consistent with the doctrine of Public Trust, which has recently been used by the Government in its support for increased penalties for marine pollution. The Greens believe that there should be consistency of approach. Therefore, I urge all honourable members to support the Greens compromise amendments, which will enable continued public access to these common lands.

I do not expect honourable members to be aware of the fact that in many areas in the United States of America whole sections of beach are locked up or are in private hands. However, a different situation exists in Australia. Families can take their beach umbrellas and their surfboards to any beach in Australia.

[*Interruption*]

The issue referred to by the Hon. Rick Colless has occurred because governments of every political persuasion have been too stingy to spend money on maintaining these valuable public areas. I am sure that the Hon. Rick Colless is in favour of locking up land, preventing Aboriginal access to them—as we have witnessed in recent times—and imposing all sorts of rights on private property. I refer to a ranch in California where an enclave of wealthy surfers has its own private beaches. There is only one way in which people can access those beaches.

The Hon. Ian Macdonald: Did you call me a redneck?

The Hon. IAN COHEN: No, I did not, but I will if it would make the honourable member feel more comfortable.

The Hon. Ian Macdonald: I ask the honourable member to withdraw that threat.

The Hon. IAN COHEN: Contrary to the assertion made by the honourable member, it was an offer, not a threat.

The Hon. Dr Brian Pezzutti: You have your own private beach.

The Hon. IAN COHEN: In committee hearings and in this Chamber I am continually entertained by the Hon. Dr Brian Pezzutti, who has admitted to me that he loves to go fishing—with a fag in his mouth—in the polluted waters of the Belongil River. However, on this occasion he has it completely wrong. My property borders on a nature reserve that has public access to the beach. I and members of the public use graded tracks that lead to the beach. The honourable member's lifestyle has probably rendered him too unfit to climb down such steep and onerous tracks. He seems to believe that these tracks are all locked up and that a roadway should be cut through the nature reserve to permit access to beaches in that area.

I assure the honourable member that there are tracks and public access to every one of those beaches. I referred earlier to the ranch in California, which is a classic example of wealthy people owning a beach and not allowing others to have access to it. The only way in which people who do not own real estate in that area can obtain access to that beach is by boat. We must work towards avoiding that sort of thing happening in Australia. The coast must belong to all and be treated respectfully by all.

The Hon MICHAEL GALLACHER (Leader of the Opposition) [4.57 p.m.]: After listening closely to debate on these issues I am relieved, as shadow Minister for the Hunter, that commonsense has finally prevailed in relation to proposed section 58A. A number of comments were made about Lake Macquarie.

The Hon. Dr Brian Pezzutti: Another backflip.

The Hon. MICHAEL GALLACHER: It is another backflip by this Government. I note the comments made earlier by the Hon. Ian Cohen. A lot of people—ordinary working-class people— moved to Lake Macquarie many years ago when it was not fashionable to live in an area that offered no services. The services that are provided in that area today are not outstanding by any measure in this day and age, but they are certainly better than they were 20 or 30 years ago. The services will further improve in March next year when the Coalition parties are elected to government. However, that is a debate for another day.

Commonsense has finally prevailed and the Government has withdrawn proposed section 58A. It is worthwhile placing on the record our congratulations to the people of Lake Macquarie—ordinary residents who banded together to put pressure on this Government. I assure all honourable members that electorates such as Lake Macquarie and Swansea, which are held by a healthy margin by Government members, will not have such a healthy margin in the future. That applies also to seats in southern Sydney and in the north of the State. We heard in the last 24 hours that the honourable member for Newcastle is under severe threat from an Independent. The same situation will apply in other electorates throughout the Hunter region.

We all look forward to the battle in the Hunter region over the next few months. We will see what Labor's heartland really looks like post-2003. Residents of Lake Macquarie, Bonnells Bay, Toronto, Swansea and Belmont demonstrated to the Government that this proposed section would have an adverse effect on their communities. In the past few months, in our capacity as members of the Opposition, we have made representations to the Government on behalf of those residents. Submissions from local residents have finally filtered through to this Government.

I am sure the Hon. Ian Macdonald would be extremely relieved to know that this issue is finally off the drawing board for him. Like many members of the Government, I am sure he has received substantial correspondence from Lake Macquarie residents seeking assistance and advice from members of the Legislative Council. Of course, until recently the residents were not getting the response from members of the Government that they had hoped for. The Government realised that the writing was on the wall in relation to Lake Macquarie, and that it had no alternative in relation to that area. Likewise on the Central Coast, this is an extremely important issue.

However, the residents of Lake Macquarie showed exactly what people power can achieve, by getting the Government to withdraw the provision. Indeed, as the Hon. Dr Brian Pezzutti rightfully interjected a short time ago, this is another backflip by the Government. It realised it was in trouble; it is now trying to step away from every problem that it possibly can. This was going to be a huge problem for the Government. Fortunately, commonsense has prevailed for the folk who live around Lake Macquarie and who will continue to do so for years to come.

The Hon. JOHN JOBLING [5.01 p.m.]: I suspect that other members have received an enormous amount of correspondence and countless telephone calls about this issue, as I have. I know many of the people in the Lake Macquarie area who would have been affected by this provision. They have banded together in a magnificent effort to bring their argument home. I am pleased that the Government has now resolved that it will not proceed with proposed section 58A. It shows that occasionally commonsense prevails—or was the result of the recent by-election for the Federal seat of Cunningham or the fact that the State seat of Lake Macquarie has been held previously by an Independent the catalyst for the Government's decision in this regard? I am pleased that the Government has listened to community representations, and has recognised the efforts of the community in raising funds. That the provision is being withdrawn is a step in the right direction. I am sure that all those who have taken the time to contact me about this matter will be as pleased with the outcome as I am.

The Hon. Dr BRIAN PEZZUTTI [5.02 p.m.]: I remind the Hon. Ian Cohen that while he has been pussyfooting around with environmental issues for some years, and because he is so young, he may have missed the opportunity to understand that just prior to the Coalition coming to office in 1988 Michael Cleary took a catalogue to Japan with the intention of selling off Broken Head. Had he succeeded, it would have become Australia's first private beach. It was the plan of the previous Labor Government to sell off that beach. When the Coalition came to office it was criticised for its coastal policy, but since Nick Greiner sterilised the coast in 1990, the 50-metre erosion line plus 50 metres has been a no-go zone for development. The present Premier, Bob Carr, was the Minister for the Environment in the Labor Government that attempted to flog off the Broken Head caravan park and all its accoutrements.

When I leave this place I will be more than happy to be an adviser to the Hon. Ian Cohen on the history of coastal planning and development, because it is something that I know a little about. As were my leader and the Hon. John Jobling, I too was impressed with the honesty of the campaign undertaken by the people of Lake Macquarie. The Hon. Ian Cohen is probably not aware that Lake Macquarie is starting to silt up because of the bridge that was built over the outlet to the lake by Laurie Brereton. That bridge was almost an environmental disaster. I remind honourable members that Laurie Brereton's electorate adjoined that of Michael Cleary's. They were of the same ilk. As I said, I would be more than happy to be an adviser to the Hon. Ian Cohen on the history of coastal planning, and I will be more than happy to follow his progress in pursuing the ongoing concerns that I and many members on this side have had about coastal planning and the environment, particularly in terms of ensuring that Australians can enjoy beaches unfettered by the sort of private ownership about which the honourable member is concerned.

Many roads have been closed as a result of the creation of national parks. Consequently, many disabled people cannot gain access to the beaches that the Hon. Ian Cohen speaks about. Of course, able-bodied people, such as me, are able to gain access to beaches such as that lovely beach just below the property of the Hon. Ian Cohen. The path to the beach is not particularly difficult to negotiate, but it is off the road and at the far end of it motorists experience difficulty turning and reversing their vehicles.

The Hon. Richard Jones: Have you been to Kings Beach?

The Hon. Dr BRIAN PEZZUTTI: Yes, I have been to Kings Beach.

The Hon. Richard Jones: Were you totally naked?

The Hon. Dr BRIAN PEZZUTTI: I am sure that is irrelevant to this debate.

The Hon. IAN COHEN [5.06 p.m.]: Even today, beach access is very important for me. The catalogue to which the Hon. Dr Brian Pezzutti referred designated Broken Head as a one-stop total destination tourist resort, described in the brochure as the Crown jewels of the North Coast. I remember the document well. I was working on conservation issues before I became a member of Parliament. Even though the Hon. Dr Brian Pezzutti might think I was doing nothing at that time, the fact is that I worked hard on that very campaign. I was appalled by the attempts of the Government of the day to alienate the most beautiful spots along the east coast. I recall that the publication to which the Hon. Dr Brian Pezzutti referred was a small booklet, which was exported with the express idea of privatising public assets.

I agree with the Hon. Dr Brian Pezzutti that that was the intention of the Labor Government at the time. However, I disagree with his suggestion that I have a short memory. As I said, I was working on those issues for many years. I worked very hard to stop the Club Med project at Broken Head and the so-called studio educational academy to the south of Broken Head. I am proud to have been involved in those long campaigns. I go back a long way on these issues. I thank the Hon. Dr Brian Pezzutti for the presumption of youth.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.08 p.m.]: I wish to add to the education of the Hon. Ian Cohen. The Hon. Dr Brian Pezzutti referred to the wonderful report of the Standing Committee on State Development of which the Hon. Richard Jones and I were members and the Hon. John Jobling was Chairman. Prior to the 1991 election, which the Hon. Dr Brian Pezzutti referred to, the Australian Labor Party, in preparation for that election, issued a fine coastal policy that the Government eventually, over time, implemented.

Schedule 2 negatived.

New schedule 3

The Hon. IAN COHEN [5.09 p.m.]**:** I move Greens amendment No. 8:

No. 8 Page 12. Insert after schedule 2:

Schedule 3 Amendment of Land and Environment Court Act 1979

(Section 5)

Section 20 Class 4—environmental planning and protection and development contract civil enforcement

Insert after section 20 (1) (dh):

(di) proceedings under section 56 of the *Coastal Protection Act 1979*,

I commend the amendment to the Committee.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.10 p.m.]**:** The Government does not accept the amendment for the reasons outlined in the consideration of Greens amendment No. 1.

The Hon. RICK COLLESS [5.10 p.m.]**:** The Opposition holds exactly the same opinion. In fact, I am surprised that the Hon. Ian Cohen did not move amendments Nos 1 and 8 in globo, because they refer to the same thing. The Opposition opposes the amendment.

Amendment negatived.

New schedule 3 negatived.

Long Title

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.11 p.m.]**:** I move Government amendment No. 14:

No. 14 Long title. Omit "to amend the *Crown Lands Act 1989* with respect to easements for public access,".

The Government moves this amendment consistent with its decision not to proceed with an amendment to the Crown Lands Act as set out in schedule 2 to allow the creation of easements as discussed previously in this debate.

The Hon. RICK COLLESS [5.12]**:** The Opposition supports the amendment.

Amendment agreed to.

Long title as amended agreed to.

Bill reported from Committee with amendments, including an amended long title, and passed through remaining stages.

FARM DEBT MEDIATION AMENDMENT BILL.

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.14 p.m.]: I move:

That the bill be now read a second time.

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

Leave granted.

The *Farm Debt Mediation Act 1994* is an Act which provides for the efficient and equitable resolution of farm debt disputes.

The Act establishes a structure whereby a farmer is given the opportunity to mediate with the creditor prior to a creditor taking enforcement action on a farm debt.

Farm debts are different to other business loans. Farmers generally include the homestead as part of the security for the farm mortgage.

Enforcement action by a creditor involving foreclosure on the loan therefore means not just loss of the business but also automatic loss of the family home.

In December 2001 I released the NSW Government Review Group Report into the *Farm Debt Mediation Act 1994*.

As well as some representatives from Government Departments, the Review Group comprised representatives from the NSW Farmer's Association, The Australian Banker's Association and the Rural Counselling Service.

The Review Panel generally agreed with the approach of the Farm Debt Mediation Act providing negotiation-based resolutions to farm debt disputes as, unlike the inflexible, all-or-nothing resolution process of the Court system, mediation allowed the parties to retain a greater degree of control over the resolution process.

The Review made around 30 recommendations for improving the Farm Debt Mediation process some of which have already been implemented by the Rural Assistance Authority.

The other recommendations will be implemented by the amendments that are proposed to be made under the *Farm Debt Mediation Amendment Bill 2002*.

This Bill introduces the concept of Farmer-Initiated Mediation into the Act.

The Review Panel found that, at present, no penalty or other consequence attaches to a creditor's refusal of a farmer's request to mediate in respect of a farm mortgage under which the farmer is in default.

In contrast, a certificate under section 11 of the Act to the effect that the Act does not apply to a farm mortgage can be issued if a farmer declines a creditor's request for mediation.

This means there is little incentive for creditors to agree to participate in mediation which a farmer has initiated.

However it is arguable that it may also be to the benefit of the creditor if a farmer anticipates a problem and takes the initiative to contact them to discuss remedial strategies before the situation is such that few feasible options remain.

Ideally, at the end of the process, the creditor will have a performing loan and a new contract that can be enforced.
As recommended by the Review Panel, this Bill proposes to introduce a clause whereby a farmer who owes money to a creditor in relation to a farm debt may notify the creditor in writing that the farmer requests mediation concerning the farm debt involved.

If the farmer is in default of the loan to a creditor and the creditor declines mediation requested by the farmer this may result in the issue by the Authority of an exemption certificate.

An exemption certificate prevents the issue of a section 11 certificate and therefore prohibits the creditor from taking any enforcement action while the exemption certificate is in force.

Exemption certificates remain in force for a maximum of six months or earlier if the farmer and the creditor enter into mediation in respect of the farm debt.

This proposed amendment is designed to give farmers the bargaining power which they currently lack with their creditors.

In addition, the Bill also proposes to introduce an incentive for creditors to mediate in good faith.

At present if a creditor does not mediate in good faith the Authority cannot issue a section 11 certificate until the creditor does mediate in good faith.

This Bill proposes that a creditor who fails to mediate in good faith is prohibited from giving a notice to the farmer under the Act inviting a debtor to mediate, for a period of 12 months, unless the farmer agrees to a shorter period.

This proposal should provide a strong incentive for creditors to attempt to mediate in good faith from the beginning.

The Bill also introduces the requirement that a farmer must be in default under the farm mortgage before mediation notices can be issued by the creditor.

Creditors will no longer be able to issue notices under the Act where a farmer is not in default under the farm mortgage.

The Review Group received a number of submissions regarding the selection of a mediator.

Currently the mediator is chosen by agreement between the farmer and the creditor.

In the past, the Authority has been called upon to resolve a stalemate in the selection of a mediator on five occasions.

By agreement between the parties, the Authority has nominated a mediator to mediate the particular dispute.

A concern was expressed to the Review Panel that some mediators tend to be undertaking a substantial proportion of all mediations.

It was felt that these mediators may have a good reputation with creditors, putting farmers at a disadvantage as creditors have far more experience with the mediation process than do farmers.

The Review Group found that there is a perception in some quarters that, through their more frequent involvement in debt mediation processes, creditors have an advantage over farmers in selecting mediators who favour their position.

Therefore with the intention of giving farmers more power over their own mediations, this Bill proposes to give farmers the initial right to nominate a mediator.

If the creditor rejects the nomination, the farmer must then nominate a panel of at least three mediators from whom the creditor must select one.

Mediators will also be given more of a role under the proposed legislation, including the function of calling pre-mediation conferences and adjourning mediation sessions.

Giving mediators the power to adjourn a mediation session, if it appears that a party would be significantly disadvantaged because of the length of the session, will ensure that mediation by attrition does not take place.

In the early days of the Act, a Heads of Agreement document drawn up at the end of a mediation session would run to one half to perhaps one page of written points agreed upon by the parties.

Over time the agreements developed into legalistic documents running to some twenty to twenty five pages.

Under the proposed Bill mediators will be given the role of preparing a Heads of Agreement document.
This is a document that a mediator will develop as the parties to the mediation agree on certain points as the meditation continues.

The parties may sign the Heads of Agreement within 24 hours of the end of the mediation.

Under these proposals a person representing a party to a mediation will not be able to attend a mediation session unless the person has been given written authority by the party the person represents to enter into a Heads of Agreement.

Any contract deed, mortgage or other instrument, which purportedly results from, or is pursuant to, Heads of Agreement between the creditor and a farmer must reflect the relevant heads of Agreement.

A failure on the part of a creditor will constitute an offence under the Act.

The Bill also proposes to confer a right of review to the Administrative Decisions Tribunal of decisions by the Authority to:

- issue or refuse to issue an exemption certificate;
- issue or refuse to issue a section 11 certificate;
- refuse to accredit a person as a mediator; or
- withdraw the accreditation of a mediator.

I commend the bill to the House.

The Hon. RICK COLLESS [5.15 p.m.]**:** I lead for the Opposition in debate on the Farm Debt Mediation Amendment Bill, which is designed to amend the Farm Debt Mediation Act 1984. The Act provides a structure whereby a farmer is given the opportunity to mediate with a creditor prior to the creditor's taking enforcement action on a farm debt. The farm homestead is often used as security for such a mortgage, and foreclosure on the loan results in the automatic loss of the home. The New South Wales Government review group report into the Farm Debt Mediation Act released last December made 30 recommendations for improving the farm debt mediation process.

This bill introduces the concept of farmer-initiated mediation. It enables a farmer to initiate mediation in respect of a farm debt even though he is not in default of the mortgage. It provides for the issue of certificates of exemption from enforcement action and clarifies their operation. It also establishes a procedure for nominating and choosing a mediator. It provides for review by the Administrative Decisions Tribunal of certain decisions of the Rural Assistance Authority.

All farmers have a story to relate about creditors ringing with the soul-destroying news that their number is up and that the time to settle outstanding debts has come. As my colleague the honourable member for Monaro said in his contribution to debate on the second reading of the bill in the other place, in many cases the details are different from the conventional borrowing scenario in a town or a city; that is, the size of the asset and loan have a different relationship to one another and the potential to sell a property asset or a business quickly is somewhat reduced.

Because of circumstances such as the drought that is plaguing our State at the moment, government policies, variations in commodity prices or decisions made in pursuing particular enterprises, farmers are unable

to pay their debts. They are facing many other pressures that are preventing them paying their debts, including the ridiculous suite of environmental legislation that the extreme environmental organisations have used to con this Government.

The Hon. Richard Jones: That makes no sense.

The Hon. RICK COLLESS: The Hon. Richard Jones says that that is rubbish. It is not. The Wilderness Act has driven people in the Narrabri area from their land. Vegetation conservation legislation has reduced the income of a family in Armidale by $200,000 a year. Members on the crossbenches do not believe that this is happening. They refute it but they do not ask the people who are being affected. It is happening; these people have experienced a $200,000 year a loss in farm income because they cannot proceed with planned development work on their property.

A similar situation has occurred in Tottenham in the Murray-Darling electorate. Country that was cleared 60 to 80 years ago is now covered with regrowth and soil erosion is occurring under the trees because the regrowth has mallee-style roots rather than deep roots. These property owners bought the land intending to halt the erosion and make money by grazing sheep and cropping. They are also losing about $150,000 a year. I am talking about a young family that is trying to make a go of it by working hard. However, these people are suffering because such restrictions have been imposed on them.

The Hon. Richard Jones: They bought an uncleared property.

The Hon. RICK COLLESS: They did not; it was cleared 60 years ago. It is covered in regrowth—not natural forest—which is causing erosion. The same thing happens in regrowth pine forests. I have seen severe soil erosion under a thick cover of pine trees. As soon as the trees are thinned and biodiversity is encouraged, the soil heals itself. These areas must be managed; they cannot be locked up. The legislation is preventing people managing that land and it is having a serious impact.

The Threatened Species Conservation Act is causing the same problems. Business operators in the red gum forests of the Southern Riverina are losing millions of dollars a year as a result of the proposed collection of dead timber. The Resource and Conservation Assessment Council process occurring in the north west is crucifying the timber industry in the Pilliga Forest. People have lost equity and their ability to create wealth. The State Government's legislation is having a severe impact.

I support the thrust of this bill to regulate the mediation process so that farmers can initiate mediation in respect of farm debt even though they are not in default. They will also have the opportunity to take the advice of rural counsellors to try to resolve the problem ahead of potential foreclosure.

The bill will provide for the issue of certificates of exemption from enforcement action and it will clarify the operation of certificates under certain sections of the Act. It will also establish a procedure for nominating and choosing a mediator. In the past, some people have expressed their frustration and distress and have not been able to understand or deal with the mediators in what is supposed to be a negotiating process. The option was not there to reject a particular mediator and propose one more suitable, understanding or capable.

I support the provisions of the bill that give farmers some control in the process. I also support those provisions that provide for a review by the Administrative Decisions Tribunal of certain decisions of the Rural Assistance Authority. We often hear of cases where there are long-term positive prospects for a farm to continue production but it is unable to do so because creditors want to call in the outstanding debts. Hopefully this bill will go a long way to resolving these problems through a good mediation process.

Commodity prices are subject to the marketplace, and weather conditions fluctuate widely, yet farmers costs, charges and taxes continue to rise. This often puts farmers in an awkward position regarding farm debt. They often leave it to the very last minute and are disadvantaged by interest rate increases, drought, or actions such as government legislation that they have not foreseen. The Opposition will not oppose the legislation but I give the House notice that it will move an amendment as flagged by my colleague the honourable member for Lachlan in another place that will specify the time frame within which a mediator should be appointed. The amendment will be in the following terms:

> If a creditor rejects the mediator nominated by a farmer, the farmer must nominate a panel of at least three other mediators within 14 days of the creditor's rejection. If a creditor rejects all of the mediators in the panel, the authority must appoint a mediator within 14 days of the creditor's rejection.

That amendment, if accepted, will impose a time frame of 28 days for the appointment of a mediator. Once a decision has been made by one party or the other, mediation must proceed. Every day that mediation is delayed, interest compounds. The sooner a matter can be resolved, the better. The appointment of a mediator is critical, but the present legislation does not specify a time frame for the appointment of such a mediator. I commend the bill to the House.

The Hon. IAN COHEN [5.22 p.m.]: The Greens support the Farm Debt Mediation Amendment Bill, whose primary intention is to strengthen the position of farmers when it comes to negotiating with banks. We are all aware of instances in which banks have been ruthless and pushy and have shown no compassion to farmers who default on their debts. The banks are the all-powerful creditors. Farmer debtors are far less powerful, particularly when they default on a debt. Honourable members will have been aware from the newspapers and the general media of the terrible problems that have existed in the farming community, particularly in times of flood and drought. In my work on the State development committee I have seen farmers whose backs were against the wall. It is particularly sad when farms that have been owned by families for generations have to be sold off at the behest of banks because the farmers are not able to keep up the payments.

Several provisions in the bill will give farmers a stronger negotiating position. One of these is the introduction of farmer-initiated mediation. Currently there is no requirement or penalty attached if a creditor refuses to participate in mediation. The bill specifies that if a farmer requests mediation with a creditor because he or she has defaulted on a debt and the creditor refuses, the farmer is entitled to be issued with a notice of exemption from enforcement action with regard to the debt. This should encourage creditors to participate in mediation with farmers who request it.

Another important amendment provides for the nomination of mediators. It was found upon a review of the Act that creditors have an advantage over farmers in that selected mediators come from a position of favouring creditors over farmers. A new process will be put in place to ensure that farmers get more say over which person conducts their mediation. Farmers will select the initial mediator. If this person is rejected by the creditor, the farmer must nominate a list of three from which the creditor must pick one. The Greens commend the bill to the House.

Reverend the Hon. FRED NILE [5.24 p.m.]: The Christian Democratic Party is pleased to support the Farm Debt Mediation Amendment Bill, particularly as we played a role in the original Farm Debt Mediation Act passing through this House in 1994. From memory, the Hon. Bryan Vaughan played an important role at that time, because the bill was moved by the Opposition. From the submissions I received I believe that farmers were suffering, and even though it seemed at the time to be a heavy-handed bill it was needed because of the financial pressure on farmers. Farmers were being kicked off their properties and farms were being sold over their heads. A number of farmers had been exploited by some banks who gave them loans that eventually far exceeded the value of their properties.

One of my recollections of that time is the awesome position of being told that the heads of the banks wanted to talk to me about the bill, and then to be in a room with the heads of four of the major banks, who expressed their concern about this bill and how it might affect them. They tried to change my support for the bill. I remained steadfast and supported it in this House.

This bill amends the original 1994 Act. Whether one calls it finetuning or improving the original legislation—we have had from 1994 to now to see how it operates and where it needs further change—it will enable farmers to initiate mediation in respect of farm debt even though the farmers are not in default under the farm mortgage. The bill will also provide for the issue of certificates of exemption from enforcement action and clarify the operation of certificates under section 11 of the Act. It will also establish a procedure for nominating and choosing a mediator, it will provide for a review by the Administrative Decisions Tribunal of certain decisions of the Rural Assistance Authority, and it will make other minor amendments.

Since the original legislation has been in place it has had some positive value and has done a lot of good. Since the implementation of the Act, about 1,500 cases have been considered, 771 of which have been resolved satisfactorily. That is a pleasing result. The Rural Assistance Authority established that about 445 farmers did not act in good faith and that on five occasions the banking industry did not act in good faith. As was said previously, in the other place the National Party foreshadowed an amendment, which seems to be reasonable. It is:

> If a creditor rejects the mediator nominated by a farmer, the farmer must nominate a panel of at least three other mediators within 14 days of the creditor's rejection. If a creditor rejects all the panel of mediators nominated by the farmer, the authority must appoint a mediator within 14 days of the creditor's rejection of the panel.

That amendment will help make the bill more workable and practical. The annual report of the Rural Assistance Authority gives a number of important figures. Honourable members know that the reason for this bill is that there has been a competition policy review, including a consideration of public policy. The review group considered that mandatory mediation was an effective intermediate arrangement with a satisfactory record of delivering efficient and equitable resolution of farm debt disputes. As I said, the 2000-01 annual report of the New South Wales Rural Assistance Authority stated:

> Since the commencement of the Act in February 1995 major creditors have issued 1,574 Section 8 notices to farmers advising them of the creditor's intention to commence enforcement action and of the availability of mediation. 1,364 farmers have responded in terms of Section 9 of the Act, advising the creditors of their intention to enter into mediation. As at 30 June 2001 there have been 864 mediations conducted under the legislation with the parties reaching an agreement in 760 or 88% of the cases.

That is a very encouraging result and shows the value of bringing the two bodies together, the bank and the farmer, and seeking to resolve some of the horrific economic pressures that have been on farmers since 1994. As all members know, the drought is having a big impact on the farming community in New South Wales. I understand that at least 86 per cent of the State has been declared drought stricken. Only 2 per cent of some centres are free of drought, and the balance of the State is suffering marginal drought. Recently I have spoken at meetings at Dubbo, Narromine, Gilgandra and Coonabarabran. In the previous month I visited Tamworth, Armidale and through to Narrabri and Moree. It is a shock to see the condition of the countryside; it is just brown grass, one might say.

The Hon. Rick Colless: There is no grass.

Reverend the Hon. FRED NILE: What grass I could see was dried out. I saw rivers and creeks with no water. Even in the Castlereagh River there were just pools of water, then sand, then another pool of water and more sand. One could hardly call it a river; it is a collection of pools or puddles. That shows the impact of the drought, and the farmers are now in a desperate situation. The Government has talked a lot about giving assistance to farmers. However, I was disappointed to hear the Premier say that the Government would provide assistance in the form of classes to retrain farmers if they want to do something else. I thought the Premier was about to announce some grants.

The Hon. Duncan Gay: It was insulting.

Reverend the Hon. FRED NILE: Yes. I thought the Premier was about to announce not only interest-free loans but grants to bail out the farmers—and I believe that they should still be considered and given by the Government. In the meantime we support this bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.33 p.m.]: The Australian Democrats support the Farm Debt Mediation Amendment Bill. Apart from clarifying certain objectives of the Act providing for efficient and equitable resolution of farm debt disputes between a farmer and a creditor, the bill makes several changes to the principal Act that will go some way to helping farmers and creditors to mediate a commonsense and equitable agreement to paying off debt. By item [33] of schedule 1 to the bill, the Administrative Appeals Tribunal may review decisions of the Rural Assistance Authority under sections 11 and 12 of the Act.

The Democrats are encouraged by the Government's bill because New South Wales farmers need as much help as they can get in the current drought. New South Wales primary producers generate $8 billion annually for the State of New South Wales. As far back as June 2002 the quarterly financial report of the Australian Bureau of Agricultural and Resource Economics [ABARE] predicted that farm incomes would slump by up to 40 per cent due to a strengthening dollar, low commodity prices and, especially, the impending drought.

As at 18 September, 86 per cent of the State had been drought declared and a further 12 per cent had been declared marginal. Those figures are from the *Sydney Morning Herald* of 18 September. The ABARE September quarterly report confirmed that the drought had reduced the New South Wales wheat harvest by 1.5 billion tonnes, and as a consequence grain growers are expected to lose about $2 billion. In an article in the *Sydney Morning Herald* of 15 September the Chief Market Analyst for Meat Livestock Australia, Mr Peter Weeks, said that the drought had also affected livestock production, and that cattle slaughter is down 4 per cent, lambs 6 per cent, and sheep 15 per cent. It is clear that we are now at the beginning of the seven-year El Niño. This is a natural occurrence and we need to be prepared for it, but obviously that is very difficult at a practical level.

It is one thing for a farmer to say he is prepared for drought; it is another to decide when to sell the stock that he might be keeping for breeding purposes and so on. It is a question of the foreseeability of events. The bigger an institution is, the more resources it has, the more diversified its base is, and the more it should understand risks and be willing to take part of them. It always bothers me that the banks seem happy to make money if people are willing to borrow. If people are borrowing unwisely, then in a sense the banks are still able to sell assets and get their money, and the risk is entirely that of the borrower. So the banks invariably make a profit no matter what happens.

Interestingly, the Parliament has passed legislation such as the bill relating to payday lenders, which protects people who are very short of money from paying exorbitant interest rates on loans to get them by until the next payday. In a sense, other creditors who do not have the support and organisational resources of farmers do not have such legislation.

I believe that the Farm Debt Mediation Amendment Bill is just. Generally, farmers have strong assets, but they have problems with seasonal variations in their income. This bill will provide farmers with assistance so they will not lose those assets. I am entirely in favour of that. However, as an aside, I wonder if the Parliament should ask more of the banks in terms of carrying more of the risks on loans. Then the banks would not be able to simply say, "You borrowed the money. It is your fault." In other words, the banks are part of the problem, because Third World loans were made with a view to the short term, without consideration of whether they could be repaid. I wonder whether the Parliament's approach to debt should be more like the approach taken in this bill, which is much more equitable.

A book called *In Banks We Trust* by Penelope Eckert refers to some of the appalling scams in which banks have been involved. Paul Maclean wrote a book called *Banks and Bastards*. He was the Democrat who tried to get a better look at the banks through the Martin inquiry, which at the Federal level was a pale imitation of what could, and should, have been done. I am not an expert in this area but I understand that in Islam countries it is not legal to charge or pay interest. I understand that the banks take an equity share in the enterprise to which they make the loan and thus they win or lose, depending on the individual's efforts, because they are more partners than an entity standing at arms length. Obviously, that is one approach, and at a philosophical level I do not have any problem with it.

In a sense, farm mediation is a step towards that. Perhaps mediation should be provided in more cases so that those who loan the money take more of the risk. In that way they would be more committed to the enterprise and they would share the expertise, the risks, and the profits. Perhaps the Parliament should think of that wider model, rather than merely the provisions in this bill. It is certainly timely during the current drought for farm debt mediation measures to be implemented. In conclusion I will read to the House a poem, *The Long Drought*, which was written by Guang Li, a year 6 student at Claremont College, and published in a 2002 collection entitled *Young Australian Poets*. It tells the story of the plight of many New South Wales farmers:

The chickens were clucking, the cows
were mooing,
All dying of hunger and thirst.
No food to be had, no water in sight,
The days were at their worst.

The farmer was thirsty, his family
starving,
They needed nourishment soon.
His wife was crying, his children sick,
On that night of the full moon.

So he took out his gun, and went outside,
A bullet to each animal he gave.
They were all spared, spared the agonies
of thirst,
If they knew, they would certainly have
forgave.

Looking to the horizon, a longed for
cloud he spied,
And from his lips a *hallelujah* burst.
Oh water! Wondrous and glorious
water!
You are the very first!

Guang Li dedicated his poem to his "Mum and Dad". If members of this Parliament cannot assist creditors and farmers to come to some arrangement of mutual benefit, it is a poor show. I believe that this important Government bill should be supported.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.40 p.m.]: I wish to outline in greater detail the Opposition's support for the Farm Debt Mediation Amendment Bill. As other honourable members have said, the bill is designed to amend the Farm Debt Mediation Act 1994 to enable farmers to initiate mediation in respect of a farm debt, even though the farmer may not be in default under a farm mortgage. When the bill was originally introduced in 1994, it was presented in an unacceptable form and was impossible to support. It is interesting that many people have tried to rewrite history and claim that the farm debt mediation initiatives came from the Labor Party.

The Hon. John Jobling: Not so.

The Hon. DUNCAN GAY: I assure the House that that was not so. The original move toward farm debt mediation came from the rural action movement and a group named Bankwatch. A group of members of Parliament from all political parties was very intimately involved with those people. The original legislation was introduced in 1994, after the 1993 drought, and I have a sense of deja vu because this bill will be passed during drought conditions. One of my main concerns with the original legislation, which I voiced publicly and in the Parliament, was that it had been presented without consultation with the banks. Certain members of the Labor Party said how disgraceful it was that a National Party member wanted to consult with the banks over farm debt mediation. I told them then, as I inform the House now, that it was not disgraceful, because the original legislation affected the amount of credit available to farmers.

The original legislation went too far, and if its original principles had been adhered to, in all probability its effect would have been injurious rather than helpful, despite the very genuine desire on the part of all honourable members involved to provide assistance to farmers. The legislation would have been a hindrance to the very people it was intended to help because it would have limited the amount of credit that was available to farmers. The original legislation was introduced during drought conditions and during a rural commodity recession, unlike the current circumstances, in which drought has followed a period of four years of exceptionally high commodity prices and increases in the value of properties. In 1994 land values had depreciated, interest rates had gone through the roof, and commodity prices were moderate. That is why the Opposition hastened slowly and was opposed to the original farm debt mediation legislation.

There is no doubt whatsoever that farm debt mediation was essential, that it is essential, and that it has helped a lot of people. Thankfully, this time round the Government has designed a bill to promote earlier mediation so that farmers are placed in control to the extent that they can initiate mediation of farm debt without being in default. The legislation will enable farmers to be proactive when financial adversity approaches. It will allow them to take advice from rural financial assistance counsellors to try to resolve problems ahead of potential foreclosure. Many members of Parliament who have mediated in the past would know that that provision is entirely appropriate.

As many honourable members know, I was born into a farming community, I grew up on the land, and I was a farmer before I became a member of Parliament. Being dependent for one's total income on the seasons and fluctuating commodity prices—factors beyond one's control—is vastly different from being a farmer who has an outside income as a member of Parliament, as I am now, or being a Pitt Street farmer, a doctor, an environmentalist, a soothsayer, or a chook strangler. Yet, part-time farmers try to impose their views on matters that they do not understand.

In many cases of farm debt mediation, the details are somewhat different from a conventional borrowing scenario involving property in a town or a city. The size of an agricultural asset and loan has a different relationship from that of urban transactions, and the potential to quickly sell the property, asset or business is comparatively reduced. As I said, the Opposition welcomes the Government having taken this relationship into account, thereby enabling farmers to engage in mediation at an early stage.

The bill will also provide for the issuing of certificates of exemption from enforcement action and it will clarify the operation of certificates under section 11 of the Act. It will also establish a procedure for nominating and choosing a mediator. It is not uncommon for people who are involved in mediation to lack understanding—a subject on which I have been most vociferous on previous occasions—or to deal with mediators in what is supposed to be a negotiation process; and it is also not uncommon for some people to reject a particular mediator and propose one who is more understanding, suitable or capable.

The Opposition supports aspects of the bill that allow farmers to gain greater control over the mediation process, and it supports the provision of the bill that permit the Administrative Decisions Tribunal to review certain decisions of the Rural Assistance Authority. The provision ensures that, before the Rural Assistance Authority can issue a section 11 certificate to a creditor, the farmer must be in default under the farm mortgage, and there is no exemption certificate in force in relation to that farm mortgage. In addition to having an application for a section 11 certificate denied, a creditor who fails to mediate in good faith is prohibited from giving notice under section 8 of the principal Act or from inviting a debtor to mediate for a period of 12 months. That is a very appropriate provision and I congratulate the Government on it. It is an absolute ripper.

Farming issues are sometimes difficult to understand. There is the generational aspect which involves the possibility of the farm being transferred as a holding to second or third generations over a number of decades. Often there is major potential for a farm to continue production whilst at the same time creditors realise any debt that is outstanding. I am hopeful that this bill will ameliorate social costs to small farming communities, which may include a loss of generational equity and a loss of farm production over a period, owing to a bad mediation process. Commodity prices that are subject to marketplace variations and to weather conditions are known to fluctuate widely, yet farmers' costs, charges and taxes continue to climb steadily. That often puts farmers, who want to produce, in a difficult position regarding their farm debt.

Although the bill establishes a procedure for nominating and choosing a mediator, the current legislation does not impose a time frame for appointing a mediator. The Opposition proposes to move a number of amendments to the bill at the Committee stage to specify the time frame within which a mediator should be appointed. If the amendments are accepted they will impose a time frame of 28 days for the appointment of a mediator. It is important that a time frame is established because every day mediation is delayed, interest compounds. The amendments will ensure that the mediation process is not unduly drawn out. The New South Wales Farmers Association has indicated that it is not opposed to the amendments proposed by the Opposition. We hope that the Government also will find the amendments acceptable. This bill achieves what the original legislation failed to do: it gives the initiative back to the farmers. I commend the bill to the House.

The Hon. RICHARD JONES [5.50 p.m.]: When this legislation was first brought before us I had some doubts about whether in the long term it would have a deleterious effect on the borrowing ability of farmers. I therefore asked one of my advisers, Barry Davies, to talk to the banking industry. The banking industry told him that long-term implications for lending to farmers may result from this legislation. That is what I was afraid of. That is mainly because the bill skews the advantage slightly more towards farmers and away from lenders. We talked also to the Rural Assistance Authority, which of course is in favour of this legislation. The authority said that because mediation is a once in a lifetime event for farmers, as opposed to banks, which are involved in these processes regularly, this move in the legislation is reasonable for farmers.

I do not think the banking industry will be in favour of this sort of legislative process. Though it may express satisfaction with the process publicly, I have no doubt that the industry will have private reservations about this measure. I suspect that the amendments to be moved by the Opposition will strengthen those reservations. I was quite relieved to learn that the farmers' ratio of debt to equity is quite low these days. I had always been of the view that the ratio was something like 60 or 70 per cent. In fact, it is in the region of 16 or 17 per cent. The average debt is quite low in comparison to equity in properties.

The Hon. Dr Arthur Chesterfield-Evans: Hence the danger.

The Hon. RICHARD JONES: It is not a danger at all. The low debt ratio may be due partly to good seasons and partly to properties being passed on to sons and daughters without debt. Apparently, banks now have about 80 to 90 per cent of the lending market, with the other 10 or 20 per cent being shared by credit unions, finance brokers and solicitors. Of course, finance brokers generally lend when banks refuse loan applications. We are now experiencing a drought like the appalling drought at the turn of the last century, which lasted quite a number of years. The current drought is one of the worst we have seen in a long time.

I suspect a small number of farmers will use the provisions of this bill before they get into financial trouble and will seek mediation. Honourable members may have read the recent Ross Gittens article in the *Sydney Morning Herald*, in which he said that to give to the farmers appeal would not do farmers any favours at all; that farmers who are inefficient should go out of business as soon as possible and should not be propped up. He said giving farmers money was doing them a disfavour. I thought that was a harsh comment. But that is what economic rationalists are saying. Basically, they say that farmers who are not efficient must go out of business so that those who are efficient may remain in business; that farmers cannot hold out their hands for assistance every seven years, when the inevitable drought occurs.

I guess Ross Gittens has a point. A number of people feel that farming is a very tough business, but it is nonetheless a business, and those who are good at it will survive and those who are not good at it will not. Some farmers who foresaw this drought destocked well before it struck. Others did not plant crops because they knew there would be a drought, saving the costs of planting. Those who were aware that we were heading towards a drought and acted accordingly will survive. Those who did not anticipate the drought, or did not act accordingly, unfortunately will go to the wall, just like any other small business that goes to the wall in bad times. Of course, we all hope that the drought will not be as bad as it currently seems it will be. We hope and pray that the drought breaks as soon as possible so that farmers will not have to use the provisions of this legislation.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.55 p.m.], in reply: I thank honourable members for their constructive contributions to the Farm Debt Mediation Amendment Bill. As to the amendments to be moved by the Hon. Richard Colless, I will deal with those in detail at the Committee stage.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Schedule 1

The Hon. RICK COLLESS [5.56 p.m.], by leave: I move amendments Nos 1 and 2 in globo:

No. 1 Page 10, schedule 1 [27], proposed section 12A (3), line 2. Omit "mediators.". Insert instead "mediators within 14 days after the creditor's rejection.".

No. 2 Page 10, schedule 1 [27], proposed section 12A (3), lines 3 and 4. Omit all the words on those lines. Insert instead:

If the creditor rejects all of the mediators in the panel, the Authority must appoint a mediator within 14 days after the creditor's rejection.

Where there is a problem selecting a mediator, there must be some procedure in place to ensure another mediator is appointed within a reasonable time. We do not want these issues to go on for weeks once the creditor has rejected a nominated mediator. The intention of amendment No. 2 is that where the creditor rejects all of the mediators in the panel the authority must appoint a mediator within 14 days after the creditor's rejection. The same principle applies. I commend the amendments.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.57 p.m.]: The Government has carefully considered the amendments moved by the National Party. The mediator selection process proposed in the bill is designed to empower the farmer by reducing the present power imbalance in the process which currently favours the creditor. The amendment potentially will allow creditors to veto a particular mediator indefinitely. It will allow creditors to shop around to find a mediator who is sympathetic to their position. This is not an outcome that the Carr Government wants. Make no mistake: mediator shopping will be encouraged as a result of the amendment. Lenders will be able to ban a mediator who they believe is biased in favour of a struggling farmer.

The amendment must be put in context. Mediators are required to be unbiased. They are also unable to influence the outcome of a mediation, and do not make decisions or rulings in relation to the matter that is being mediated. As such, they are impartial. If creditors cannot find an acceptable mediator from four proposed by the farmer, they are either very hard to please or are not entering into the mediation process in good faith. Creditors can also table complaints against a mediator with the Rural Assistance Authority, which has the power to withdraw their mediation accreditation.

This amendment has also been moved in the mistaken assumption that a farmer will be able to use the mediation selection process to hold a creditor at bay. That cannot happen. There are already provisions in section 11 (1C) of the Act that prevent a farmer from holding a creditor at bay indefinitely and from delaying mediation. These provisions restrict the potential for such delays to the mediation process to about three months in total. In any event, most delays to mediation are largely due to a lack of bank mediation staff. Even so, the average process time is 6.7 months for all cases.

The amendment is unnecessary and, because it will undermine the intention of the Act—which is to promote constructive dialogue and mediation between the lender and the borrower without the intervention of a government agency, or a court for that matter—is ill-conceived. This Act has worked well to date because of minimal involvement of regulatory bodies and non-adversarial processes. This amendment undermines that element of the Act and, as such, it is ill-conceived. The Government does not support the National Party amendments.

Reverend the Hon. FRED NILE [6.00 p.m.]: The Parliamentary Secretary said that this amendment will change the Act. The Government has changed the Act. The Act that the Government is seeking to amend provides that a farmer and a creditor must agree on the selection of a mediator. An emphasis is placed on both the farmer and the creditor agreeing to the selection of the mediator. The Government's proposed amendments to this bill will change that. Proposed section 12A provides:

> Farmer to nominate mediator.
>
> (1) If a farmer and creditor agree to enter into mediation in respect of farm debt, the farmer must nominate a mediator.
>
> (2) A creditor cannot nominate a mediator but must accept or reject a mediator nominated by a farmer.
>
> (3) If a creditor rejects a mediator nominated by a farmer, the farmer must nominate a panel of at least 3 other mediators. The creditor must choose from the panel one mediator to mediate between the farmer and the creditor.

In 1994, when we originally debated the legislation in this Chamber, we were trying to achieve a balance. The Government appears—either intentionally or unintentionally—to have shifted that balance, and that is causing some concern. It might even undermine the mediation process. The amendments moved by the National Party will enable a creditor who is unhappy with a farmer's first selection to choose a mediator from a panel of at least three others to be nominated by the farmer. If the farmer and the creditor cannot agree the Rural Assistance Authority will appoint a mediator. The authority must appoint a mediator within 14 days of the creditor's rejection of the panel.

I am led by the Government's advisers to believe that the authority is not anxious to play this role. It does not believe that that should be part of its role. On a number of occasions the authority has tried to resolve issues such as this by getting the creditor and farmer to finally agree to a mediator. If these amendments are passed, the authority will advise a committee or other persons to appoint a mediator so that the Government is not involved in the mediation process. Part of the success of this legislation is due to the fact that the Government has allowed these issues to be resolved by a mediator. Creditors and farmers were forced to sit down, talk through their problems and arrive at an agreement in relation to the debt. It is not impossible to make this proposal work. If it creates problems in the future we will have to address those problems. I do not understand the Government's opposition to these amendments. There would not be much mediation shopping as a maximum of only four mediators would be involved in the process.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.05 p.m.]: I am concerned about these amendments. If banks did not like certain mediators they could always knock back those mediators. Banks effectively would then be in a position to determine who would mediate.

Reverend the Hon. Fred Nile: The authority would appoint mediators, not the banks.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The authority would not appoint mediators that the banks did not like, and that would result in those mediators being disadvantaged. If the first mediator was knocked back and another three were suggested the banks could then shop for an acceptable mediator, which gives them reasonable scope for movement. However, we should not give the banks a veto power to reject mediators. If there were communication between banks, which is likely through the Credit Reference Association, and certain mediators were black-banned, banks would become the accrediting authority. The authority would then have to play an arbitration role, which is not what was envisaged by the legislation. The first amendment would simply speed up the process of naming alternative mediators. The second amendment gives the authority, rather than the farmer, the power to appoint a mediator. If this legislation has been working reasonably well—as the New South Wales Farmers Federation leads me to believe—the second amendment should be opposed.

The Hon. JOHN JOBLING [6.07 p.m.]: Proposed section 12A (3) states:

> If a creditor rejects the mediator nominated by the farmer, the farmer must nominate a panel of at least 3 other mediators.

The Opposition's first amendment proposes to omit the word "creditor" and insert instead the word "bank". The proposed section would then read:

> If a bank rejects the mediator nominated by the farmer, the farmer must nominate a panel of at least 3 other mediators.

The first amendment moved by the Hon. Rick Colless would ensure that that situation does not get out of hand. The amendment proposes the insertion of the words "must nominate a panel of at least 3 other mediators within 14 days after the creditor's rejection". The farmer must then put forward three additional names. That is the basis of the first amendment. Proposed section 12A (3) also states:

> The creditor must choose from the panel one mediator to mediate between the farmer and the creditor.

That leaves us in the hands of a financial institution or a bank. The proposed amendment provides, "If a creditor rejects the mediator in the panel the authority must appoint a mediator within 14 days after the creditor's rejection." That would resolve any deadlock and put in place a mechanism that would ensure fairness and equity for all creditors. If a farmer nominated totally unreasonable people as mediators, and those mediators were rejected by the creditor, this amendment would break that deadlock and preserve the interests of all parties concerned. The amendments moved by my colleague appear to be eminently sensible, and I commend them to the House.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [6.10 p.m.]: In response to the contribution of Reverend the Hon. Fred Nile, the bill's amendments provide powers for farmers. The authority does not want a mediator to be appointed because that would taint the process operating between the two parties. If the authority were to become involved or interfere in that process it may undermine the mediation. The first matter the parties have to agree on is the particulars of the mediator. An appeal process as suggested by Reverend the Hon. Fred Nile would further complicate the matter; it would be an appeal process to the authority over the selection of the mediator. The Opposition's amendments would effectively enable creditors to act as a block, consistently refusing to accept a mediator. This may create a blackball situation, and therefore the Government does not support the amendments.

The Hon. JOHN JOBLING [6.11 p.m.]: I am not sure that the Minister fully understands the amendments as proposed. The creditor—that is, the bank or financial institution—rejects a mediator nominated by the farmer. The farmer therefore has to nominate somebody else. No time frame is provided for. The bank then says, "I do not like any of those three either. You can have our person or you are not going to get anything." Surely, that is the deadlock that the Government is trying to avoid and the Opposition would like to avoid. The basis of the deadlock being broken is the 14-day condition in the first amendment, which is clear.

I can understand the authority not wanting to be involved; it makes sense. However, at the end of the day, if the bank or farmer plays hardball—or if they both play hardball, as often happens in these matters; both parties become quite intransigent—redress is then available to resolve the position. On rare occasions, and I suspect it will only be on rare occasions, there is a means by which the deadlock can be broken. Perhaps the Minister could inform his advisers that what I have put forward is a sensible way to deal with the matter.

The CHAIRMAN: I propose to put the amendments seriatim.

Amendment No. 1 negatived.

Amendment No. 2 negatived.

Schedule 1 agreed to.

Title agreed to.

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

AGRICULTURAL INDUSTRY SERVICES AMENDMENT (INTERSTATE ARRANGEMENTS) BILL

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [6.16 p.m.]: I move:

> That this bill be now read a second time.

As the speech is lengthy and detailed and has already been delivered in the other place, I seek leave to incorporate it in *Hansard.*

Leave granted.

This Bill that I now put before the House is a proposal that came together as a result of consultations between the Governments of New South Wales and Victoria, and the Murray Valley citrus industry over the last four years. In its initial application, the Bill will enable the implementation of agreed outcomes of the National Competition Policy review of the NSW and Victorian *Murray Valley Citrus Marketing Acts*.

The potential applications of the key provisions of the Bill are not limited to the Murray Valley or the citrus industry however.

The concept of truly singular interstate arrangements has existed and been discussed for a long time. With the support and encouragement of the Murray Valley citrus industry that has its own interest in a form of legislation that will have general application, those who have been involved in the drafting of this legislation have achieved some generic provisions that can be used by other agricultural industry services committees.

As this Bill has its origin and initial application in the citrus industry of the Murray Valley, I would like to briefly outline the significance of this industry.

The Murray Valley is one of the three main citrus growing areas that collectively produce about 90% of the Australian citrus crop. The other two areas are the Riverland of South Australia and the Murrumbidgee Irrigation Area in NSW.

There are nearly 600 citrus growers in the Murray Valley and their numbers are fairly evenly divided between the two States with the current split between Victoria and New South Wales being around 55%/45%.

Over the last decade the annual production in this area has varied between 110,000 tonnes and nearly 200,000 tonnes of citrus.

The citrus growers of the Murray Valley are serviced by the organisations established under the *Murray Valley Citrus Marketing Acts* of NSW and Victoria. I refer to organisations in the plural because each Act legally establishes an intrastate Murray Valley Citrus Marketing Board. Certain provisions of these Acts, like the appointment of the same board members by each State, have given the Boards a public appearance of being a singular entity. Overcoming the problems associated with this conflict between public appearance and legality was a further contributing factor to this Bill.

Over recent years, these Boards have provided various services to growers that have been funded through a compulsory charge. However, the Acts under which the Boards are established provide them with the power to engage in various marketing and processing activities as well as other powers of market intervention.

I turn now to the National Competition Policy review and how it led to this Bill.

In 1998, the NSW and Victorian Governments jointly commissioned a review of their *Murray Valley Citrus Marketing Acts.*

The immediate outcomes of this review supported the continuation of the Boards as a provider of services funded through a compulsory charge, provided the use of that charge was restricted to the provision of services consistent with established National Competition Policy guidelines.

There was support for the removal of the Boards' powers of market intervention and the improvement of their accountability to growers. In addition, it was agreed that growers who contribute most to the Boards' revenue should have a proportionate influence on Board operations.

On their own, the immediate outcomes of the review tell only part of the story.

In the process of consultation between officials of the two Governments and industry on the implementation of these outcomes, an opportunity was seen to reconstitute the Boards under the generic agricultural industry services legislation of the two States. I refer to the NSW *Agricultural Industry Services Act 1998* and the Victorian *Agricultural Industry Development Act 1990*.

Although these Acts have some procedural differences they are similar in that they provide for the constitution of statutory bodies that have a service provision function funded through a compulsory charge.

The opportunity was embraced by industry but its support for the action was subject to three conditions being able to be met.

First, the Boards had to be able to be established as a truly singular entity so that the resulting Board could realise the benefits of reduced administrative and compliance costs through having to be directly accountable to only one Government.

Second, the resulting legislation should be capable of enabling amalgamation of the Murray Valley Board with either or both of the other State based statutory authorities serving the citrus industry in other areas. Industry discussions on such amalgamation have a long history and have always foundered on the perceived problems of legislating for any proposed amalgamation.

Third, the legislation should be capable of being applied to other industries. Many of the Murray Valley citrus growers also grow wine grapes. The wine grape industry in the Murray Valley is similar to the citrus industry in having two State based statutory bodies that are trying to operate as one.

Needless to say, the move to reconstitute the Murray Valley Citrus Marketing Boards under the generic agricultural industry services legislation of the two States also had its advantages for Government. A major revision of the *Murray Valley Citrus*

Marketing Acts of the two States could be avoided. These specific Acts, and the Regulations under them, could even be repealed with savings in the amount of legislation to be maintained. The benefits of working with generic legislation could be extended.

This is the platform of consultation, co-operation and agreement that has led to where we now are. While the provisions of this Bill have been drafted with immediate regard to the Murray Valley citrus industry, the provisions are generic and will be available to other agricultural industry services committees with similar needs.

I am pleased to say that this Bill is a credit to all the parties involved in its development the result of which is a proposal based on commonsense and cooperation that yields significant benefits to both industry and government.

I turn now to the main provisions of the Bill.

As can be seen from my earlier remarks, the Bill provides generally for the establishment of arrangements that may be constituted in one State and operate in another. It provides specifically for the reconstitution of the Murray Valley Citrus Marketing Boards and it provides for the repeal of the *Murray Valley Citrus Marketing Act 1989*.

I turn initially to the general provisions for the establishment of a committee with extra-territorial or interstate power, that is the power to operate in two States.

The Bill provides for a reciprocal relationship between States. It makes provision for any NSW agricultural industry services committee to have extra-territorial operation with respect to the primary producers and products for which that committee is established. In addition it will enable NSW to recognise a legislative instrument in another State or Territory which establishes a committee designed to operate interstate with NSW.

The procedure to do this is quite simple and demands both government and industry involvement in each and every decision on an extra-territorial arrangement.

An agricultural industry that wants to establish a committee with extra-territorial operation must apply to the Minister in the State in which they propose that the committee be constituted.

That Minister must then dialogue with the counterpart Minister in the proposed participating State or Territory to establish concurrence for the proposal at Government level.

With Government concurrence established NSW constituents must be polled and the outcome of the poll must support the proposal before an extra-territorial committee is established. This poll is conducted in accordance with the polling provisions in the *Agricultural Industry Services Act 1998*. In other words more than half of the relevant NSW producers must vote at the poll and more than half of those producers must cast their votes in favour of the establishment of the committee.

This is just one of the many safeguards specifically designed to protect NSW constituents where an extra-territorial committee is proposed.

If the result of the poll supports the proposal, the proposed committee can be established. This means that constituents of the committee will be subject to the constituting State's laws to the extent that those laws affect the operation of and exercise of the committee's functions. For example the Freedom of Information Act, Ombudsman Act and Whistleblowers legislation would apply interstate.

This is the foundation of all extra-territorial arrangements.

If the result of the poll does not support the proposal but there is strong support for the continuation of a committee within NSW, in accordance with section 5 of the *Agricultural Industry Services Act 1998* the Minister may establish an intrastate arrangement without conducting a further poll.

Four key principles can be seen to underpin the establishment of a committee with extra-territorial power.

The first is that an extra-territorial arrangement cannot be established without the support of the Governments concerned.

The second is that the arrangement cannot be established without the support of proposed constituents who are to be polled on a State basis with a requirement that the proposal is supported in every proposed State.

The third is that the choice of State in which to constitute an arrangement with extra-territorial power will rest with the proponents and potential constituents of the arrangement.

The fourth is that once an interstate committee is established it will operate fully under the legislation of the State in which it is constituted. It will only operate in the participating jurisdiction if that jurisdiction recognises the arrangement at law.

Having outlined the provisions as they will generally apply, I pick up where I began, with the specific case of the Murray Valley citrus industry.

With regard to the general provisions for the establishment of an extra-territorial arrangement, the situation of the Murray Valley citrus industry has three key points of context.

First, through its awareness of the legislation being proposed, the industry has indicated its preference for the reconstitution and amalgamation of the existing Murray Valley Citrus Marketing Boards to occur under the Victorian *Agricultural Industry Development Act*.

Second, in the course of enacting this legislation, and a counterpart Victorian Bill, the Governments of NSW and Victoria will be equipped with a mechanism whereby they may recognise in their legislation each others' agricultural industry services legislation for the purposes of these amendments.

Third, as there are authorities already in existence, some transitional provisions are to be expected.

In this context, the immediate action will be a poll of the citrus producers of Victoria and NSW on their support for the establishment of an extra-territorial committee. The outcome of this poll will determine whether an extra-territorial committee is established.

If the result of the poll supports the proposal, then a single committee with extra-territorial operation within the Murray Valley will be established. In order for this to happen however, NSW must recognise the proposed Victorian Order under which the committee will be established in order for the relevant Victorian laws to apply in the area of operations within NSW.

If the result of the poll does not support the establishment of an extra-territorial committee, I will immediately take necessary action to ensure the continuation of the NSW Murray Valley Citrus Marketing Board under the *Agricultural Industry Services Act 1998*.

The administration and operation of this committee would be up to the NSW Murray Valley citrus industry.

Furthermore, although I acknowledge a possibility that NSW citrus growers may not want the NSW Board to continue at all, an interim committee will be in the interest of NSW growers because it will enable them to determine how their share of the assets of the current Boards are to be distributed.

Another two provisions of this Bill worth bringing to your attention relate to the continuation of the role of approved receivers in the collection of charges and the selection of committee members.

Firstly, under the NSW *Agricultural Industry Services Act 1998* committees are empowered to charge growers who are the beneficiaries of the services they provide, for those services. This provision does not deny the possibility of funds being collected another way but it does require any such system to properly account for the charges payable and paid by each grower.

Under the NSW and Victorian *Murray Valley Citrus Marketing Acts* the Boards' revenue is collected by approved receivers. Because there are deficiencies in the system of 'funds accountability', the Bill provides for a continuation of the approved receiver system for a transitional period of four years to allow for the development of an alternative system during that time.

Secondly, the NSW *Agricultural Industry Services Act 1998* currently provides that a majority of members of any committee must be elected from and by constituents. The majority of members of the current Murray Valley Citrus Marketing Boards are chosen by a selection committee rather than through an election process. Representatives of the industry have indicated a strong desire to retain the selection committee approach.

The amendment proposed at Schedule 1 Clause 1 of the Bill will enable the retention of the selection committee process because it provides for the use of methods of choosing committee members other than election, without compromising the requirement that a majority of members of a committee must be constituents of the committee.

Regardless of whether the existing Murray Valley Citrus Marketing Boards are reconstituted as a single entity with extra-territorial power or as continuing intrastate entities under agricultural industry services legislation, the recommendations of the National Competition Policy review that led to this Bill will be implemented.

The agricultural industry services legislation of both States does not permit the kinds of market intervention that were to be removed from the *Murray Valley Citrus Marketing Acts*. On the other hand, the agricultural industry services legislation embraces the kinds of modern accountabilities that needed to be introduced to the *Murray Valley Citrus Marketing Acts* if they were to continue.

This is the first such cross border proposal of its nature in NSW. The corresponding Victorian version of the NSW Bill was read into the Victorian Parliament on 5 June 2002. This action and my action today reflect the level of support for the proposed legislation by both Governments and industry.

There has been an enormous amount of good will and good work put into not only the development of this Bill but also the equivalent Bill already before the Victorian Parliament. This good will and good work involves everyone from the citrus growers of the Murray Valley to the Parliamentary Counsels of NSW and Victoria and each of them deserves recognition for their role in the progress of this exemplary piece of legislation.

I commend the Bill to the House.

The Hon. RICK COLLESS [6.16 p.m.]: I lead for the Opposition on the Agricultural Industry Services Amendment (Interstate Arrangements) Bill which repeals the Murray Valley Citrus Marketing Act and provides for the reconstitution of the Murray Valley Citrus Marketing Board. It provides for the establishment of a committee with extraterritorial or interstate powers to allow for the creation of a body that can operate in two or more States. The committee would be able to represent the interests of producers of agricultural commodities in New South Wales and elsewhere. The bill also provides for the method of selection of primary producers as members of agricultural industry services committees.

By way of background, in 1988 the New South Wales and Victorian governments jointly commissioned a review of their Murray Valley Citrus Marketing Acts. This bill implements those agreed outcomes of the national competition policy review. The citrus growers of the Murray Valley are serviced by the

organisations established under the Murray Valley Citrus Marketing Acts of New South Wales and Victoria. There are approximately 600 citrus growers in New South Wales and Victoria and they are almost evenly divided between the two States. I emphasise that the industry itself has indicated its preference for the reconstitution and amalgamation of the existing boards to occur under the Victorian Act.

It is proposed to hold a poll of Murray Valley citrus producers in New South Wales and Victoria to approve of the replacement of the existing Murray Valley Citrus Marketing Board in each State, by a single committee established under the Victorian Act that will operate within production areas in both New South Wales and Victoria. Like most agricultural industries, the citrus fruit industry experiences its highs and lows. From time to time the industry is subject to enormous competition pressures, particularly from Brazil, in relation to citrus juice. Production is very much determined by seasons and domestic demand. The citrus industry produces 500,000 tonnes of citrus each year and is a major export earner but is subject to the international fluctuations found in volatile markets.

As I have already stated, the proposed change to the legislation has been sought by the industry itself. To put it in simple terms, two committees, one in New South Wales and one in Victoria, administer citrus marketing. The industry has decided to come together and operate under one Act, the Victorian Act. However, in fairness to all producers there will be a poll, and that poll will have to produce a simple majority. If the producers are able to do that, they will achieve a representative group of numbers that will be effective enough to improve their marketing organisation and cut administration costs. That is very important in an industry that is extremely fragile from time to time.

I support my colleague the honourable member for Lachlan when he said in another place that the producers in the Murray Valley are amongst the most efficient producers in the world today. They are marvellous horticulturalists, they are great farmers, and they are great innovators. They have introduced some innovations in recent years, particularly for irrigation to maximise the use of water to get better interdependency and to make water savings, and they have concentrated on genetics and quality. The quality of our navel oranges, in particular, is recognised worldwide. The Opposition will not oppose this legislation.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [6.20 p.m.], in reply: I thank the Hon. Rick Colless for his contribution and the Opposition for its support of the proposals. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

Third Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [6.20 p.m.]: I move:

That this bill be now read a third time.

The Hon. IAN COHEN [6.21 p.m.]: The Greens do not intend to oppose the Agricultural Industry Services Amendment (Interstate Arrangements) Bill. We support co-operative joint marketing strategies and endeavours and can see the need to increase efficiency in industries such as the Murray Valley citrus industry, which is operating in both Victoria and New South Wales. It makes sense to end the administrative duplication of boards fulfilling similar functions on either side of the border.

We note with interest the support of all parties for a compulsory industry levy that will provide net public benefits. We believe that the levy is not dissimilar in concept to union fees. A number of other similarities exist between marketing boards and unions. Marketing boards are an excellent example of a collective bargaining instrument seeking to get a better deal for members. However, unlike a union structure, some of the board's democratic provisions appear to be missing. The Greens cannot understand the need for board members to be appointed rather than democratically elected. Under the old Act, more than half of the board members were to be elected from the constituency. This bill allows for all board members to be appointed by a selection committee of industry and government representatives. Similarly, the provision stating that a

constituent's voting entitlement for elections need not be the same as a constituent's voting entitlement for polls appears undemocratic. Although the majority view within the industry seems to be that big players should get more votes, there is a danger that a handful of industry players could seize control of the board and its direction to the detriment of the smaller growers.

Support for the introduction of genetically modified crops could be an example of that. A large number of small growers are adamantly opposed to such a direction, but a smaller number of larger-scale players can ignore their wishes. This is further underscored by the repeal of the Murray Valley Citrus Marketing Act 1989 and the eventual abandoning of the Murray Valley Citrus Marketing Board. Among the objectives of that legislation is the objective to promote measures to ensure the wholesomeness of citrus fruit in the interests of public health. The Centre for International Economics, which undertook the national competition policy review of the Murray Valley Citrus Marketing Acts of Victoria and New South Wales, has recommended that any future legislation should not contain any reference to public health. The Greens are disappointed that the rush to meet the requirements of the national competition policy come at the cost of concepts such as the public good and the interests of public health. Nonetheless, we emphasise that it is positive to see co-operation between the States. The Greens do not oppose this bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.24 p.m.]: The Agricultural Industry Services Amendment (Interstate Arrangements) Bill implements all 12 of the recommendations of the National Competition Policy review of their Murray Valley Citrus Marketing Acts, which was commissioned by the New South Wales and Victorian Governments. It will repeal the Murray Valley Citrus Marketing Act and provide for the reconstitution of the Murray Valley Citrus Marketing Board. The bill provides for the establishment of a committee with extraterritorial or interstate power to allow for the creation of a body that can operate in two or more jurisdictions. Members of this committee will be elected by a poll of growers in each jurisdiction.

Almost all of Australia's citrus production is concentrated in irrigation areas such as Berri and Renmark in South Australia, the Murrumbidgee Irrigation Area [MIA], Sunraysia in northern Victoria and the Central Burnett and Emerald regions in Queensland. I visited the MIA in February 2000 to meet with irrigators and to discuss water management legislation. The sheer scale of citrus growing in the area greatly impressed me. A 2000 national competition policy review of the citrus industry found that many growers in the MIA and the Murray Valley also derive an income from growing other products such as vegetables, pears, apples, grapes, nuts and even beef. More than two-thirds of citrus growers undertake diverse agricultural activities.

With that in mind, it is interesting to note that under divisions 2, 3 and 4 of the bill it is now technically possible for statutory boards involved in the growing, production or marketing of other agricultural products to amalgamate with similar bodies in other jurisdictions, thus hopefully streamlining operations and removing red tape created by State bureaucracies. Although the Democrats are not entirely in favour of the national competition policy, this bill will not have negative social or economic effects on the State's primary producers. It is also noted that it is Democrat policy to abolish the States. The bill makes a lot of sense and should be supported.

Motion agreed to.

Bill read a third time and passed through remaining stages.

[*The Deputy-President (The Hon. Tony Kelly) left the chair at 6.27 p.m. The House resumed at 8.30 p.m.*]

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT (PARTY REGISTRATION) BILL

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [8.30 p.m.]: I move:

That this bill be now read a second time.

In 1999 the public of New South Wales were forced to use the largest ballot paper ever for a Legislative Council election. Between 1995 and 1999 the number of parties contesting the election jumped from 27 to 81. Further, at that time, it had become well known that the electoral system for the Legislative Council allowed at least one or

two candidates to be elected virtually by chance. Legislative Council elections became a lottery, where parties were formed and people contested the election under a catchy party name in the hope of winning the prize of election to Parliament. Complex preferential arrangements between parties meant that the individual voter often had little understanding of where their vote might actually end up.

In light of the community concern regarding this situation the Government, with the support of this Chamber and Parliament as a whole, took decisive action to rule out the lottery approach. This included measures to tighten the minimum requirements for registration as a political party to ensure that only those parties with a level of community support could contest elections. As a result of the Government's amendments of 1999, the Parliamentary Electorates and Elections Act 1912 now provides that in order to be registered a party must be able to demonstrate that it has 750 eligible members. Declaration forms from each member need to be submitted. Finally, parties must be registered for 12 months before they can effectively contest an election. Since the reforms, these requirements have applied to all existing parties and to all new parties applying for registration.

To ensure that the minimum 750 members identified by parties were in fact members, the Electoral Commissioner established a practice whereby he wrote to 300 of the 750 minimum members submitted by the party applying to be registered. The Electoral Commissioner asked that each of the 300 members confirm his or her membership of the relevant party by completing and returning a form in a stamped, addressed envelope. If the Electoral Commissioner received confirmation from 225 of the 300 members—being a 75 per cent response rate—the registration process would proceed. The Electoral Commissioner applied this test for the first time following the reforms.

Save Our Suburbs [SOS] applied to be registered as a party in November 2001. By early 2002, because of the requirements that parties be registered for at least 12 months before they can contest an election, it became critical that parties satisfy the Electoral Commissioner's test quickly. If they did not do so, they would not be registered in time to contest the 2003 election. At the cut-off date for registration in order to contest the election, the Electoral Commissioner had only received confirmation of party membership from some 215 of the 300 members of the party. As a consequence, the party was not registered in time to endorse candidates for the 2003 election.

The balance of my remarks reiterate matters freely available in the public arena, matters that most members are familiar with. I seek the leave of the House to incorporate the balance of my remarks in *Hansard*.

Leave granted.

The party commenced proceedings in the Supreme Court. The Judge found that the Commissioner was not entitled to apply a test to verify membership involving direct contact of individual members.

The Judge was of the view that any doubt about the construction of the Electoral Commissioner's powers should be resolved in favour of the party because it involved the abrogation or suspension of a fundamental freedom (that is the right to participate freely in elections).

The Government agrees that the right to participate freely in elections is of fundamental importance.

However it is the Government's view, and it was Parliament's view in 1999, that to ensure elections are fair, voters need to know that any party that gains registration is a genuine party.

To achieve this objective the Electoral Commissioner needs to have appropriate powers to check the eligibility of parties seeking registration.

It was never the intention of the Government that the Commissioner would be forced to take the application of a party at face value. The Government doesn't believe that this was Parliament's intention either.

This however, is the effect of the Court's decision and as such it cannot be left to stand.

Item [2] of the Bill therefore expressly authorises the Electoral Commissioner, on receipt of an application, to conduct preliminary tests and inquiries for the purpose of determining if the party is an eligible party, or if the application for registration is duly made.

The Commissioner will have a broad discretion to determine what tests and inquiries are appropriate.

Item [5] of the Bill makes it clear that the test already developed by the Electoral Commissioner of requiring a fixed percentage of any or all members to verify they are in fact members of the party is appropriate.

As well as authorising the specific test already applied by the Commissioner, the Bill will specifically allow the Electoral Commissioner to adopt any other test for verifying membership of the party, or to make other inquiries.

This provision will ensure that the Commissioner can take necessary steps to establish if persons nominated as members are really members.

Item [7] will also allow the Commissioner to require a member of a party to provide a statutory declaration to verify membership.

Item [3] will clarify that the requirement to advertise the application pursuant to section 66DA of the Act can be delayed while such preliminary tests are carried out.

This will ensure that resources are not wasted on the advertising of applications that fail to meet the criteria.

The Bill also makes it clear that these tests can be used by the Electoral Commissioner to establish if the party is entitled to ongoing registration.

A failure to meet the test in these circumstances could provide grounds for cancellation.

Either the current test, or any new test developed by the Commissioner can be applied for this purpose.

This will ensure that the register of parties is kept under active and ongoing scrutiny.

There are a number of transitional provisions in the Bill that need to be explored in detail.

First, item [8] validates the specific test already applied by the Electoral Commissioner in assessing applications lodged prior to the March 2002 cut-off date to contest the 2003 election.

The practical effect of this is that a number of the applicants that failed to meet the Electoral Commissioner's test will be stopped from taking legal action to gain registration.

The Government is firmly of the view that the policy adopted by the Commissioner was fair and appropriate to ensure that only eligible parties obtain registration.

The Electoral Commissioner's acceptance of a 75 percent response rate (rather than requiring a 100 percent response rate) is not onerous. As I said, all parties in this Parliament have satisfied it.

All applicants were notified as early as possible of the requirement and were warned about the cut-off date for registering to contest the 2003 State elections.

The validation of the Commissioner's policy will not however affect the order of the Supreme Court to register Save Our Suburbs.

So that the party can contest the 2003 election, the Bill specifically provides that registration is to be taken to have been effected on 1 March 2002.

This backdating of the party's registration has been made necessary because there is currently no power in the Act that would allow this to be done.

While the Judge accepted that he had no power to order registration from an earlier date, he suggested that there may be scope to register the party and then amend the register to back date its registration.

The Solicitor-General has advised the Government that there is currently no power in the legislation that would enable the register to be amended in such a way.

Proposed subsection 66FA(5) will put this question beyond doubt. The amendment is being made for the avoidance of doubt.

Without the amendment the Electoral Commissioner would be in an uncertain position if a party made an application to amend the register to backdate the date of registration.

This is not the appropriate way to address the problem arising from circumstances where an act of the Commissioner is found to have inappropriately delayed registration, and that delay has the effect of preventing a party from endorsing candidates at an election.

There may be other cases where the Commissioner fails to process an application through inadvertence or misadventure.

As such, an express power to back-date a party's registration has been included. This power is closely confined so that it can only be used where the application was wrongly delayed.

Proposed section 66FA (4) makes it clear that the power to back-date cannot be used to backdate a party's registration once the election has been held.

In summary this Bill will ensure that there is no repeat of the "table cloth" ballot paper that occurred in 1999.

It will provide certainty and will ensure that parties are not mislead into voting for parties that are not genuine parties.

I commend the Bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.37 p.m.]: The Opposition supports the bill, which we believe is an honourable attempt to reiterate the philosophy of the original legislation—the unfortunate ramifications of which needed to be addressed quickly to re-emphasise the philosophy that political parties should be properly recognised within the community. This bill will do that. It seeks to validate the Electoral Commissioner's power to apply proper tests in determining the registration of a political party. The amendment seeks to uphold the intent of the changes that were supported by all the major parties after the 1999 election, to avoid a repeat of the tablecloth ballot paper. That tablecloth ballot paper did more than anything else to destroy the validity of this House. It provided an avenue for the enemies of the House of review in New South Wales to treat it with disdain.

In exercising his powers under the Act, the Electoral Commissioner established a test whereby he required 225 out of 300 people whose names were submitted as members of a party seeking registration to respond to a mail-out seeking confirmation of support for the proposed party. That test has been applied to all existing registered parties. We have all faced that test. In March, Save Our Suburbs failed by 10 to meet the commissioner's test for registration by the set deadline for parties wanting to contest the 2003 elections. The Save Our Suburbs Party appealed the decision to the Supreme Court, and on 30 August the court found in its favour. However, the judge then accepted that he had no power to backdate the party's registration but suggested that the Electoral Commissioner could.

In essence, the decision meant that any organisation submitting 750 names in support of an application for registration should be approved. On 24 September the Minister announced legislative changes to give the commissioner the power he requested to enable him to verify the membership of political parties, as intended in the 1999 reforms, and prevent further court challenges to the commissioner's decisions. The Opposition agrees with the bill. It is a sensible bill that upholds the intent of the 1999 changes to the Act. Frankly, it will stop the spawning of silly parties and will protect the right of parties formally established in the community to be registered, and so they should be.

Ms LEE RHIANNON [8.41 p.m.]: The Greens welcome this bill, the basic intention of which is to prevent various fraudulent parties from contesting the upcoming State election. The Greens are very conscious of the rights and importance of small parties. The ability of a political party to form, to register and to contest elections is a basic and fundamental tenet of democracy. That right must be protected. Minor parties and so-called micro parties genuinely represent a sector of our society which has a right to be represented in that way. The Greens clearly remember when the Labor and Liberal parties ganged up on the Greens in Tasmania in a spectacularly cynical attempt to exclude us from the Parliament by raising the quota. We know what it is like to be a small party done over by vested interests.

The Hon. Duncan Gay: The Labor Party and the Liberal Party were inept in that case.

Ms LEE RHIANNON: I acknowledge the interjection of Mr Gay. However, it is necessary, without diminishing the rights of small parties, to ensure that fraudulent parties cannot be easily established. The deception employed by a fraudulent party in tricking a voter into misdirecting his or her vote is no less a reduction of our democratic process than the denial of a genuine party's right to register and stand. In the last State election many thousands of voters effectively had their democratic right to a vote removed by the deception of various fraudulent parties. For example, voters who cast a vote for the Wilderness Party certainly would not have expected their vote to end up with the anti-environment forces of the far right.

The Hon. Duncan Gay: Hear! Hear!

Ms LEE RHIANNON: Again I acknowledge the member's interjection. For this reason the Greens believe that it is important that the Electoral Commissioner has the power to determine the bona fides of a party's members and is not forced to accept a party's genuineness without examination. Of course, this power should not be exercised arbitrarily or unreasonably. The Greens accept without question that the Save Our Suburbs Party is a genuine party with a genuine right to contest the 2003 poll. The Greens have much in common with that party in policy terms, and we wish the party every success. However, to force the commissioner to simply accept the genuineness of a party's members at face value, as the Supreme Court decision would do, is a step too far. Given the recent history of New South Wales politics, it would be seriously risking the integrity of our democracy. The Greens will support this bill.

The Hon. JOHN TINGLE [8.44 p.m.]: Tonight is a fairly strange night because I think probably for the first time in debate I find myself in total agreement with what the Hon. Lee Rhiannon said, and that is an epoch-making event. She is quite right in what she said.

Ms Lee Rhiannon: Maybe we better go on the radio together and say that.

The Hon. JOHN TINGLE: On the radio it is more fun. Let me put this the best way I can. The intention of the 1999 bill was to avoid the creation of phoney parties that were simply set up to try to garner preferences and probably to totally distort the electoral system in this House. As somebody who drafted what became the basis of the 1999 bill, I had gone to a great deal of trouble to put the bill together. I had gone to a great deal of trouble to try to ensure that the Electoral Commissioner had the means—that is, the power—to ensure that any applicant to have a party registered was applying for a bone fide party and that at least 75 per cent of the names that appeared on the application form had not appeared on a previous application to register a party. The 1999 bill got away from the previous situation in which people were required to submit only 200 names to have a party registered and in which they could use the same 200 names again and again and again to register any number of parties they wanted, and therefore again distort the electoral system.

The 1999 bill required the Electoral Commissioner to satisfy himself as to the bona fides of applicants to have parties registered. He was required to satisfy himself as to the proportion of the names on the application which might have been involved in an earlier application. Frankly, I was astonished at the decision of the court, which seemed to say that the commissioner did not have the right to do that because of the method he used. I think a perusal of the bill will show that we simply required the commissioner to satisfy himself; we did not tell him how to do it. Therefore, I feel that the commissioner was probably right in the first place. Let us face it: the creation of a group of 40 parties at the very last minute before the 1999 election, in a manner that made it impossible for the Electoral Commissioner to check the bona fides of those parties, cluttered up the process and created a ballot paper that made it impossible for many voters to find the parties they were looking for. I know that my own party was damaged by a phoney party called the Gun Owners and Sporting Hunters Party, which was set up purely to divert votes from us. And it did so.

The Hon. Duncan Gay: That was the Hon. David Oldfield.

The Hon. JOHN TINGLE: No, it had nothing to do with them. I believe that the intention of this bill is to give the Electoral Commissioner the unquestioned power to make absolutely sure that an application to register a party is from a real, substantive group of people who have a common political interest which deserves to be represented in this House. I believe that this bill closes a serious loophole in what we tried to do in 1989, and that it will restore electoral representative democracy to this House. I support the bill.

The Hon. RICHARD JONES [8.47 p.m.]: I also support the legislation, and I agree with the comments of the Hon. John Tingle and Ms Lee Rhiannon. About this time last year I noticed that a number of parties were about to be, or were trying to be, registered. Among them were, for example, the Marijuana Freedom Party—it was not the Marijuana Freedom Party; it was the Malcolm Jones Additional Partner Party—the Reconciliation Party, the Free Education Party, the Environment Party, the Anglers Party, the Stop the Greenies Party, and so on. I approached Joseph Cohen at the *Sydney Morning Herald* and told him about this after we had done a computer search for those who were at the registered offices of these purported parties. It turned out that virtually all of them were linked to each other. Eventually, I got a phone call from an informant. Malcolm Jones' staffer Kathryn Mill, was employed specifically for the purpose of setting up these parties. She was sent to various parts of the countryside with a table and chair to sign up members.

A lot of these parties did not get up because eventually when the commissioner wrote to the members of the so-called parties they suddenly discovered they were joining a party they did not expect to join. A group known as "Get John Howard" asked people to sign up in Newtown, but in reality they were signing up for the Environment Party and were later amazed to find that they had become members of a political party. It may be thought that members of the Marijuana Freedom Party were too stoned to write in, but that is actually not the case. They were appalled at what had happened. They were fairly conservative people who had been asked to sign up for what was in reality the Marijuana Freedom Party. Those parties did not even look like being registered, but half a dozen parties came fairly close, thanks to the hard work of Kathryn Mill. She was the innocent party who had no idea that it was not proper for her to be paid by Parliament for setting up political parties other than those associated with the person for whom she was working, nor that it was improper to use parliamentary resources for that purpose.

According to my informers, the idea was that the Hon. Malcolm Jones was trying to set up two blocs—a right wing bloc and a left-wing bloc. He was going to set up the Outdoor Recreation Party, the Four Wheel Drive Party, the Horse Riders Party, Stop the Greenies, and the Anglers Party as the right wing bloc; and on the left-wing side he was going to have the Marijuana Freedom Party, the Environment Party, the Free Education

Party, and the Reconciliation Party. He intended to set up two blocs on the ballot paper in the hope of getting two members elected. Unfortunately for him the whole thing fell apart. Many months ago when the Electoral Commissioner was writing to the parties, I asked him, "John, are you sure you have the power to actually select 300 members and work out that 75 per cent must reply?" He said, "Oh yes. We have had legal advice and that is fine."

Because I was aware of the legislation, at that time I did not think he had the power to be as specific as he was, and it was later decided by the Supreme Court that he did not have the power. I am aware that some of the parties that were being set up were genuine. Save Our Suburbs is unquestionably a genuine party, and it has been excluded from this legislation because it is a genuine interest group and because its members genuinely believe in what they are standing for, unlike the Marijuana Freedom Party, the Environment Party, the Free Education Party, or the Reconciliation Party. Some people have said to me that if there is one Aboriginal member of the Reconciliation Party, they would be amazed.

The Hon. Duncan Gay: Are you going to join Save Our Suburbs?

The Hon. RICHARD JONES: I would certainly like to save our suburbs, especially the suburbs around the M5 East stack, which are really in an appalling state. I must say that I would not mind helping to save some of the environment of the people who live in those suburbs. I have just had an appalling meeting with the Minister for Transport, and Minister for Roads. It was one of the worst meetings I have ever been to. He could not answer a single question. However, I digress.

The DEPUTY-PRESIDENT (The Hon. Tony Kelly): Order! I ask the Hon. Richard Jones to remain within the leave of the bill.

The Hon. RICHARD JONES: It is perhaps regrettable that we will have to do in the Hon. Malcolm Jones and that he will not be able to set up his six parties, after all. However, he has three parties to go on with, and that is not bad. He will have a bloc of three parties at the next election.

The Hon. Duncan Gay: Name them.

The Hon. RICHARD JONES: He has the Outdoor Recreation Party, the Four Wheel Drive Party, and the Horse Riders Party, and that is not bad. He did not get 10 parties, but he might do quite well with three.

The Hon. Charlie Lynn: Are they all registered?

The Hon. RICHARD JONES: Yes, they are all registered. He was able to get three registered, but not 10. That was clearly a rort and a year ago it was clear that it was a rort, so it is right to bring in legislation to prevent such rorts from occurring.

The Hon. DUNCAN GAY: Do you know that for sure?

The Hon. RICHARD JONES: I know that for sure, yes. I have very good information on that. I will swear on the Bible that it is true. I support the legislation. It is good that it has been introduced.

The Hon. Duncan Gay: You are not a Christian. Are you a Christian?

The Hon. RICHARD JONES: I was brought up as a Christian and confirmed as a Christian. It is good that Save Our Suburbs has been saved. Hopefully, it will do well at the next election.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.53 p.m.]: The Australian Democrats support this bill. It seems that in *Save Our Suburbs v Electoral Commissioner*, deficiencies in the Electoral Act were shown to have resulted in anomalies. The requirement is that a political party must show within a specified period that it has 225 verified members. The period was demonstrably too short, which resulted in a genuine party with more than 750 members being unable to be registered. This bill attempts to correct that anomaly.

The Hon. Duncan Gay: It does not "attempt"; it does.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, the bill corrects that anomaly. A number of new parties were registered and the name of the Hon. Malcolm Jones has been linked with that practice. At

the most recent State election, a large number of political parties were involved. The preferences were worked out before the election in lodged tickets. After polling, preferences flowed according to the agreed formula. That caused great consternation among the older parties, whose members work out backroom or factional deals about who will sit in this Chamber.

The Hon. Charlie Lynn: How do you do it?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The Australian Democrats do that by a democratic process. Members of the older parties work out who will sit in this Chamber by reference to who has served the longest time, what faction they are in, what ethnic group they belong to that they will be able to get money from, or whatever other criteria one might care to speculate upon. I have only watched *Four Corners* so I am not privy to the somewhat suspect arrangements that determine who will represent the major parties in this House. That is beyond my understanding, and I suggest that it is beyond the understanding of most people in New South Wales how the major parties have ended up with the sorry lot who are present in the Chamber tonight.

Prior to the most recent State election, the small parties worked out their preference deals in a restaurant in Chinatown, and that deal was not particularly favourable to the Democrats. We are not into horse-trading but, strangely enough, prefer instead to take stands on principles. People had the option of voting "1" for parties which were, as the Hon. John Tingle has pointed out, designed merely to attract people who thought the name of the party was in some way relevant to a cause they supported, or that voting for the party would have been a bit of a lark. That system took votes away from genuine parties which were borderline in achieving their quota and only able to do marginal deals in Chinatown.

It may be said, however, that the upshot of this somewhat undemocratic system is that the right-wing groups seem to have won approximately the right number of seats and the more progressive left-wing groups seem also to have won approximately the right number of seats expected of groups that are spread across a political spectrum from left to right. Admittedly that is a simplistic construct that probably dates from Marx, but as I am not a student of political science I am not an expert on such matters. In broad terms, the process delivered approximately the right number of people to the right on the crossbench and to the left of the crossbench, and roughly the correct number of seats were allocated. It could be argued that the better preference negotiators fared well and that candidates with a higher number of primary votes, who therefore should have fared well, did not. Of course the major parties are not very happy with the diversity that exists on the crossbench because that makes it harder for them to exert their will. The changes that were made in the last amendments to the Electoral Act are cause for concern.

The DEPUTY-PRESIDENT: Order! The Hon. Dr Arthur Chesterfield-Evans should not incite members to interject.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am sorry that the truth offends them. Although I would like to desist for that reason, the truth must be spoken, and whether the Opposition likes it or not is a matter that is beyond my control. If the optional preferential system of voting is accompanied by a low budget for the State Electoral Office to educate voters and a higher budget from the older parties to encourage voters to just "Vote 1", that will turn the next election into a first-past-the-post system.

Anyone who is familiar with electoral systems will understand that a first-past-the-post system tends to favour large parties. Under that system, the major parties are likely to achieve a greater percentage of seats than their primary vote warrants, which is quite a worrying development for democracy. That was a consequence of the previous amendment, not the current bill, which merely deals with the defects of the legislation which have resulted in Save Our Suburbs being excluded.

It is worth looking at the parties that have attempted registration. The Hon. Malcolm Jones's name has been mentioned in this regard. Some of the parties that my staff have researched include the Anglers Party, a pro-recreational fishing party, whose registered officer is a Four Wheel Drive Association representative of the All Wheel Drive Association, which was connected with the Hon. Malcolm Jones of the Outdoor Recreation Party. The Environment Party's registered officer was Garth Coulter, who was also a member of the Four Wheel Drive Association, with Margaret Coulter his personal assistant.

The Hon. Dr Brian Pezzutti: This is guilt by association.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am merely listing a number of parties that my staff have researched with the Electoral Commission. The honourable member may draw whatever conclusion he will. I am merely stating who the registered officers are and the connections they have. The Free Education Party had as its registered officer Kevin Courter, who was the secretary of the Recreational Four Wheel Drive Clubs Association. The Four Wheel Drive Party, interestingly, had constitution format, font and wording very similar to that of Stop the Greenies and the Marijuana Freedom Party. That is merely an observation of the layout of its registration.

The Horse Riders Party's registered officer was Frank Sazmzari, who was also the secretary of the All Wheel Drive Association, as well as the editor of its newsletter. The Marijuana Freedom Party's registered officer was Colin Richard Ellis of Pitt Town. Again, one could not help notice that the constitution format, font and wording were very similar to that of Stop the Greenies and the Four Wheel Drive Party.

The Hon. John Jobling: Point of order: As interesting as the speech of the honourable member is, the objects of the bill quite clearly relate to conferring on the Electoral Commissioner specific authority to do certain things, and to backdating the registration of the Save Our Suburbs Party. Whilst the honourable member might find it interesting to list parties and names, whether casting aspersions or not, nothing in the bill and its overview and objects would sustain the current basis on which the honourable member is putting forward that information. Therefore, I ask that the honourable member be directed to return to the leave of the bill.

The Hon. Richard Jones: To the point of order: The purpose of the legislation—which, obviously, the Hon. John Jobling has not read adequately, because he referred to only one part of it—is to validate what the Electoral Commission has said in writing to parties that were unable to be registered. All of those parties will possibly go to court to be registered following the court case mounted by the Save Our Suburbs Party. All that the honourable member is doing is enumerating the various parties that will be affected. I think it is valid for the honourable member to do so, because this legislation will prohibit those parties from registering.

The Hon. Dr Arthur Chesterfield-Evans: To the point of order: The object of electoral legislation is better democracy in New South Wales. The Democrats are keen to have representative democracy in this State. I have said something about the nature of democracy, proportional representation and preselection methods in New South Wales. Obviously, those remarks have not pleased the Opposition. Mr Deputy-President, as you previously ruled—very wisely, I think—although the remarks may have offended Opposition members, they were consistent with our democratic right to speak.

The parties, their nature and associations have been the subject of a Democrats submission to the Electoral Commissioner. Those parties may well attempt registration by the process used by the Save Our Suburbs Party. Thus, my remarks on the nature of the composition of those parties, as obtained from the Electoral Commission, is extremely apposite to the bill and the process of registering political parties.

The Hon. Malcolm Jones: To the point of order: Allegations have been made to me, both tonight and on an earlier occasion, by honourable members of this place. I pointed out, by way of a personal explanation—

The DEPUTY-PRESIDENT (The Hon. Tony Kelly): Order! Is the honourable member speaking to the point of order taken by the Hon. John Jobling or taking a separate point of order?

The Hon. Malcolm Jones: The matter has been reported to ICAC.

The DEPUTY-PRESIDENT: Is the honourable member speaking to the point of order that the remarks of the Hon. Dr Arthur Chesterfield-Evans are outside the leave of the bill?

The Hon. Malcolm Jones: I believe so. I pointed out the protocols regarding complaints to ICAC laid down in ICAC information.

The Hon. Jennifer Gardiner: Not for a member of Parliament.

The Hon. Malcolm Jones: I read the protocols to the Chamber on an earlier occasion. If members contravene those protocols by continuing with their allegations, notwithstanding my advising them of the various protocols—

The DEPUTY-PRESIDENT: Order! The honourable member seems to be referring to allegations made about him personally. Those matters have nothing to do with the point of order. The Hon. John Jobling

took the point that the bill has the two main objects that he mentioned. However, this Chamber has always allowed wide latitude to members making speeches on the second reading of bills. I remind the honourable member that his comments should generally be within the leave of the objects of the bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I will be relatively brief. I was referring to the variety and nature of parties that may attempt registration following the precedent set by the Save Our Suburbs Party. As such, they will come within the gamut of this legislation. Obviously, if the Electoral Commissioner follows the rules and the clarification of the Act set out by this bill, he will be required to make decisions on the registration of those parties. Therefore elucidation of the nature of the parties researched by my office and put in a submission to the Electoral Commissioner is relevant.

The Reconciliation Party, the Save Our Suburbs Party, the One Nation NSW Political Party, and Stop the Greenies are relevant parties in that respect. Stop the Greenies seems to have a constitution format, font and wording very similar to those of the Marijuana Freedom Party and the Four Wheel Drive Party. The registered officer of the Fishing Party is Rob Smith, who has been negotiating regarding fisheries legislation. Then there is the Workers Party. The bottom line to all of those parties is, I think, that under the above-the-line optional preferential system—if I am correct and the two major parties run a vote-one campaign—many of their preferences will not be relevant. The anomaly is that the major parties will, as a percentage, get more seats than is commensurate with their primary votes. That is a bad deal for democracy.

But I return to the point under debate. We support the legitimacy of Save Our Suburbs meeting the requirement to enrol 750 members in a timely fashion, and problems associated with the checking of that by the Electoral Commissioner, a matter addressed by the bill. We ask that there be a neutral process that is above reproach and able to withstand scrutiny so that genuine political parties, with real public support, can be distinguished from brand-name parties intended to mislead the voter by their not-well-known names, so that some parties will have more people elected to this House than their voter base warrants.

If the Government and Opposition are very concerned about this, they might consider a later bill giving effect to proportional representation. That would be a step in the right direction. Perhaps, as the Democrats have suggested, both Houses could be amalgamated under a proportional representation system, providing better democracy in New South Wales. The larger parties may not want to do that, for the extraordinary reason that they might then have only the amount of power that their primary vote suggests they ought to have. The Democrats support the bill within its existing framework.

The Hon. DAVID OLDFIELD [9.09 p.m.]: I support this bill, most specifically because it secures the intention of the changes that were made in 1999, which I strongly supported at the time. The previous system was extremely inappropriate in many respects. It was inappropriate not only because of what took place in 1999 with regard to what resulted in what has commonly been called the tablecloth system of voting, but also because ultimately it allowed for the election of people to this place who had little or no voter support of any kind. First, it was inappropriate because the system was wrong and, second, it was inappropriate—and it was ultimately amended—because that wrong system led to a tablecloth system of voting with a whole series of parties that were questionable at best.

Members were elected to this House in an almost dishonest fashion through what might be called under-the-table preferences—something that will certainly be addressed by the new system that has now been reinforced by this legislation. As the new system is more in keeping with the optional preferential system of the lower House, that is probably the best of the systems that we have available to us and the best of the systems that are used in Australia. I have a particular dislike for the full preferential system that is used at the Federal level, most specifically because, in a sense, it is an assault on democracy. It forces people to register a formal vote by voting for candidates they do not wish to vote for. They have to vote for certain people on the ballot paper before they are able to vote for the people they wish to vote for.

The optional preferential system in New South Wales, which enables us to vote for any of the candidates that are available, is the fairest system. However, we should not be forced to vote for a person to whom we do not wish to give a preference or vote of any kind. So the full preferential system, which is quite undemocratic, should be done away with in favour of the optional preferential system employed in the New South Wales lower House. It is particularly appropriate that we will now employ that optional preferential system in the upper House. It will have a tendency to cleanse this Chamber whilst still allowing for the election of minor parties that have a reasonable level of voter support.

Whilst the intention of the Senate and the New South Wales upper House might not have been what I am about to describe, it has been suggested that those two Houses allowed for the election of members who were representative of smaller parties that had legitimate interests but would not under any circumstances have any chance of being elected at a lower House level. That is clearly the case in relation to parties such as the Australian Democrats and the Greens, who I acknowledge have secured a Federal lower House seat—something that would not be repeated at a general election.

The Hon. John Della Bosca: The Australian Democrats have not.

The Hon. DAVID OLDFIELD: That will probably not be repeated other than under the same exceptional circumstances that occurred in Cunningham. I said earlier that, whilst that was not the intention of either the Legislative Council or the Senate, it is appropriate that there is some provision for minor parties to be able to play a representative role for those who wish them to be elected, given their lack of opportunity to be elected to a lower House seat.

The Hon. Richard Jones: There will be fewer Independents.

The Hon. DAVID OLDFIELD: Perhaps no Independents will be elected. It is really a matter of people voting for and electing those they wish to elect. Under the new system Independents might not be elected other than on the basis of popularity in the electorate, which is appropriate. What we had before was an extremely inappropriate system. People placed a "1" in a box for the party they supported and, unbeknown to them even to this day, in many instances they elected people they would never have dreamed of voting for.

The unfortunate aspect of the previous system was the clear element of people placing a vote for the party they wished to represent them and for the party that they wished to support. Unbeknown to them at the time—and in most cases unbeknown to them even to this day—their votes were exhausted by under-the-table preference deals which enabled members to be elected to this House who did not have a right to be here on the basis of voter support. I do not wish to name any party, but it is most unfortunate that the system has been rorted to such a degree. There are people in this Chamber today who, under normal circumstances, should not be here. This legislation will fix overcome that, whilst at the same time allowing minor parties with a legitimate and reasonable level of support to have a representative elected.

The Hon. IAN COHEN [9.17 p.m.]: I support the comments made by my colleague Ms Lee Rhiannon. Since I became a member of Parliament in 1995 I have watched this process unfolding with great interest. Democracy in the upper House is a shambles, and I commend the Special Minister of State for introducing legislation to resolve some of these issues. Tragically, because of the dishonesty and underhandedness of some people who took advantage of the previous voting system, many smaller groups, or what might be termed micro-parties, have not been able to field any candidates. The Greens do not object to those parties having an opportunity to participate in our democratic system and use their preferences in a way that might benefit like-minded parties.

During the 1999 election we had the so-called tablecloth voting—a cynical and underhand rorting of the system. People legitimately went to the polls and exercised their democratic right in the belief that they were voting for the Wilderness Party when they were voting for a lie. They thought they were voting for the Stop the Greens Party but they were voting for a party that was established to funnel votes. All sorts of really cheap sideshow tricks were performed and some members were elected to this House who should not have been. We need transparency and a reasonable concept of democracy. The Greens support the proportional representation system and the optional preferential system. Initially when I had a conversation with the Special Minister of State, who introduced this legislation, he could not quite comprehend the concept of the Greens exhausting their preferences—something the system has allowed. I am thankful for that as it has afforded us greater flexibility and democracy, which are worthwhile pursuits.

The Greens look forward to being able to participate in an electoral system that is responsive to the community. As recent events have clearly shown, the community seeks an alternative to the major parties as well as choice on the part of the voter. However, the cynical manipulation of this system, as evidenced in 1999, must be remedied, and I commend the Government for its remedy in that regard. As a member of the Greens in this House, I hope that in the lead-up to the next election voters will be given control. During the last election campaign the activities in terms of so-called preference negotiations and the backstabbing that was undertaken were incredible. It certainly was not democracy, because the public had no idea what was going on. In many cases the public had no idea that the upper House party they were voting for was not reflected in the name of the party.

These changes, which allow people to vote 1 for the party of their choice, or to vote 1, 2, 3, 4 and so on across the line—which is not dissimilar to a lower House vote—return the power and transparency of the vote to the voter, which is extremely important. As a member who will again seek election and, one would presume, will be involved in a degree of negotiation with all parties who are willing to discuss such matters with us, I believe it is important that we get away from the tacky, underhand and dishonest exercise of preference voting. It got out of hand during the last election campaign, but in my book it is always a dishonest activity because it does not relate fairly back to the voters. Of course, we can only judge it on the results. The purpose of bill is not to advantage either major party or upcoming parties such as the Greens. From my perspective, it is simply an attempt to deliver democracy in a real way. As a member of the Greens I commend the bill to the House.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.23 p.m.], in reply: I thank honourable members for their contributions to debate on this bill. For the most part, the Government concurs with the observations made during the debate, and commends the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BANK HOLIDAYS LEGISLATION AMENDMENT BILL

DRUG COURT AMENDMENT BILL

LOCAL GOVERNMENT AMENDMENT (NATIONAL COMPETITION POLICY REVIEW) BILL

LAW ENFORCEMENT AND NATIONAL SECURITY (ASSUMED IDENTITIES) AMENDMENT BILL

Bills received.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. John Della Bosca agreed to:

That these bills be read a first time, and printed, standing orders be suspended on contingent notice for remaining stages, and the second readings of the bills be set down as orders of the day for a later hour of the sitting.

Bills read a first time.

SURVEYING BILL

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.27 p.m.]: I move:

That this bill be now read a second time.

As the second reading speech has already been delivered in the other place and is lengthy, I seek leave to have it incorporated in *Hansard*.

Leave granted.

The Surveying Bill 2002 arises from the recommendations of the National Competition Policy Review of the Surveyors Act 1929 and consultation with key stakeholders.

The National Competition Policy Review process recommended that:

(a) the objectives of the Act be clarified;

(b) the role of the Board of Surveyors be broadened to include the supervision of surveyors in coal mining, metalliferous mining and extractive industries;

(c) the system of registration of the survey profession be retained in the public interest;

(d) the existing restrictions upon advertising, ownership of survey firms by non-surveyors and the naming of survey firms be removed;

(e) membership on the Board be expanded to include representatives of government, the survey profession, consumers and other professional groups having an interest in survey and spatial information.

(f) the retention of current standards and requirements for registration, subject to ongoing review and some professional training requirements being included in the undergraduate degrees course for surveyors.

Some of these matters are not included in this Bill.

The removal of restraints on naming and ownership will be dealt with through the regulatory process, as will other specific matters relating to the content of the *Survey (Practice) Regulation*.

Educational and professional training issues will be addressed by the Board through ongoing discussions with relevant education and training providers.

In addition to the NCP recommendations that are included in this Bill, broader consultation with stakeholders has resulted in the inclusion of certain other amendments:

(g) the renaming of the Board of Surveyors to the "Board of Surveying and Spatial Information"; and

(h) review and improvement of the Board's ability to investigate complaints against surveyors and clarification of the appeal mechanism to the Administrative Decisions Tribunal.

In drafting these amendments the opportunity has also been taken to consolidate existing land survey legislation in New South Wales including:

(i) the Surveyors Act, 1929,
(j) the Survey Marks Act, 1902,
(k) the Survey Co-ordination Act, 1949 and
(l) the Survey (Geocentric Datum of Australia) Act, 1999.

As a result, this single Bill incorporates all aspects of regulation of land surveying in New South Wales.

I would like to outline the key aspects of the Bill.

Part 2 of the Bill incorporates many of the provisions of the Survey Co-ordination Act 1949 and the Survey (Geocentric Datum of Australia) Act 1999.

The Survey Co-ordination Act, introduced shortly after the Second World War, related to public authorities only and sought to prevent duplication of survey activities in a time of rapid infrastructure development.

The objective of the Act in preventing duplication remains relevant today.

This Part provides for the creation of the State Control Survey and for the Surveyor General to establish and maintain a register of public surveys ensuring that information concerning surveys by public authorities is available to the Government and community at large.

Part 3 of the Bill concerns the registration of surveyors.

The National Competition Policy Review of the Surveyors Act 1929, recommended that registration of surveyors be retained in the public interest.

Registration, professional education requirements and disciplinary processes are overseen by the Board of Surveyors to ensure consistency and quality service of delivery.

Without the protection of these regulatory measures, the public may be vulnerable to unscrupulous or inadequately qualified persons undertaking survey work.

In the case of land or cadastral surveyors, ill-prepared plans of survey may result in costly and time-consuming disputes over land boundaries and substantial financial loss.

The NCP review also recommended that the scope and membership of the existing Board of Surveyors be broadened to include the supervision of coal mine surveyors and surveyors in the metalliferous mining and extractive industries, a consumer representative and representatives of other professional groups.

I am pleased that the mining surveyors have agreed to formalise their relationship with land surveyors in this way, and welcome their involvement in the new look Board, which will become known as the Board of Surveying and Spatial Information.

As Honourable Members may be aware, the debates concerning the Surveyors Act 1929 involved some discussion of whether coal mine surveyors ought to come within the terms of that Act. At that time, the Bill was passed into law without the issue being resolved.

For several years, land and mining surveyors have been working collaboratively to ensure consistency in their competencies and standards. This relationship is now recognised by representatives of the mining surveyors becoming formal members of the new Board.

The broadening of the scope of the Board to include mining surveyors will provide a formal forum for the discussion of common issues, standards and safety requirements.

The membership of the Board will also be expanded to include a consumer representative and up to three representatives of the broader spatial information industry.

The addition of these members will open the Board to new perspectives and opportunities.

This part also deals with the power of the Board to take certain actions in relation to professional incompetence by a surveyor or professional misconduct.

The Board has several new options in managing a complaint, such as the issuing of cautions or the imposition of conditions on the surveyor's registration which provides more flexibility in handling a complaint than the existing legislation.

Part 4 confers on surveyors the power of entry onto land for the purpose of conducting surveys, and regulates the way in which the power can be exercised.

The power of entry is not a new provision, but those familiar with the previous sections in the Surveyors Act will note that there are changes in this Bill.

These changes ensure that the power of entry is consistent with the powers of other authorised persons such as certain local government personnel and utility workers.

A person exercising a power of entry must carry and produce on demand, a certificate of authority.

Not to do so will be an offence.

The form of the certificate of authority is to be defined by the regulations.

Offences are dealt with at Part 5 of the Bill.

In the public interest, it is an offence for a person to carry out a land or mining survey for fee or reward, or to advertise their willingness to carry out a survey if they are not a registered surveyor, or within a limited class of persons such as survey drafters, survey assistants or survey students.

The restriction is warranted by the need to ensure that persons undertaking surveys are appropriately qualified and competent to undertake the work.

Similarly, other provisions ensure that the state survey infrastructure is protected.

It is an offence, in the terms of this Bill:

(m) damage, remove or destroy a survey mark;
(n) to use a mark resembling a permanent survey mark without lawful authority or
(o) to hinder the Surveyor General or a person authorised by him or her, in the exercise of their obligations under the Bill.

As I mentioned earlier the current *Board of Surveyors* will become known as the *Board of Surveying and Spatial Information.*

The renamed Board will retain many of its former functions including:

(p) the registration of surveyors
(q) matters concerning the reciprocal recognition of registration and licensing schemes in other states,
(r) the investigation of complaints
(s) the taking of disciplinary action.

The functions of the Board will be enhanced to include investigation and advice on matters concerning the collection, collation and dissemination of spatial information other than surveys.

The Board will include the Surveyor General, land and mining surveyors, representatives from government and representatives of the spatial information industry.

Although the Board of Surveying and Spatial Information will include representatives of the spatial information industry, I wish to make it clear that the Board will not be *regulating* the broader spatial information industry.

The Boards registration powers relate only to the land and mining surveyors.

The spatial information industry is currently an unregulated industry. It is also a difficult industry to succinctly define.

In Australia, it encompasses a wide variety of disciplines including, for example:

(t) Surveying;
(u) Mapping;
(v) Land administration;
(w) Geographic information systems,
(x) Remote sensing and
(y) Photogrammetry.

Spatial information is used in a variety of applications including:

(z) Planning and land and resource management;
(aa) Emergency services and disaster recovery;
(bb) Environmental monitoring;
(cc) Asset management

Reliable and accurate spatial information is fundamental to efficient and effective communication, planning and coordination at all levels in society.

The *Board of Surveying and Spatial Information* will provide the forum in which the survey and spatial information disciplines can discuss, investigate and advise government on issues relating to the broader spatial information industry and its contribution to the economic, environmental and social well being of the state.

The Surveying Bill 2002 encapsulates the future of surveying.

It will ensure ongoing consistency in standards and quality of service in land and mining surveying, while also encouraging increased innovation across the spatial information sector.

I commend the Bill to the House.

The Hon. CHARLIE LYNN [9.27 p.m.]: I lead for the Opposition in debate on the Surveying Bill. We do not oppose the legislation, because we believe it is timely and appropriate. The bill arises from the recommendations of the national competition policy review of the Surveyors Act 1929 and consultation with key stakeholders. The national competition policy review process recommended that the objectives of the Act be clarified; the role of the Board of Surveyors be broadened to include the supervision of surveyors in coalmining, metalliferous mining and extracted industries; the system of registration of the survey professional be retained in the public interest; the existing restrictions upon advertising, ownership of survey terms by non-surveyors and the naming of survey firms be removed; membership on the board be expanded to include representatives of government, the survey profession, consumers and other professional groups having an interest in survey and spatial information; the retention of current standards and requirements for registration, subject to ongoing review; and some professional training requirements be included in the undergraduate degrees course for surveyors.

Not all of these matters are included in the bill. Two of the recommendations concern the removal of prescriptive elements of the Survey Regulation 1996 and the removal of restraints upon naming. I understand that these recommendations will be managed through the regulatory review process. The bill consolidates existing land survey legislation in New South Wales, including the Surveyors Act 1929, the Survey Marks Act 1902, the Survey Co-ordination Act 1949 and the Survey (Geocentric Datum of Australia) Act 1999. The bill now incorporates all aspects of regulation of land surveying in New South Wales, and that makes good sense. The Survey Co-ordination Act, introduced shortly after the Second World War, relates to public authorities only and sought to prevent duplication of survey activities in a time of rapid infrastructure development. The objective of the Act to prevent duplication remains relevant today.

This bill provides for the creation of the State control survey and for the Surveyor General to establish and maintain a register of public surveys ensuring that information concerning surveys by public authorities is available to the Government and the community at large. The national competition policy review of the Surveyors Act 1929 recommended that registration of surveyors be retained in the public interest. The registration, professional education requirements and disciplinary processes are overseen by the Board of Surveyors of New South Wales to ensure consistency and quality service delivery. Without the protection of these regulatory measures the public may be vulnerable to unscrupulous or inadequately qualified persons undertaking survey work.

In the case of land or cadastral surveyors, ill-prepared plans of survey may result in costly and time-consuming disputes over land boundaries and substantial financial loss. The review also recommended that the scope and membership of the existing Board of Surveyors be broadened to include the supervision of coalmine surveyors and surveyors in the metalliferous mining and extractive industries, a consumer representative and representatives of other professional groups. In his second reading speech the Minister advised that mining surveyors have agreed to formalise their relationship with land surveyors and to join the new board, which will be known as the Board of Surveying and Spatial Information.

The bill also broadens the scope of the board to include surveyors involved in coalmining, metalliferous mining and other extractive industries. New South Wales has about 1,000 land surveyors and approximately 150 mining surveyors. Until now they have been represented by separate bodies. However, this bill will bring them together and change the name of the Board of Surveyors to the Board of Surveying and Spatial Information. The bill also removes the restrictions on advertising by registered surveyors and the naming of survey practices. The Opposition does not see any difficulties with this legislation. The shadow Minister has consulted the Institution of Surveyors New South Wales Inc., which supports the legislation. Having undertaken a review and consultation, the Opposition will not oppose the bill.

Ms LEE RHIANNON [9.33 p.m.]: The Surveying Bill 2002 is the result of a comprehensive and thorough reform of the surveying industry in New South Wales. The Greens understand that the drafting of this bill involved consultation with key stakeholders. As no stakeholders have contacted the Greens to express a view about it, we can only assume that the consultation process went smoothly. In the main, the reforms appear to be reasonable and unremarkable. Expanding the role of the Board of Surveyors New South Wales to include coverage of mining and extractive industries seems sensible. The Greens are pleased to note that the registration of surveyors and current standards and requirements will be retained.

The removal of advertising, ownership and naming restrictions also appears reasonable. The expansion of membership of the board is welcomed and the inclusion of professional training in undergraduate programs is now commonplace. The Greens take issue with one aspect of this bill and will move an amendment. The bill gives surveyors the power to enter land for surveying purposes and stipulates that, in doing so, a person must do as little damage as possible to the land. The Greens' amendment will add the environment to the picture by including it in that stipulation. This is an important issue because damage to land can be different from damage to the environment. We must consider damage not only in a commercial sense but also in ecological terms.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.36 p.m.], in reply: The Government appreciates the support of the Coalition and the Greens for this bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Parts 1 to 3 agreed to.

Part 4

Ms LEE RHIANNON [9.37 p.m.]**:** I move:

Page 13, clause 20, line 6. Insert ", whether to the land or to the environment" after "possible".

We must ensure that when surveying is undertaken no damage is caused to the land or the environment. They are two separate factors; land is only one aspect of the environment. Waterways, vegetation and entire ecosystems can be damaged in many ways during surveying procedures. The amendment is clear in its intent and the Greens hope the major parties will support it because it will clearly strengthen the legislation, for which the Greens have indicated support. I hope the unity that has been the theme of the evening will continue in respect of this amendment.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.38 p.m.]: The Government does not support the amendment, because it is unnecessary in the context of existing clause 20, which provides that, in exercising the powers conferred by this part of the bill, a person must do as little damage as possible. At best, the additional words proposed to be inserted are meaningless. At worst, they might result in unnecessary confusion and have an unanticipated impact on the surveying profession. This bill is the result of extensive consultation, for which the Hon. Lee Rhiannon has already given the Minister credit. An ambiguous amendment such as this could lead to concern and suspicion on the part of the profession. There is no need for the amendment and its inclusion may be counterproductive. Therefore, the Government will not support it.

The Hon. CHARLIE LYNN [9.39 p.m.]**:** The Opposition concurs with the Government and will not support the amendment.

Amendment negatived.

Part 4 agreed to.

Parts 5 to 7 agreed to.

Schedules 1 to 3 agreed to.

Title agreed to.

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

TOTALIZATOR AGENCY BOARD PRIVATISATION AMENDMENT BILL

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.40 p.m.]: I move:

That this bill be now read a second time.

The second reading speech has already been delivered in the Legislative Assembly. As it is lengthy, I seek leave to incorporate it in *Hansard*.

Leave not granted.

The object of this legislation is to amend the Totalizator Agency Board Privatisation Act 1997, the Totalizator Act 1997 and related legislation to increase the limit for a person to hold voting shares in TAB Ltd from 5 per cent to 10 per cent. The 5 per cent shareholding limitation was adopted at the time of the privatisation of the TAB as part of the Government's policy to ensure that TAB shares were widely held and to prevent any individual shareholder or group of shareholders from obtaining control, or a significant influence, over TAB Ltd. Since then the market has changed.

It is considered that the proposed amendment to the shareholding limit will most likely see institutional investors—both domestic and offshore—increase their holdings of TAB Ltd shares. Increased interest from investors will add to the liquidity of TAB Ltd shares in the market and their attractiveness to investors, particularly larger, institutional investors. This has the potential to increase the value of TAB Ltd shares for all shareholders. The legislation has adequate safeguards to ensure that individual investors are not adversely affected. There are sufficient controls within the existing legislation and the TAB constitution to prevent persons from exerting undue influence on the TAB. The increase in the limitation to 10 per cent does not allow an outside party to acquire a controlling interest in the TAB.

The proposed amendments are in line with recent, and expected, changes to shareholding limitations in other States. In July the Victorian Government passed legislation to increase the individual shareholding limit in TABCORP from 5 per cent to 10 per cent and eliminated foreign shareholding restrictions. The Queensland Government has legislated a similar change to the Jupiters Casino shareholder limitations, while the Western Australian Government is believed to be considering an increase in the shareholding limitations of the Burswood Casino to 10 per cent. The proposed amendments are aimed at enhancing TAB Ltd's attractiveness in the share market and, in turn, providing the potential for both small and large shareholders to benefit. I commend the bill to the House.

The Hon. JOHN JOBLING [9.44 p.m.]: The Opposition does not oppose the bill. As stated by the Minister, the object of the bill is to amend the Totalizator Agency Board Privatisation Act and deal with questions of prohibitions and shareholding interest in the TAB while increasing the maximum shareholder interest allowed in TAB Ltd from 5 per cent to 10 per cent. The Opposition believes this is an eminently sensible proposal. The adjustment in the maximum shareholding in TAB Ltd of 10 per cent may well, and probably should, lead to an increase in shareholder value. At the same time it will not allow any individual shareholder, groups or bodies to obtain a controlling influence or a significant influence over the TAB. We believe that from the shareholders' point of view this will enhance the demand and liquidity in the market.

The proposed amendments are aimed at enhancing the attractiveness of TAB Ltd to institutional investors. If this succeeds, liquidity will improve. Small shareholders are in no way going to be disadvantaged by the proposal. It would seem highly likely that the proposed changes will increase the value of the shareholdings of individual small shareholders. There is no doubt that the proposed upper limit of 10 per cent is in line with other States, particularly with Victoria, which has recently increased the TABCORP shareholding limitation to 10 per cent. My concerns are to ensure that country racing—the nursery for the racing industry and the area in which a great many people take a lot of pleasure and in which many people are employed—is not disadvantaged and that the policy delivers benefits to country racing. That concern can be addressed by the bill.

The privatisation of the TAB will improve the revenue streams available to the racing industry in general. Again I make the point that country racing must continue to develop if racing at the inner country tracks like Wyong and at the major Sydney tracks like Randwick and Rosehill is to continue. Racing is a very large industry. In the year before its privatisation, TAB payments to the racing industry amounted to more than $123.5 million. Every year since then that has increased. The most recent payments to the racing industry, for the 12 months ending 30 June 2002, were just under $192 million. This is a large amount of money. Obviously that increase is highly desirable to support an industry which is one of the biggest employers in New South Wales.

The restructure of the bodies controlling racing to provide for autonomy in their strategic and commercial governance has been successful, as it has for the controlling bodies in other parts of racing, in achieving greater participant representation. The Opposition supported this and believed it was right. The shareholding limit proposed by the bill and the Thoroughbred Racing Board [TRB] acquiring equity in TAB Ltd are quite acceptable. The TRB can increase its shareholding in TAB Ltd from 5 per cent to 10 per cent. Of course, this is open to all interested parties in the New South Wales racing industry. The Opposition is pleased to see this bill before the House and does not oppose it.

Ms LEE RHIANNON [9.48 p.m.]: The privatisation of the Totalizator Agency Board in 1998 has been one of the notorious Carr Labor privatisations. Labor likes to characterise privatisation as solely the preserve of the Liberal Party, as it did so disgracefully and futilely in the Cunningham by-election. As we all know, the reality is dramatically different. The Carr Government has privatised the TAB and FreightCorp and wants desperately to privatise electricity generation in New South Wales. Federally, Labor was responsible for the privatisation of Qantas and the Commonwealth Bank.

The privatisation of the TAB was a disgrace. Yet another stain on the Labor Government's record has been the explosion in gambling which it has supervised, with all the attendant hardships for problem gamblers. Retaining the TAB in public ownership would have given the Government greater scope to implement responsible gambling practices in New South Wales. By handing the TAB to the private sector, Labor gave away an element of control over the insidious social ill of problem gambling. With this bill, the Government now wants us to endorse raising from 5 per cent to 10 per cent the maximum amount of shares that any one person or corporation can own in the TAB. It is doing this, the Minister said, to make life easier for institutional investors. It is nice to see that Labor is honest about where its priorities lie. When problem gamblers are suffering, losing on average about $12,000 per person each and every year, Labor lets loose a plague of poker machines.

When the institutional investors complained that they could not buy enough of the TAB Labor moved quickly to double their maximum permitted holding. At the end of the day it probably does not matter much whether institutional investors can own 5 per cent or 10 per cent of the TAB. The real damage was done when Labor privatised the TAB back in 1998. However, it is a sad reflection on Labor's priorities. If Labor took problem gamblers as seriously as institutional investors, then it might start to demonstrate some of the values that the community is crying out for.

The Hon. RICHARD JONES [9.51 p.m.]: This bill increases the maximum shareholding interests in the TAB from 5 per cent to 10 per cent. Institutional investors have sought to have the limit increased. Those institutional investors are Westpac Investment Management, Colonial First State and the other major banks. In his second reading speech on 19 June 1997 on the Totalizator Agency Board Privatisation Bill, which transformed the TAB from a statutory authority to a public company limited by shares, the Treasurer said:

> The TAB corporation will be sold by a public float … Individual shareholding will be limited to 5% of issued shares …
>
> The float allows the whole community, if they so wish, to invest in the TAB.

I fear that the capability for individual members of the community to invest in the TAB will be put at risk were we to proceed with the measures contained in this bill. Lifting the 5 per cent restriction will serve as an incentive for investors. Analysts have already stated that the move was positive for the stock. The proliferation of gambling institutions in Australia, whether publicly owned or privately owned, is a major social concern. The TAB should not have been privatised in the first place. The New South Wales TAB is the largest wagering organisation in Australia. It has a distribution network that includes 1,480 outlets and about 110,000 telephone account holders throughout the State.

In April 1998 the TAB purchased Sky Channel, which is the principal means by which racing is telecast into wagering outlets, clubs and hotels throughout Australia. The TAB is planning to develop a domestic pay television racing service to allow home-based wagering. It believes that the majority of its customers prefer to wager on races that are televised; indeed, the introduction of Sky Channel into TAB outlets led to a significant increase in turnover. The growth in real per capita expenditure on gaming, racing and sports betting in New South Wales has risen steadily in the past 10 years. In 1999-2000 real per capita expenditure on gambling in New South Wales was $1,139.55. This represents an increase from $670.29 in 1990-91. That is a huge increase—the highest per capita expenditure of any Australian State or Territory.

In 2000 total gambling in New South Wales was $5.526 billion—more than 41 per cent of total gambling expenditure in Australia. The increase in New South Wales gambling expenditure has increased real Government revenue from $1,012.53 million in 1990-91 to $1,544.60 million in 1999-2000. Increased gambling expenditure as a proportion of household disposable income rose from 2.8 per cent in 1990-91 to 4.02 per cent in 1989-2000. This makes New South Wales the State with the highest gambling expenditure as a proportion of household disposable income. Problem gambling has also increased and has become a major social concern. The Australian Productivity Commission's 1999 inquiry into Australia's gambling industries found that the many harms experienced by problem gamblers can be traced to gambling itself and not to prior conditions or problems that the particular person may have experienced in his or her life.

About 60 per cent of people with at least moderate gambling problems in the commission's inquiry said that they suffered depression as a result of gambling. Some 9 per cent of problem gamblers and 60 per cent of those in counselling—the most severe category—report that they have seriously thought about suicide because of their gambling. It is estimated that there are between 35 and 60 suicides linked to gambling each year, and about one in five severe problem gamblers is reported to be suffering from alcoholism or other dependencies. Gamblers and their families say that lack of trust, lying, arguments and financial stresses lead to enormous pressures on families. About one in ten problem gamblers said that their gambling had even led to a relationship breakdown. It is estimated that there are about 1,600 gambling-related divorces annually. One in ten gamblers in counselling reported domestic or other violent incidents related to their gambling, and, on average, about seven were reported to be adversely affected to varying degrees by their severe problem gambling behaviour.

Studies have found that about one-third of aggregate gambling losses are accounted for by problem gamblers. In Australia this represents about $3.6 billion a year. Based on national survey data, gambling losses represent an average of 22.1 per cent of household income, before tax, for problem gamblers. The consequence of the high ratio of gambling spending to income is that problem gamblers tend to run down assets or borrow. One in two problem gamblers borrow money from some source to finance their gambling, and one in five problem gamblers borrow money without paying it back. Currently, more than 7,000 businesses provide gambling services throughout Australia. Gambling industries account for about 1.5 per cent of the gross domestic product. In 1997-98 their combined revenue was in excess of $11 billion.

Government measures, such as selling off the TAB, combined with new developments in technology have led to the proliferation of new gambling products. A number of trends are emerging, including the growth in Internet gambling and sports betting. All this has come at a terrible price. The proportion of problem gamblers who have committed offences in New South Wales represents 53 per cent of all hospital-treated patients and 66 per cent of all Gamblers Anonymous members. Around one in 10 problem gamblers commit crime because of their gambling, and the offences committed are mainly non-violent property crimes, such as larceny, embezzlement and misappropriation. Although the majority of offences committed do not result in legal action, and many go unreported, around 40 per cent of offenders are charged and convicted.

Quantifying the costs of the gambling industries is difficult, especially as many of the impacts are intangible, such as the impact on the individual and his or her family. The Productivity Commission attempted to provide indicative estimates and found that the costs associated with problem gambling are conservatively estimated to be equivalent to at least $1.8 billion, with a higher estimate of $5.6 billion, each year. The costs

amount to an average of at least $6,000 per problem gambler per year, with the higher estimate averaging $19,000 per problem gambler per year. The bulk of the estimated costs come from the emotional distress and tension that problem gambling imposes on gamblers and their families, rather than direct financial costs.

The TAB and its investors will surely benefit as a result of lifting the 5 per cent ban. I do not know whether many other people in the community will benefit, least of all the problem gamblers. I am advised by the Department of Gaming and Racing that there are currently in place a number of programs to combat problem gambling, such as the five-year program to improve the availability of treatment and counselling services for problem gamblers, called the Policy Framework on Treatment Services for Problem Gamblers and Their Families; problem gambling counselling services for members and patrons of clubs and hotels; and the problem gambling helpline. Certainly, provisions for such programs are extremely important. I urge the Government to increase the funding devoted to combating problem gambling, especially following the ever-increasing proliferation of gambling in this State. The Treasurer should plough back some of the $1 billion the Government receives in gambling revenue to help families that are destroyed by gambling.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.00 p.m.], in reply: I thank honourable members for their contributions to the debate.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ADJOURNMENT

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.03 p.m.]: I move:

That this House do now adjourn.

GREEK WELFARE CENTRE

The Hon. JAMES SAMIOS [10.03 p.m.]: The Greek Welfare Centre plays an important role by relating to the needs of the Greek community. As stated in its brochure published in October 2002, since the centre's inception in 1975 it has provided a range of services to the community which includes casework, advocacy, community development and community education. In casework, the centre has handled more than 10,000 cases a year—an impressive figure—and handles more than 12,000 telephone inquiries a year. It has 25 day care centres for the aged; 50 community visitors for nursing homes; 45 community aged-care packages, which are known as CAPS; carers programs; before and after school care centres; six playtime groups for children up to six years of age; four vacation care centres; youth programs; a family support project; marriage preparation courses; a marriage guidance service; a medical service to treat drugs and alcohol addiction; a gambling services project; three groups for isolated women; a mental health group known as Grow; a community order scheme for people who have committed light offences; and people with special needs are also provided for.

The centre also has a cancer support group, a volunteer training courses, a free legal referral centre, and free accounting and taxation help. The centre conducts community appeals and provides community awareness and education, and has regional-sessional offices in Wollongong, Newcastle, Bankstown, Earlwood and Rockdale. The centre operates under the aegis of the Greek Orthodox Archdiocese of Australia, which is headed by His Eminence Archbishop Stylianos, the Primate of the Greek Orthodox Church. On behalf of the Greek Welfare Centre Administrative Committee and the Central Philoptochos, the centre will arrange a twenty-sixth annual walkathon on Sunday 3 November 2002. Each year the walkathon is held as the main fundraising event for the Greek Welfare Centre, which, as I have indicated, plays an important role in meeting the needs of the Greek-speaking community.

His Eminence Archbishop Stylianos and other dignitaries will be among the many participants in the twenty-sixth annual walkathon, which will begin at the parish of St Stephanos at 653 Canterbury Road, Hurlstone Park, at 1 p.m. At the conclusion of the walkathon, the Greek Glendi festivities will take place at the Canterbury Public School grounds, Church Street, Canterbury. As Chairman of the Greek Welfare Centre, Angelo Hatsatouris, OAM, has played an important role for many years. He is ably supported by a strong committee of volunteers. I pay tribute to the committee for the critical role they play in underpinning the social cohesion of our multicultural community.

CABRAMATTA POLICING

The Hon. HELEN SHAM-HO [10.07 p.m.]: I place on record my belief that the inquiry by General Purpose Standing Committee No. 3 into Cabramatta policing and policing review will be remembered for its significant impact on changes in policing policies and practices in the Cabramatta Local Area Command as well as in other local area commands [LACs] in New South Wales. One of the key findings of the original inquiry related to the culture and management style of NSW Police. The committee found that the major problem of policing in Cabramatta was linked directly to the failure of the police service to communicate and the lack of trust of the community in the police. The inquiry exposed the problems in police management in Cabramatta and the lack of communication between management and front-line police. During the review in April and May this year, evidence showed that the situation was changing for the better.

Under the new Minister for Police, the Hon. Michael Costa, and the new Commissioner for Police, Ken Moroney, there were promising signs of change with a more open and accountable management style. There is no place in NSW Police for intimidation of front-line police who speak out when there are problems. I sincerely hope that there are positive internal changes so that the old "command and control" authoritarian management style of policing will disappear. Communications between management and front-line police should flow freely and frankly. However, since June this year, just after completing the consultation and hearings, I heard concerns from police officers and members of the community that Cabramatta police management is back to the bad old days when police were silenced and intimidated and when speaking out was discouraged. In August I met with a front-line police officer from Cabramatta who wants to remain anonymous. I do not even know his name.

He told me that morale among police at Cabramatta LAC is down, with high sickness and stress leave rates. Police are fearful of speaking out, and there is little transparency in management. According to this police officer there is still a culture of fear of retribution, and this prevails, despite the progress that has been made. I believe this officer's concerns to be genuine, as reported in the *Sunday Telegraph* on 13 October. On the day I met the police officer, I visited Cabramatta accompanied for the whole day by Mr Peter Starr from the Cabramatta Chamber of Commerce. I also met up with my old boss, solicitor Joe Buda, and Dr Thomas Diep, who is President of the Cabramatta Business Association, and my good friend and businesswoman, Alice Lu, as well as a few other locals from the central business district. All of them mentioned that things appear to be going backwards again. The changes seem to have been very short lived.

I must say that during the day I was in Cabramatta not once did I see a uniformed police officer in the area. The issues raised by the police officer are of great concern to me and to the local Cabramatta community, and it is all really very disappointing. It should be pointed out that this brave police officer is by no means a lone voice with his observations. One only has to read the two local newspapers—the *Fairfield City Champion* and the *Fairfield Advance*—to realise that many people in the Cabramatta community already see a return to the policing practices that existed prior to the commencement of the parliamentary inquiry two years ago. This really highlights the huge impact made by the Cabramatta policing inquiry and the review on progress in Cabramatta. For instance, when Cabramatta has been in the media and political spotlights, Cabramatta community leaders, residents and front-line police know that progress and positive changes have been occurring in their suburb. But as soon as the spotlights move away from Cabramatta the pace of change slows and it is harder to see the progress. Now that the inquiry is concluded there are real and substantial fears in the community about what will happen to Cabramatta.

It was precisely because of the concern expressed last year that the committee promised to undertake a review this year. During the review there were calls from the Cabramatta community for a permanent watchdog for Cabramatta. I agree with those calls, as experience tells me that the suburb needs to be continually watched if positive changes are to continue. To that end, the committee which produced the review report recommended the continuation of parliamentary oversight of policing in Cabramatta using the annual budget estimates process to monitor and scrutinise the Government's police performance in Cabramatta. That recommendation appears in paragraphs 3.55 and 3.56 of the review's report. Currently Cabramatta is in the spotlight because of the Federal parliamentary inquiry into crime that is being conducted by the House of Representatives Standing Committee on Legal and Constitutional Affairs.

While the Cabramatta policing inquiry and the review have instigated positive developments and made some improvements in Cabramatta, it is clear to me that we cannot be complacent about the progress being made. We need to continue to be vigilant to ensure progress is sustained in police management, the allocation of adequate resources and the relationship between police and the community. I urge the Minister for Police and the commissioner to take note of front-line police officers' concerns expressed to the main inquiry and their recent concerns expressed to me directly. We must continue to believe front-line officers when they express those concerns.

UNIVERSITY OF WESTERN SYDNEY

The Hon. JAN BURNSWOODS [10.11 p.m.]: I mention tonight a function that I recently attended at the University of Western Sydney to mark the beginning of the restoration of the very precious building of which the university is now custodian, the Female Orphans School, in Rydalmere on the Parramatta River and, therefore, in the heart of the Parramatta campus of the University of Western Sydney. The Female Orphans School is a very important building not only for the university but for the city of Sydney.

Depending on how one measures the age of a building—from completion, or foundation stone or whatever—the Female Orphan's School at Rydalmere is older than the Hyde Park Barracks, a building which in some ways the school is quite similar to. It is unusual in that it is a brick, three-storey building erected prior to 1820. It has a range of significant structural features. For instance, it has a magnificent double-curved sweeping staircase—perhaps not the kind of feature that might have been thought of later, in allegedly more enlightened times, as relevant for the female orphans of New South Wales. The building was used until 1880 as the Female Orphans School, then had a period of use as the Protestant orphans school for both boys and girls. It later became part of an institution for the mentally ill, and still later accommodated those with developmental disability. It was handed over to the University of Western Sydney when the university took over occupation of that campus some time ago.

Obviously, the Female Orphans School building will take a great deal of resources to restore. The university is grateful to the Heritage Council in particular for a grant of money and for the assistance being provided, particularly on a voluntary basis, by a whole range of experts in the field. When restored, the building will be a magnificent addition to the university campus and the other historic buildings around. It will be a magnificent feature, standing so prominently as it does on the Parramatta River, as well as being a link with the very earliest times of New South Wales. The starting of the building probably predates even the starting of what is now part of Parliament House but was originally the Rum Hospital.

I mention also that recently the University of Western Sydney has held a large number of graduation ceremonies. I was privileged to attend one such ceremony, at which once again I was struck by the mix of people who study at the university, and particularly by the fact that so many of them are the first in their families to acquire a tertiary education. The graduation ceremony that I attended recently predominantly dealt with the education faculties, and therefore those present had the opportunity to congratulate a number of intending new teachers as well as a number of older teachers updating their qualifications. It was pleasing to see such a large number of people undertaking tertiary studies and to appreciate the mix of subjects they were studying, all the way up to PhD level.

The final matter I would mention is the ongoing work of the Whitlam Institute, established by the University of Western Sydney. I express my pleasure that a function is to be held on 30 November to raise funds for the Whitlam Institute and to mark the thirtieth anniversary of the election of Gough Whitlam as Prime Minister of Australia in 1972.

The Hon. Richard Jones: It does not seem that long ago.

The Hon. JAN BURNSWOODS: As the Hon. Richard Jones observes, it does not seem that that was 30 years ago. Perhaps some of us need to forget the passing years and join in celebrating the political activity of which we have been part. The University of Western Sydney is a young university, but it is very vibrant and has a firm mission to serve the scattered but huge communities of Western Sydney, and also to ensure that it continues—as far as it is able given the very unfortunate Federal Government cuts to higher education—to make tertiary education available to those who in the past usually found it hardest to get. [*Time expired.*]

ANDREW "BOY" CHARLTON SWIMMING POOL

The Hon. Dr BRIAN PEZZUTTI [10.16 p.m.]: I congratulate the City of Sydney Council on the refurbishment and reopening of the Andrew "Boy" Charlton pool. In 1995, I made a number of speeches in this House and asked a large number of questions about what could be done to assist Sydney City Council in this regard, given that Lord Mayor Frank Sartor was proposing to close and demolish the pool because renovation costs were too high. Frank Sartor had a big plan for a park in front of St Mary's Cathedral. He thought the people of Sydney would be happy to see the Boy Charlton pool destroyed and for a brand new pool to be constructed. He was wrong. On 14 December 1995 the Hon. Michael Egan answered a question that I had asked on 15 November 1995—we used to sit on 14 December in those days. The Hon. Michael Egan said:

> The maintenance and renovation of the Andrew "Boy" Charlton pool is a matter for Sydney City Council. While the Minister for Local Government can appreciate the problems associated with maintaining a pool of this nature, the Minister does not have discretionary funds available within his portfolio to assist with funding of this kind.

On 16 November I asked a question of the Hon. Ron Dyer to see whether the Minister for Sport and Recreation could assist. The Hon. Ron Dyer said:

> I note that questions seem to be recycled day by day. It is becoming incredibly boring to hear questions day after day about the Boy Charlton Pool.

That was the response from the Hon. Ron Dyer, the Minister for sandstone at the time. I recall I put up with a fair bit of abuse from the Government of the day because of my persistent representations. But, to his credit, the Hon. Ron Dyer came back with the following answer on 14 December:

> Officers of the Department of Sport and Recreation met with Council officers on 10 November to discuss the project—

The Hon. Henry Tsang: Point order: The honourable member should not attack fellow members. Though he attacked Frank Sartor, he should thank me, because as Deputy Lord Mayor I voted for extra money to be allocated for this purpose.

The PRESIDENT: Order! There is no point of order.

The Hon. Dr BRIAN PEZZUTTI: I acknowledge and accept that the Hon. Henry Tsang was a friend of the Boy Charlton pool in those times. I repeat, the Hon. Ron Dyer came back and said that officers of the Department of Sport and Recreation would actually think about the issue. Shortly after that—and because of pressure being applied, when Frank Sartor really did have a change of heart—the Lord Mayor announced that he would spend $8.9 million on the upgrade of the pool. At the time an article—which I helped to write for the *Wentworth Courier* or the *Star Observer*; I have forgotten which—reported that the Boy Charlton pool had been officially opened in its then current state, in 1968, replacing an existing wooden structure. The pool was named after Andrew "Boy" Charlton, who lived from 1907 to 1975. He was an Australian swimming champion who represented Australia in three Olympic Games—1924, 1928 and 1932—and broke five world records and eight Australian records, in that pool in particular. In an article in *Living City* of December 1995 Frank Sartor was reported as saying:

> In the city we are working on plans for the upgrading of the Andrew "Boy" Charlton Pool.

But then, after the pool was saved, in March 1996 a committee to save the Boy Charlton pool was established. Things seem to have been a bit rough even then. The *Star Observer* went on a bit of a spree to try to save the pool. As the Liberal Party member in the Legislative Council responsible for that part of Sydney, I took up that challenge. My friend Kathryn Greiner was a strong supporter of the restoration of the Andrew "Boy" Charlton pool, which I am happy to say is now a reality. I think that pool was the only public swimming pool in the inner city at that time.

The Hon. Richard Jones: What about the underground pool?

The Hon. Dr BRIAN PEZZUTTI: There is now an underground pool and there are proposals to build a pool at Ultimo, which is important for a water-loving nation. Kids must be able to learn to swim and enjoy the experience of swimming. It is great non-weight-bearing exercise for people of all ages. Women find that swimming is good for maintaining their bone structure and is an exercise that helps to prevent arthritis. I congratulate the City of Sydney and I thank the Lord Mayor for changing his mind and raising the necessary funds. I also thank the Hon. Henry Tsang for supporting the proposal at the time.

CANNABIS USE AND DRIVING

The Hon. RICHARD JONES [10.21 p.m.]: Many studies have been conducted in Australia and overseas on the effects of driving under the influence of drugs and/or alcohol. It has been found that cannabis is the only drug that decreases the risk of having an accident. In 1998 a study was completed in South Australia on the effect of driving under the influence of cannabis—the most comprehensive study ever undertaken on this topic in the world. Using blood samples from 2,500 drivers, the pharmacology department of the University of Adelaide and Transport South Australia found that cannabis was the only drug of the range of drugs tested that actually decreased the relative risk of having an accident.

The studies showed that drivers who use marijuana are less likely to cause road accidents than drunk drivers or even drug-free drivers. Injured drivers with a blood alcohol concentration of more than 0.05 per cent

were culpable in nearly 90 per cent of the accidents in which they were involved. Professor Jack Maclean, director of road accident research at the University of Adelaide, said:

> There is no doubt marijuana affects performance, but it may be it affects it in a favourable way by reducing risk-taking.

Marijuana smokers are more cautious. They drive more slowly because of their altered time perception. Quite clearly, results such as this highlight the importance of concentrating policing efforts on alcohol-related offences rather than on offences involving other less harmful drugs. Two years later Ministers of the British Parliament were embarrassed by the findings of their own research, which showed that driving under the influence of drugs makes motorists more careful and has a limited impact on their risk of crashing. The government-funded study was conducted by the Transport Research Laboratory. Grade A cannabis, which was specially imported from America, was given to regular users. The drivers were then put through four weeks of tests on driving simulators to gauge reaction times and awareness.

Instead of proving that drug-taking while driving increased the risk of accidents, researchers found that the mellowing effect of cannabis made drivers more cautious and less likely to drive dangerously. The effects of cannabis were shown to be substantially less dangerous than fatigue or drinking. Dr Rob Tunbridge, the report's author, stated:

> If you were to ask me to rank them in order of priority, fatigue is the worst killer, followed by alcohol, and drugs follow way behind in third.
>
> All of the tests that have been done in other countries suggest that cannabis has a completely different effect to alcohol. Rather than giving you dutch courage and confidence, it actually makes you much more cautious in your approach to driving.

Results from a Monash University study into links between drugs and road deaths in Victoria, New South Wales and Western Australia found that cannabis was the only drug to reduce road accident risk. The results indicated that drivers were six times more likely to be involved in a fatal accident if they had been drinking alcohol than if they remained drug free. Once again this study proved that the only drug that reduced accident risk was cannabis. Users were 40 per cent less likely than drug-free motorists to have been the cause of a fatality. It is disappointing that the debate surrounding drugs and driving usually begins with uninformed preconceptions built primarily around the legal status of cannabis. People jump to the illogical reasoning that if cannabis is illegal it must be as intoxicating as alcohol. Quite simply, it is not.

Alcohol impairs the body's motor ability, including muscle function, reaction time, eyesight, depth perception and night vision. It also affects the parts of the brain that control judgment and inhibition, increasing confidence and aggression. For many people, impairment has been observed after drinking a single standard drink. In 2000, Roads and Traffic Authority figures showed that alcohol was a factor in 44 per cent of fatal accidents on Thursday, Friday and Saturday nights. Overall, alcohol was a factor in 21 per cent of all fatal accidents. Of the 1,083 motor vehicle drivers and motorcycle riders who were killed or injured with an illegal blood alcohol concentration, 52 per cent were in the high range—over 0.15 per cent, or three times the legal limit. Professor Jack Maclean of the University of Adelaide told the Australian Driver Fatigue Conference last year that it is impossible to prove that marijuana harms driving ability. He said:

> I can say there are some quite distinct researchers who are going through incredible contortions to try and prove that marijuana has to be a problem... [but] it has been impossible to prove marijuana affects driving adversely.

Advocates of zero tolerance say there should be penalties for drivers caught with any amount of recently-smoked cannabis in their bodies. It is quite clear from this research that what is required is zero tolerance on drink driving, which has proved to be infinitely more harmful. Notwithstanding the legal status of cannabis, all major studies have found that being under the influence of cannabis while driving is less dangerous than driving while fatigued, and that it poses no more threat than many over-the-counter cold preparations. Quite clearly, the emphasis should remain on alcohol—the most dangerous drug of all when it comes to driving.

SRI LANKAN ASSOCIATION WINTER BALL

The Hon. AMANDA FAZIO [10.25 p.m.]: On 17 August 2002 I had the pleasure of representing the Premier at the winter ball of the Sri Lankan Association of New South Wales, which was held at the ANA Hotel at The Rocks. On behalf of the Premier I extended his apologies for being unable to attend this important event for the Sri Lankan community. I also extended the Premier's best wishes. Also in attendance were the Deputy High Commissioner, Mr Esala Weerakoon; the Consul-General, Mr Sumanasena Abeywarna; the President of the Sri Lankan Association of New South Wales, Mr Ananda Amaranath; and Senator Marise Payne, representing the Prime Minister.

The ball, which was a successful event, was well attended by members of the Sri Lankan-Australian community and many of their friends and colleagues. Since 1973 members of the Sri Lankan Association of New South Wales have demonstrated a commitment to the welfare of the Sri Lankan community through their involvement in a wide range of charitable activities. I congratulate the association on its successful promotion of an understanding and appreciation of the rich traditions of Sri Lankan culture. I understand that originally the association primarily had a social focus, which it subsequently developed to include sponsoring and organising sporting and cultural events. I commend the association for its advocacy on behalf of the Sri Lankan community to government and other organisations.

The first recorded reference to Sri Lankan arrivals in Australia was of a group of 500 workers recruited to work in sugar cane plantations in Queensland in 1882. However, I am not sure when the first Sri Lankan settled in New South Wales. Within New South Wales we are fortunate to have around 30,000 Australians of Sri Lankan origin. Many members of the Sri Lankan community who have come to New South Wales since the 1970s are well educated and they often work in professional fields. Their contribution to the richness of our multicultural community is significant and worthy of recognition. I have not had the opportunity of visiting Sri Lanka, but I am aware of many intriguing aspects of its history, culture, architecture and natural splendours that formerly attracted many tens of thousands of tourists every year.

It is well reported that Marco Polo considered Sri Lanka the finest island of its size in the world. He formed that opinion after exploring the country's fabled delights. Arab geographers knew the island as Serendip. Horace Walpole coined the word "serendipity" in 1754 for the title of the fairytale "The Three Princes of Serendip", whose heroes were always making discoveries, by accidents and sagacity, of things of which they were not in quest. The notion of serendipity—happy chance finds—could not be more appropriate to this most beautiful of islands. Sri Lanka's history spans the centuries, as evidenced by mystical ancient cities, serene holy sites and calm compassionate statues of the Buddha—all of which forge an interesting contrast with such lingering traces of the Raj as colonial-style hotels and steam trains, cool hill stations and tea plantations and ancient Morris Minor taxis.

Sri Lanka fell under Portuguese and Dutch influence and finally came under British rule when the island was known as Ceylon. In 1948 the country gained its independence from British rule. The history of the conflict in Sri Lanka is long running and complex. For the past 24 years the conflict has been fought in the north and the east of the country in conventional guerilla style. Meanwhile there have been regular suicide bombings in other parts of the country. Due to the fighting, which has been mainly in the north of the island, the economy has been damaged and the tourism industry has been significantly harmed in what is one of South Asia's more advanced and potentially prosperous societies.

Despite two previous attempts at a ceasefire, in 1989 and 1994, the war has dragged on until recently. With a change of government at the general election in December 2001 a new attempt was made. By 25 December 2001 the Liberation Tigers of Tamil Eelam [LTTE] declared a unilateral ceasefire, which was followed up by the Government. The unofficial ceasefire was then followed by a permanent ceasefire agreement signed on 22 February 2002. Within the ceasefire agreement a number of commitments were made by both sides. This included the vacating of schools, places of worship and public buildings by the armed forces of Sri Lanka. That process, which is still ongoing, is proceeding in line with the deadlines laid out in the agreement.

Critical to people living in the north and the east was the restoration of food and medical aid supplies. An early commitment of the Government, this aid has increased and has been complemented by the restoring of many buildings. Much of the success for the ceasefire holding for so long has been through the work of the Norwegian Government, backed up by a Scandinavian monitoring operation to investigate breaches of the ceasefire. Held a couple of months ago, the first round of talks between the Sri Lankan Government and the Tamil Tiger rebels has been a huge political success for both sides. The two parties and Norwegian diplomats mediating in the discussions ended the closing press conference sounding optimistic.

Whilst there is much work yet to be done, the Sri Lankan Government is committed to the vigorous pursuit of peace, the resettlement of refugees, and the establishment of normality for all people throughout the island. The greatest success so far has been the estimated 2,000 lives saved as a result of the ceasefire.

There is also good news for the economy of the country. The number of tourist arrivals to Sri Lanka has escalated with the progress of the ongoing peace process. According to statistics of the Sri Lanka Tourist Board, the total number of tourist estimated to arrive in Sri Lanka in 2002 is 400,000, a more than 20 per cent increased when compared to last year's figures.

I am sure that all members shared my hope and the hope of the Sri Lankan-Australian community that the ceasefire holds and that peace will return to Sri Lanka on a permanent basis. In the meantime I commend the work of the Sri Lankan Association of New South Wales, which has not taken a partisan view and represents the entire Sri Lankan community in New South Wales.

Mr AND Mrs WRIGHT BUILDING DISPUTE

The Hon. JOHN RYAN [10.30 p.m.]: I would like to bring to the attention of the House a matter relating to Kingsley and Fay Wright of Oakdale. Four years ago Mr and Mrs Wright contracted with a builder for a tiling job worth about $27,000. Immediately after the job was completed, the tiles began to lift. It is perfectly obvious that it was not the best tiling job in the world.

Mr and Mrs Wright attempted to negotiate with the builder. Finally, in desperation, in April this year they lodged an application with the new Consumer, Trader and Tenancy Tribunal. Under the circumstances they were subject to the new reforms, which the Government introduced last year. The matter was taken through the new building disputes unit, which is supposed to speed up these types of disputes. They had an expert appointed, who agreed that the job was not carried out properly. On 17 June they signed an agreement whereby the builder agreed to a time frame and a scope of works to return and rectify the faulty tiling work. The builder signed the agreement, the experts signed it, and the consumers signed it. However, the builder never returned to the job, and nothing happened.

In desperation, Mr and Mrs Wright returned to the tribunal and requested that it order the builder to carry out the job, which he obviously agreed had not been done properly and needed to be done again. It was not until 21 October, some six months after Mr and Mrs Wright notified the dispute, that the matter even came before the tribunal. Mr and Mrs Wright arrived at the tribunal, but the builder did not turn up. Mr Mrs Wright had high hopes that the tribunal would simply order the builder to carry out the work he was supposed to carry out.

To Mr and Mrs Wright's surprise, that did not happen. In fact, the member who was hearing their matter, a Mr Geoffrey Smith, told them that the entire matter had to be heard again. Mr Smith ordered Mr and Mrs Wright to produce a stack of documentation that was going to be expensive and difficult to obtain, and told them that the matter would next be heard some time next year, after which there would be directions hearings, mediation and so on, involving further delays. If this problem, which will take more than nine months to solve, is an example of how the reformed system works, I fear we will be in a worse position than when the reforms were first introduced.

Motion agreed to.

The House adjourned at 10.33 p.m.